



Pay-roll Tax Act 1971

Reprinted as in force on 1 July 2006

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

Pay-roll Tax Act 1971

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Pay-roll Tax Act 1971

[as amended by all amendments that commenced on or before 1 July 2006]

An Act to impose a tax upon employers in respect of certain wages

Part 1 Preliminary

1 Short title

This Act may be cited as the *Pay-roll Tax Act 1971*.

2 Dictionary

The dictionary in the schedule defines particular words used in this Act.

3 Meaning of *superannuation contribution*

- (1) A *superannuation contribution* is a monetary or non-monetary contribution paid or payable by an employer for an employee—
- (a) as a superannuation guarantee charge under the Superannuation Guarantee Act; or
 - (b) to a superannuation fund under the *Superannuation Industry (Supervision) Act 1993* (Cwlth); or
 - (c) to another form of superannuation, provident or retirement fund or scheme, including, for example, the following—
 - (i) a superannuation holding accounts reserve under the *Small Superannuation Accounts Act 1995* (Cwlth);

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(ii) a retirement savings account under the *Retirement Savings Accounts Act 1997* (Cwlth);

(iii) a wholly or partly unfunded fund or scheme.

Examples of non-monetary contribution—

- 1 marketable securities
- 2 real property

(2) In this section—

Superannuation Guarantee Act means the *Superannuation Guarantee (Administration) Act 1992* (Cwlth).

superannuation guarantee charge does not include the following—

- (a) an additional superannuation guarantee charge under section 49 or part 7¹ of the *Superannuation Guarantee Act*;
- (b) the part of a superannuation guarantee charge equal to a superannuation contribution mentioned in subsection (1)(b) or (c) that is payable, and for which pay-roll tax has been paid to the commissioner, to the extent the contribution would have resulted in a reduction in the charge percentage under section 23² of the *Superannuation Guarantee Act* if the contribution had been paid.

unfunded, for a superannuation, provident or retirement fund or scheme, means the extent that an amount paid or payable by an employer for an employee covered by the fund or scheme is not paid or payable while the employee is employed by the employer.

1 *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 49 (Unpaid superannuation guarantee charge) or part 7 (Additional superannuation guarantee charge)

2 *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 23 (Reduction of charge percentage if contribution made to RSA or to fund other than defined benefit superannuation scheme)

4 Other provisions about meaning of *wages*

- (1) This section applies for the definition of *wages* in the schedule.
- (2) For paragraph (h) of the definition, a superannuation contribution paid or payable on or after 1 January 2000 is taken to be for an employee's services performed or rendered on or after 1 January 2000.
- (3) However, if the commissioner is satisfied any part of a superannuation contribution mentioned in subsection (2) is for an employee's services performed or rendered before 1 January 2000, the part is not wages.
- (4) Also, for paragraph (h) of the definition—
 - (a) a superannuation contribution paid or payable by an employer to a superannuation, provident or retirement fund or scheme and not attributed by the employer as paid or payable for a particular employee or particular employees is taken to be paid or payable for the employee or employees decided by the commissioner; and
 - (b) a superannuation contribution paid on or after 14 September 1999 and before 1 January 2000 for an employee's services to be performed or rendered on or after 1 January 2000 is taken to be paid on 1 January 2000.
- (5) For the purposes of this Act, a reference to wages does not include a reference to—
 - (a) an allowance for travelling or accommodation paid or payable at a rate in a particular case or class of case that does not exceed such rate as is prescribed in respect of that case or class of case; or
 - (b) where the rate of an allowance for travelling or accommodation is so prescribed in respect of a particular case or class of case—such portion of an allowance paid or payable in respect of such a case or class of case as equals the amount calculated at such rate as is prescribed in respect of that case or class of case.
- (6) For this Act, the amount or value of wages paid or payable to a person must be reduced by the relevant proportion of the

amount of any GST paid or payable by the person on the supply to which the wages relate.

(7) In this section—

relevant proportion, for GST paid or payable on a supply to which wages relate, means the proportion that the amount or value of the wages bears to the consideration for the supply to which the wages relate.

5 **Meaning of *change of status***

(1) A ***change of status*** happens for a person who is an employer if, during a financial year—

(a) the person ceases to be an employer and does not intend to resume being an employer during the remainder of the year or the next financial year; or

Example for paragraph (a)—

There is no change of status for a fruit grower who ceases to pay wages after the fruit picking season but intends to resume paying wages later in the financial year or in the next financial year.

(b) for a person who pays, or is liable to pay, taxable wages and who is not a group member—the person becomes a group member; or

(c) for a person who pays, or is liable to pay, wages and is a non-DGE group member—

(i) the person starts paying, or becomes liable to pay, taxable wages other than as a group member; or

(ii) the person becomes the DGE for a group; or

(d) the person ceases to be the DGE for a group; or

(e) an administrator is appointed for the property of the person; or

(f) the appointment of an administrator for the person's property ceases to have effect.

(2) A change of status happens—

(a) if subsection (1)(a) applies—on the first day the person—

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- (i) does not pay, and is not liable to pay, wages; and
 - (ii) does not intend to resume paying wages for the remainder of the year or the next financial year; or
 - (b) if subsection (1)(b) applies—on the first day the person is a group member; or
 - (c) if subsection (1)(c)(i) applies—on the first day the person pays, or is liable to pay, taxable wages other than as a group member; or
 - (d) if subsection (1)(c)(ii) applies—on the first day of the periodic return period in which the person becomes the DGE for the group;³ or
 - (e) if subsection (1)(d) applies—
 - (i) if all the group members cease to pay, or be liable to pay, wages as members of the group during the relevant periodic return period on or before the day the person ceases to be the DGE for the group—on the first day the person is not the DGE for the group; or
 - (ii) otherwise—on the first day of the relevant periodic return period;⁴ or
 - (f) if subsection (1)(e) applies—on the day the administrator is appointed; or
 - (g) if subsection (1)(f) applies—on the day after the appointment ceases to have effect.
- (3) For subsection (2)(e), the relevant periodic return period is the periodic return period in which the person ceases to be the DGE for the group.

Note—

An employer who changes status is required to lodge a final return, and pay pay-roll tax, for the final period.

3 See also section 75(1) and (2).

4 See also section 75(3).

6 Meaning of *final period*

The *final period*, for a change of status of a person (the *relevant change of status*) happening during a financial year, means the period—

- (a) starting on the latest of the following days in the year—
 - (i) 1 July;
 - (ii) the first day on which the person is required to register as an employer under part 3, division 1;
 - (iii) if an earlier change of status has happened for the person during the year—the day of the change of status happening immediately before the relevant change of status; and
- (b) ending on the day before the relevant change of status happens.

Example—

An employer who is a group member from 1 July in a financial year ceases to be a group member on 1 September. The final period for the change of status is 1 July to 31 August.

If the employer then ceases to pay, or be liable to pay, wages from 1 June, the final period for the second change of status is 1 September to 31 May.

7 Notes in text

A note in the text of this Act is part of the Act.

8 Relationship of Act with Administration Act

- (1) This Act does not contain all the provisions about pay-roll tax.
- (2) The Administration Act contains provisions dealing with, among other things, each of the following—
 - (a) assessments of tax;
 - (b) payments and refunds of tax;
 - (c) imposition of interest and penalty tax;
 - (d) objections and appeals against assessments of tax;
 - (e) record keeping obligations of taxpayers;

- (f) investigative powers, offences, legal proceedings and evidentiary matters;
- (g) service of documents.

Note—

Under the Administration Act, section 3, that Act and this Act must be read together as if they together formed a single Act.

Part 2 Liability to taxation

Division 1 Imposition of liability

9 Wages liable to pay-roll tax

- (1) Subject to section 14, the wages liable to pay-roll tax under this Act are wages that are paid or payable by an employer after the month of August 1971 (whether in respect of services performed or rendered before, during or after that month), and—
 - (a) that are paid or payable in Queensland, other than wages so paid or payable to a person for services performed or rendered—
 - (i) entirely in another State; or
 - (ii) entirely outside Australia for more than 6 months after wages were first paid to the person for the services; or
 - (b) that are paid or payable elsewhere than in Queensland in respect of services performed or rendered wholly in Queensland;except wages that—
 - (c) are paid after the month of August 1971, but were payable during or before that month; and
 - (d) have been included in a return made under the Commonwealth Act.

- (2) For the purposes of subsection (1)(a), wages that are payable to a person by the person's employer, but have not been paid, (not being wages that under the terms of employment are payable in Queensland or in another State) shall be deemed—
- (a) where those wages are payable in respect of services performed or rendered wholly in Queensland—to be wages payable to that person in Queensland; or
 - (b) where those wages are not payable in respect of services performed or rendered wholly in Queensland or wholly in one other State and the wages last paid or payable to that person by that employer were included or are required to be included in a return under this Act—to be wages payable to that person in Queensland; or
 - (c) where those wages are not deemed by paragraph (a) or (b) or by any provision of a corresponding law that corresponds to either of those paragraphs to be wages payable to that person in Queensland or in another State—to be wages payable to that person at the place where that person last performed or rendered any services for that employer before those wages became payable.
- (3) For the purposes of this section, where a cheque, bill of exchange, promissory note, money order or postal order issued by a post office, or any other instrument is sent or given by an employer to a person or the person's agent at a place in Australia in payment of wages, those wages shall be deemed to have been paid at that place and to have been paid when the instrument was so sent or given.

10 Imposition of pay-roll tax on taxable wages

Subject to, and in accordance with, the provisions of this Act, there shall be charged, levied and paid for the use of Her Majesty on all taxable wages pay-roll tax at the following rate of the wages—

- (a) for wages paid or payable in the financial year ending 30 June 2002—4.8%;
- (b) for wages paid or payable in a later financial year—4.75%.

11 When liability for pay-roll tax arises

A liability for pay-roll tax imposed on taxable wages arises on the return date for lodgment by an employer of a return.

12 Employer to pay pay-roll tax

Pay-roll tax shall be paid by the employer by whom the taxable wages are paid or payable.

13 Value of taxable wages

- (1) The value of taxable wages that are paid or payable in kind (other than fringe benefits under the Fringe Benefits Assessment Act) is the value under the regulations.
- (2) The employer must give evidence of the value of the taxable wages to the commissioner if asked by the commissioner.
- (3) If the commissioner is not satisfied with the evidence given by the employer, the commissioner may appoint a person to value the taxable wages.
- (4) If the value stated by the person appointed under subsection (3) is more than the value stated by the employer, the commissioner may claim all or part of the valuation costs from the employer.
- (5) The value of taxable wages comprising a fringe benefit under the Fringe Benefits Assessment Act is the value that would be the fringe benefits taxable amount for that Act, unless otherwise prescribed by regulation under this Act.

Division 2 Exemptions**14 Exemption from pay-roll tax**

- (1) In this section—

associated religious body means a body—

 - (a) which appertains to or is controlled by a religious institution; and

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- (b) the principal object and pursuit of which is the conduct of activities of a religious nature.

exempt charitable institution means—

- (a) a public benevolent institution or the trustees of such an institution; or
- (b) an institution or the trustees of an institution the principal object and pursuit of which is—
- (i) the relief of poverty; or
 - (ii) the care of sick, aged, infirm, afflicted or incorrigible persons or of children; or
 - (iii) any 2 or more of those objects and pursuits; or
- (c) an institution, or the trustees thereof, declared by the Minister in the Minister's discretion to be an institution to which this paragraph applies, the principal object and pursuit of which is the fulfilling of a charitable object or an object promoting the public good (not being an object or pursuit that is a sporting, recreational, leisure or social pursuit or object or an object or pursuit declared under a regulation for the purposes of this paragraph); or
- (d) a non-tertiary educational institution or the trustees of such an institution; or
- (e) a religious institution or an associated religious body or the trustees of such an institution or body.

For the purposes of this definition—

- (f) an institution is not an institution of the kind described in paragraph (a), (b), (c) or (d) unless the constitution, by whatever name called, of that institution provides—
- (i) that the income and property of the institution is to be used and applied solely for the promotion of the objects of the institution and that no portion of the income or property will be distributed, paid or transferred by way of dividend, bonus or otherwise amongst its members; and
 - (ii) that on dissolution the assets of the institution remaining after satisfaction of all liabilities must

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be transferred to some institution having similar objects;

- (g) the care of sick, aged, infirm, afflicted or incorrigible persons means care which relates directly to and is necessary because of the persons so cared for being sick, aged, infirm, afflicted or incorrigible;
- (h) the care of children means being responsible for children on a full-time basis and providing them with all necessary food, clothing and shelter and providing for their general wellbeing and protection;
- (i) in exercising discretion under paragraph (c) the Minister may have regard to the commercial activities of the institution.

non-tertiary educational institution means an institution, not carried on by or on behalf of the State, the principal object and pursuit of which is—

- (a) the education of students in primary or secondary schools, or both; or
- (b) the conduct of a rural training school; or
- (c) the conduct of a kindergarten or preschool; or
- (d) any 2 or more of those objects and pursuits.

qualifying exempt purpose means—

- (a) a public benevolent purpose; or
- (b) the purpose of the relief of poverty; or
- (c) the purpose of care of sick, aged, infirm, afflicted or incorrigible persons or of children; or
- (d) the purpose of activities of a religious nature; or
- (e) any 2 or more of those purposes; or
- (f) in the case of an institution to which the definition *exempt charitable institution*, paragraph (c) applies—
 - (i) the purpose which in the opinion of the Minister is that institution's principal object and pursuit; or

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- (ii) the purpose referred to in subparagraph (i) and any 1 or more of the purposes specified in paragraphs (a) to (d).

religious institution means an institution which the commissioner is satisfied is a religious institution.

For the purposes of this definition—

- (a) the commissioner is entitled not to be satisfied that an institution is a religious institution where the members or followers of the institution do not subscribe to common articles of faith or beliefs which are formally documented;
- (b) the commissioner may, having regard to—
 - (i) whether the institution is formally constituted; and
 - (ii) the number of members or followers of that institution in Queensland; and
 - (iii) the period of time during which the institution has been established; and
 - (iv) whether the institution has a ministry, by whatever name called, which is devoted to the propagation or practice of the faith or beliefs of the institution and regularly conducts religious services for members or followers of the institution for religious worship or meditation; and
 - (v) whether it is usual for members of the institution to meet at a place clearly identifiable as a place at which such persons meet to engage in religious worship or meditation; and
 - (vi) whether members of the institution's ministry have undergone a formal training program to qualify for that ministry;

determine an institution to be or not to be a religious institution.

- (2) The wages liable to pay-roll tax under this Act do not include wages paid or payable—

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- (a) by the Governor of a State; or
- (b) by a public hospital to a person during a period in respect of which the person is engaged exclusively in work of the hospital of a kind ordinarily performed in connection with the conduct of public hospitals; or
- (c) by an exempt charitable institution in respect of an exempt charitable institution to a person during a period in respect of which the person is engaged exclusively—
 - (i) in the work of the secondmentioned exempt charitable institution for a qualifying exempt purpose; or
 - (ii) where that secondmentioned exempt charitable institution is—
 - (A) a hospital, in the work of that hospital of a kind ordinarily performed in connection with the conduct of a hospital; or
 - (B) a non-tertiary educational institution, in the work of that institution of a kind ordinarily performed in connection with the conduct of a non-tertiary educational institution of the relevant kind; or
- (d) by a teachers' training college (that is not a college of advanced education) declared under a regulation made for the purposes of this paragraph, in respect of such period (whether commencing before or after the commencement of the *Pay-roll Tax Act Amendment Act 1985*, section 6) as is specified under a regulation unless within any period so specified the college becomes a college of advanced education whereupon the exemption shall cease to apply; or
- (e) by a local government, except to the extent that those wages are paid or payable—
 - (i) for or in connection with; or
 - (ii) for or in connection with the construction of any buildings or the construction of any works or the installation of plant, machinery or equipment for use in or in connection with;

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electricity generation, distribution or supply, water supply, sewerage, the conduct of transport services (including ferries), of abattoirs, of public markets, of parking stations, of quarries, of cemeteries, of picture theatres, of milk supply, of hostels, of hotels or of bakeries or of any other activity that is a prescribed activity; or

- (f) to members of his or her official staff by—
 - (i) a consular or other representative (other than a diplomatic representative) in Australia of the government of any other part of Her Majesty's dominions or of any other country; or
 - (ii) a trade commissioner representing in Australia any other part of Her Majesty's dominions; or
 - (g) by the Commonwealth War Graves Commission; or
 - (h) by the Australian-American Educational Foundation; or
 - (i) to a person who is a member of the defence force of the Commonwealth or of the armed force of any part of Her Majesty's dominions, being wages paid or payable by reason of the person being such a member by the employer from whose employment the person is on leave; or
 - (j) subject to subsections (3) to (7), to a person who is an apprentice or trainee under the *Vocational Education, Training and Employment Act 2000*, as the apprentice or trainee, for the period of the person's apprenticeship or traineeship.
- (3) The exemption given in subsection (2)(j) does not apply to wages paid or payable to a trainee under a traineeship started with the trainee's employer after the commencement of this subsection (the **current traineeship**) if, immediately before the current traineeship starts, the trainee had been employed by the employer for a continuous period of at least—
- (a) for a full-time employee—3 months; or
 - (b) for a part-time or casual employee—12 months.

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- (4) Despite subsection (3), the exemption given in subsection (2)(j) applies to wages paid or payable to the trainee under the current traineeship if—
- (a) before the commencement of subsection (3), the trainee started, with the employer, a traineeship for a certificate II qualification established under a national program administered under the *Australian National Training Authority Act 1992* (Cwlth) (a ***certificate II traineeship***); and
 - (b) the current traineeship is a traineeship for a certificate III qualification (a ***certificate III traineeship***) in the same training package or occupational stream as the certificate II traineeship; and
 - (c) the trainee starts the current traineeship within 1 year after obtaining the certificate II qualification.
- (5) Also, despite subsection (3), the exemption given in subsection (2)(j) applies to wages paid or payable to the trainee under the current traineeship if—
- (a) after the commencement of subsection (3), the trainee started, with the employer, a certificate II traineeship and subsection (2)(j) applied to wages paid or payable to the trainee under the certificate II traineeship; and
 - (b) the current traineeship is a certificate III traineeship in the same training package as the certificate II traineeship; and
 - (c) the trainee starts the current traineeship within 1 year after obtaining the certificate II qualification.
- (6) For subsection (3), the trainee is taken to have been employed by the employer for a continuous period if, in the period, 1 of the following events is effected for the sole or dominant purpose of obtaining the benefit of Commonwealth or State funding, or an exemption under subsection (2)(j), in relation to the traineeship—
- (a) the trainee's employment ends, and restarts, with the employer;
 - (b) the trainee's employer changes.

- (7) For subsections (4)(a) and (5)(a), a reference to the trainee's employer includes a reference to the former owner of the business in which the trainee is employed if—
- (a) ownership of the business changes after the trainee starts the certificate II traineeship; and
 - (b) the certificate III traineeship is with the new owner.

15 Exemption from pay-roll tax—certain CWA wages

- (1) CWA is not required to lodge a return.
- (2) Divisions 3 to 5 apply to CWA as if—
 - (a) a reference in section 20 to the *periodic deduction* were a reference to the taxable wages paid or payable by CWA during the periodic return period; and
 - (b) a reference in section 29 to the *annual deduction* were a reference to the taxable wages paid or payable by CWA during the financial year; and
 - (c) a reference in section 37 to the *final deduction* were a reference to the taxable wages paid or payable by CWA during the final period.
- (3) However, CWA is required to lodge a return and subsection (2) does not apply if—
 - (a) wages are paid or payable by CWA in carrying on a business activity predominantly on a commercial basis (*CWA's commercial wages*); or
 - (b) CWA is a member of a group.
- (4) If only subsection (3)(a) applies, tax payable is the amount bearing the same proportion to tax payable on CWA's taxable wages as CWA's commercial wages bear to taxable wages before deducting the prescribed amount.
- (5) If subsection (3)(b) applies, the annual amount of tax payable by the members of the group must be reduced by an amount bearing the same proportion to the tax payable as CWA's taxable wages (other than CWA's commercial wages) bear to the taxable wages paid or payable by the members of the group.

- (6) For this section, a business activity by CWA is taken to be conducted on a commercial basis if it is conducted in a similar way to similar business activities conducted by anyone else on a commercial basis.
- (7) For this section, a business activity does not include—
- (a) the conduct of a student hostel; and
 - (b) the conduct of a hostel subsidised under the *Aged or Disabled Persons Care Act 1954* (Cwlth); and
 - (c) an activity of a type prescribed under a regulation.
- (8) In this section—
CWA means Queensland Country Women's Association.

Division 3 Periodic liability

Subdivision 1 Employer other than the DGE for a group

16 Application of sdiv 1

This subdivision applies to an employer who—

- (a) is required under section 59 to lodge periodic returns; and
- (b) is not the DGE for a group.

17 Definitions for sdiv 1

In this subdivision—

actual periodic deduction, for the employer for a periodic return period, means the greater of zero and the amount worked out using the following formula—

$$APD = \frac{FME}{G} - \frac{1}{3} \left(TW - \frac{FME}{G} \right)$$

where—

APD means the actual periodic deduction in dollars.

E (maximum deduction per month) means 83333.

F means the number of days in the period for which the employer pays, or is liable to pay, taxable wages.

G means the total number of days in the period.

M means the number of months in the period.

TW means the amount of taxable wages paid or payable in the period.

fixed periodic deduction, for the employer for a periodic return period, means—

- (a) the amount of the employer's deduction for the period determined by the commissioner under section 21; or
- (b) if paragraph (a) does not apply—the greater of zero and the amount worked out on the most recent calculation day using the following formula—

$$\text{FPD} = \frac{QW}{AW} \left(E - \frac{1}{3} \left\langle \frac{AW}{12} - E \right\rangle \right) M$$

where—

AW means the total amount of taxable wages and interstate wages estimated by the employer to be payable by the employer for the financial year in which the period falls.

E means 83333.

FPD means the fixed periodic deduction in dollars.

M means the number of months in the period.

QW means the total amount of taxable wages estimated by the employer to be payable by the employer for the financial year in which the period falls.

18 Meaning of *calculation day*

For working out the employer's fixed periodic deduction for a periodic return period in a financial year, each of the following days in the year is a *calculation day*—

- (a) 1 July;

- (b) the day the employer is first registered, or required to register, as an employer under part 3, division 1;
- (c) the first day of a periodic return period during which the employer pays, or is liable to pay, interstate wages, if the employer's periodic deduction for the preceding periodic return period was, under section 20(2), the actual periodic deduction for the employer for the period;
- (d) the last day of a periodic return period during which a significant wage change happens for the employer;
- (e) the day a determination by the commissioner of the employer's fixed periodic deduction under section 21 ceases to have effect, if the commissioner does not make a further determination of the deduction;
- (f) the day a change to the employer's periodic return period takes effect under section 60.

Note—

An employer who works out the employer's fixed periodic deduction must notify the commissioner of the amount under section 86.

19 Meaning of *significant wage change*

- (1) A *significant wage change* happens during a periodic return period for an employer if—
 - (a) the employer's deduction for the period is, under section 20(2), the fixed periodic deduction; and
 - (b) the previous estimated wages would differ by more than 30% from the current estimated wages.
- (2) In this section—

current estimated wages means the total amount of taxable wages and interstate wages, or the total amount of taxable wages, for the financial year estimated by the employer at the end of the periodic return period mentioned in subsection (1).

previous estimated wages means the estimated total amount of taxable wages and interstate wages, or the estimated total amount of taxable wages, used for working out the fixed periodic deduction.

20 Amount of periodic liability

- (1) The employer's liability (*periodic liability*) for pay-roll tax for a periodic return period is the amount worked out by applying the appropriate rate of pay-roll tax to—
 - (a) for a non-DGE group member—the total taxable wages paid or payable by the employer during the period; or
 - (b) for another employer—the greater of zero and the amount equal to the total taxable wages paid or payable by the employer during the period less the periodic deduction.
- (2) For subsection (1)(b), the periodic deduction is—
 - (a) if the employer pays, or is liable to pay interstate wages during the period—the employer's fixed periodic deduction for the period; or
 - (b) if the employer does not pay, and is not liable to pay, interstate wages during the period and the employer is a previous interstate wage payer—the employer's fixed periodic deduction for the period; or
 - (c) if the employer does not pay, and is not liable to pay, interstate wages during the period and paragraph (b) does not apply—the employer's actual periodic deduction for the period.
- (3) In this section—

previous interstate wage payer means an employer who—

 - (a) paid, or was liable to pay, interstate wages at any time during—
 - (i) the financial year (the *current year*) in which the periodic return period falls; or
 - (ii) the most recently ended financial year; and
 - (b) intends to resume paying, or being liable to pay, interstate wages during the current year or the next financial year.

Note 1—

Under section 30(1)(a) of the Administration Act, an employer's liability for pay-roll tax for a periodic return period must be paid on the date the employer is required to lodge a periodic return for the period.

Note 2—

An employer may be required, under the Administration Act, to include assessed interest or penalty tax in an assessment of periodic liability.

21 Determination by commissioner of fixed periodic deduction

- (1) The commissioner may, by written notice given to the employer, determine the amount of the employer's fixed periodic deduction for a periodic return period, if the employer—
 - (a) either—
 - (i) pays, or is liable to pay, taxable wages and interstate wages for the period; or
 - (ii) is a previous interstate wage payer within the meaning of section 20; and
 - (b) is not a group member.
- (2) The determination must state the periodic return periods to which it applies.
- (3) The determination may apply for a periodic return period starting before or after, or the periodic return period in which, the determination is made.
- (4) The commissioner may, at any time by written notice given to the employer, revoke a determination made under subsection (1) with effect from the first day of the periodic return period stated in the notice.
- (5) The periodic return period stated in a notice under subsection (4) may be before or after, or the same periodic return period as, the periodic return period in which the notice is given but may not be before the date of the determination being revoked.

Subdivision 2 DGE for a group**22 Application of sdiv 2**

This subdivision applies to the DGE for a group.

23 Definition for sdiv 2

In this subdivision—

fixed periodic deduction, for the DGE for a periodic return period, means—

- (a) the amount of the DGE's deduction for the period determined by the commissioner under section 27; or
- (b) if paragraph (a) does not apply—the greater of zero and the amount worked out on the most recent calculation day using the following formula—

$$FPD = \frac{QW}{AW} \left(E - \frac{1}{3} \left\langle \frac{AW}{12} - E \right\rangle \right) M$$

where—

AW means the total amount of taxable wages and interstate wages estimated by the members of the group to be payable by the members for the financial year in which the period falls.

E means 83333.

FPD means the fixed periodic deduction in dollars.

M means the number of months in the period.

QW means the total amount of taxable wages estimated by the members of the group to be payable by the members for the financial year in which the period falls.

24 Meaning of *calculation day*

For working out the DGE's fixed periodic deduction for a periodic return period in a financial year, each of the following days in the year is a *calculation day*—

- (a) 1 July;
- (b) the day the DGE first becomes the DGE for the group;
- (c) the last day of a periodic return period during which a significant wage change happens for the group;
- (d) the day a determination by the commissioner of the DGE's periodic deduction under section 27 ceases to

have effect, if the commissioner does not make a further determination of the deduction;

- (e) the day a change in the DGE's periodic return period takes effect under section 60.

Note—

A DGE who works out the DGE's fixed periodic deduction must notify the commissioner of the amount under section 86.

25 Meaning of *significant wage change*

- (1) A *significant wage change* happens during a periodic return period for a group if the previous estimated wages would differ by more than 30% from the current estimated wages.
- (2) In this section—

current estimated wages means the total amount of taxable wages and interstate wages, or the total amount of taxable wages, for the financial year estimated by the members of the group at the end of the periodic return period mentioned in subsection (1).

previous estimated wages means the estimated total amount of taxable wages and interstate wages, or the estimated total amount of taxable wages, of the members of the group used for working out the fixed periodic deduction for the DGE for a periodic return period.

26 Amount of periodic liability

The DGE's liability (*periodic liability*) for pay-roll tax for a periodic return period is the amount worked out by applying the appropriate rate of pay-roll tax to the greater of zero and the amount equal to the total taxable wages paid or payable by the DGE during the period less the DGE's fixed periodic deduction for the period.

Note 1—

Under section 30(1)(a) of the Administration Act, a DGE's liability for pay-roll tax for a periodic return period must be paid on the date the DGE is required to lodge a periodic return for the period.

Note 2—

A DGE may be required, under the Administration Act, to include assessed interest or penalty tax in an assessment of periodic liability.

27 Determination by commissioner of fixed periodic deduction

- (1) The commissioner may, by written notice given to the DGE, determine the amount of the DGE's fixed periodic deduction for a periodic return period.
- (2) The determination must state the periodic return periods to which it applies.
- (3) The determination may apply for a periodic return period starting before or after, or the periodic return period in which, the determination is made.
- (4) The commissioner may, at any time by written notice given to the DGE, revoke a determination made under subsection (1) with effect from the first day of the periodic return period stated in the notice.
- (5) The periodic return period stated in a notice under subsection (4) may be before or after, or the same periodic return period as, the periodic return period in which the notice is given but may not be before the date of the determination being revoked.
- (6) The commissioner may make a determination, or revoke a determination, under this section in relation to the deduction amount for a non-DGE group member.
- (7) If the commissioner makes a determination mentioned in subsection (6), the group member is, on the first day of the first periodic return period to which the determination applies, taken to have been designated under section 75(1) or (2)⁵ as the DGE for the group.

5 Section 75 (Designation of group member as DGE)

Division 4 Annual liability

Subdivision 1 Employer other than the DGE for a group

28 Application of sdiv 1

This subdivision applies to an employer who—

- (a) is required, under section 63, to lodge an annual return for a financial year; and
- (b) is not the DGE for a group on 30 June in the year.⁶

29 Definitions for sdiv 1

(1) In this subdivision—

annual adjustment amount, for the employer for a financial year, means the difference between—

- (a) the employer's annual pay-roll tax amount for the year; and
- (b) the employer's periodic liability for periodic return periods in the year.

annual deduction, for the employer for a financial year, means the greater of zero and the amount worked out using the following formula—

$$AD = \frac{AW}{AW + IW} \left(\frac{K(A+B)}{365} - \frac{1}{3} \left(AW + IW - \frac{K(A+B)}{365} \right) \right)$$

where—

A means the number of days in the part of the year starting on 1 July and ending on 31 December for which the employer pays, or is liable to pay, wages, other than foreign wages.

AD means the annual deduction in dollars.

AW means the employer's annual wages for the year.

⁶ For provisions about a DGE's annual liability, see subdivision 2.

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B means the number of days in the part of the year starting on 1 January and ending on 30 June for which the employer pays, or is liable to pay, wages, other than foreign wages.

IW means the amount of interstate wages paid or payable in the year.

K means 1000000.

annual pay-roll tax amount, for the employer for a financial year, means—

- (a) if the employer is not a group member on 30 June in the year and the employer's annual deduction for the year is greater than the employer's annual wages for the year—zero; or
- (b) if the employer is not a group member on 30 June in the year and paragraph (a) does not apply—the amount worked out by applying the appropriate rate of pay-roll tax to the employer's annual wages for the year less the employer's annual deduction for the year; or
- (c) if the employer is a group member on 30 June in the year—the amount worked out by applying the appropriate rate of pay-roll tax to the employer's annual wages for the year.

annual wages, for the employer for a financial year, means the total taxable wages paid or payable by the employer during the year.

- (2) Despite subsection (1), definition *annual deduction*, if a person who did not pay and was not liable to pay taxable wages or interstate wages for any part of a financial year satisfies the commissioner that, by reason of the nature of the person's trade or business, the taxable wages and interstate wages (if any) paid or payable by the person fluctuate with different periods of the financial year, the commissioner may treat the person—
 - (a) if the person has conducted that trade or business in Australia during the whole of the financial year—as an employer throughout the financial year; or

- (b) if the person has conducted that trade or business in Australia during part only of the financial year—as an employer during that lastmentioned part of the financial year.
- (3) However, if the person lodged, or was required under section 64 to lodge, 1 or more final returns during the year, subsection (2) can apply in relation to the person only if the person did not pay, and was not liable to pay, taxable wages or interstate wages for a part of the year after the end of the last final period.
- (4) Also, the commissioner may treat the person, under subsection (2), as an employer only during the part of the year after the end of the last final period.

30 Amount of annual liability

- (1) The employer's liability (*annual liability*) for pay-roll tax for a financial year is—
 - (a) the employer's annual adjustment amount for the year, if—
 - (i) the employer lodged, or was required under section 59 to lodge, a periodic return during the year; and
 - (ii) the employer's annual pay-roll tax amount for the year is greater than the employer's periodic liability for periodic return periods in the year; or
 - (b) the employer's annual pay-roll tax amount for the year, if the employer was not required under section 59 to lodge a periodic return during the year.

Example for paragraph (b)—

The amount of an employer's annual liability would be the annual pay-roll tax amount if the employer was exempt, under a certificate issued by the commissioner under section 62, from lodging periodic returns during the financial year.

- (2) However, if the employer lodged, or was required under section 64 to lodge, 1 or more final returns during the financial year, for working out the employer's annual liability—

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- (a) taxable wages and interstate wages (*final return wages*) paid or payable by the employer for a final period during the year are not included in the employer's wages for the year; and
 - (b) the periodic liability amount for the employer for a final period during the year (*final return liability*) is not included in the employer's periodic liability for periodic return periods in the year; and
 - (c) the employer's annual deduction must be worked out without having regard to the days in a final period during the year.
- (3) Subsection (2) does not apply in relation to a final period during the year if—
- (a) the commissioner makes an original assessment of the employer's annual liability, other than under the Administration Act, section 14(a); and
 - (b) the employer is not a group member on 30 June in the year; and
 - (c) the employer was not a group member during the final period; and
 - (d) the employer's annual liability would be greater if the final return wages and final return liability for the final period were not included.⁷
- (4) If the commissioner includes final return wages and final return liability under subsection (3) for working out the employer's annual liability, the annual deduction for the employer for the financial year must be worked out having regard to the days in a final period mentioned in subsection (3).

Note 1—

Under section 30(1)(a) of the Administration Act, an employer's annual liability for a financial year must be paid on the date the employer is required to lodge an annual return for the financial year.

⁷ See also section 78 (Reassessment—annual liability of non-group employer who has lodged a final return).

Note 2—

An employer may be required, under the Administration Act, to include assessed interest or penalty tax in an assessment of annual liability.

31 Entitlement to annual refund amount

- (1) This section applies if the employer's periodic liability for periodic return periods in a financial year is greater than the employer's annual pay-roll tax amount for the year.
- (2) The employer is entitled to a refund of the amount (the *annual refund amount*) of the difference between the periodic liability and the annual pay-roll tax amount.
- (3) Subsection (2) is subject to section 83.⁸
- (4) However, the employer is not entitled to a refund of the amount more than 5 years after the making of the assessment of the employer's annual liability for the year.
- (5) This section does not apply in relation to a reassessment of the employer's annual liability.

Note—

Entitlement to refunds on reassessments is provided for in the Administration Act, part 4, division 2.

Subdivision 2 DGE for a group**32 Application of sdiv 2**

This subdivision applies to an employer who, on 30 June in a financial year, is the DGE for a group.

33 Definitions for sdiv 2

In this subdivision—

annual adjustment amount, for the DGE for a financial year, means the difference between—

- (a) the DGE's annual pay-roll tax amount for the year; and

⁸ Section 83 (Application of annual refund amount or final refund amount)

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- (b) the DGE's periodic liability for periodic return periods in the designated period for the DGE in the year.

annual deduction, for the DGE for a financial year, means the greater of zero and the amount worked out using the following formula—

$$AD = \frac{TW}{TW + IW} \left(\frac{K(A+B)}{365} - \frac{1}{3} \left(TW + IW - \frac{K(A+B)}{365} \right) \right)$$

where—

A means the number of days in the designated period for the DGE—

- (a) that are in the part of the year starting on 1 July and ending on 31 December, whether or not wholly or partly concurrent; and
- (b) for which 1 or more relevant group employers pay, or are liable to pay, as members of the group taxable wages or interstate wages or taxable wages and interstate wages.

AD means the annual deduction in dollars.

B means the number of days in the designated period—

- (a) that are in the part of the year starting on 1 January and ending on 30 June, whether or not wholly or partly concurrent; and
- (b) for which 1 or more relevant group employers pay, or are liable to pay, as members of the group taxable wages or interstate wages or taxable wages and interstate wages.

IW means the amount of interstate wages paid or payable for the designated period by each relevant group employer as a member of the group.

K means 1000000.

TW means the amount of taxable wages paid or payable for the designated period by each relevant group employer as a member of the group.

annual pay-roll tax amount for the DGE for a financial year, means—

- (a) if the DGE's annual deduction for the year is greater than the DGE's annual wages for the year—zero; or
- (b) if paragraph (a) does not apply—the amount worked out by applying the appropriate rate of pay-roll tax to the DGE's annual wages for the year less the DGE's annual deduction for the year.

annual wages, for the DGE for a financial year, means the total taxable wages paid or payable by the DGE during the designated period for the DGE in the year.

relevant group employer, for the designated period for the DGE in a financial year, means an employer who was a member of the group for all or part of the period.

34 Amount of DGE's annual liability

- (1) The DGE's liability (**annual liability**) for pay-roll tax for a financial year is—
 - (a) the DGE's annual adjustment amount for the year, if—
 - (i) the DGE lodged, or was required under section 59 to lodge, a periodic return during the designated period for the DGE in the year; and
 - (ii) the DGE's annual pay-roll tax amount for the year is greater than the DGE's periodic liability for periodic return periods in the designated period; or
 - (b) the DGE's annual pay-roll tax amount for the year, if the DGE was not required under section 59 to lodge a periodic return during the designated period for the DGE in the year.

Example—

A group member is the DGE from 1 January to 30 June in a financial year. The DGE's annual liability for the year would be worked out without having regard to the part of the financial year before 1 January.

- (2) If the DGE does not pay the DGE's annual liability for the financial year on the return date for lodgment of the DGE's annual return, every relevant group employer for the designated period is liable jointly and severally to pay the amount of the liability.

Note 1—

Under section 30(1)(a) of the Administration Act, a DGE's annual liability for a financial year must be paid on the date the DGE is required to lodge an annual return for the financial year.

Note 2—

A DGE may be required, under the Administration Act, to include assessed interest or penalty tax in an assessment of annual liability.

35 Entitlement to annual refund amount

- (1) This section applies if the DGE's periodic liability for periodic return periods in the designated period for the DGE in a financial year is greater than the DGE's annual pay-roll tax amount for the year.
- (2) The DGE is entitled to a refund of the amount (the ***annual refund amount***) of the difference between the periodic liability and the annual pay-roll tax amount.
- (3) Subsection (2) is subject to section 83.⁹
- (4) However, the DGE is not entitled to a refund of the amount more than 5 years after the making of the assessment of the DGE's annual liability for the year.
- (5) This section does not apply in relation to a reassessment of the DGE's annual liability.

Note—

Entitlement to refunds on reassessments is provided for in the Administration Act, part 4, division 2.

9 Section 83 (Application of annual refund amount or final refund amount)

Division 5 Final liability

Subdivision 1 Employer other than the DGE for a group

36 Application of sdiv 1

This subdivision applies to an employer who—

- (a) is required under section 64 to lodge a final return for a final period; and
- (b) is not the DGE for a group on the last day of the final period.¹⁰

37 Definitions for sdiv 1

In this subdivision—

final adjustment amount, for the employer for a final period, means the difference between—

- (a) the employer's final pay-roll tax amount for the period; and
- (b) the employer's periodic liability amount for the final period.

final deduction, for the employer for a final period, means the greater of zero and the amount worked out using the following formula—

$$FD = \frac{FW}{FW + IW} \left(\frac{K(A+B)}{365} - \frac{1}{3} \left(FW + IW - \frac{K(A+B)}{365} \right) \right)$$

where—

A means the number of days in the part of the final period starting on 1 July and ending on 31 December for which the employer pays, or is liable to pay, wages.

¹⁰ For provisions about a DGE's final liability, see subdivision 2.

B means the number of days in the part of the final period starting on 1 January and ending on 30 June for which the employer pays, or is liable to pay, wages.

FD means the final deduction in dollars.

FW means the employer's final wages for the period.

IW means the amount of interstate wages paid or payable in the period.

K means 1000000.

final pay-roll tax amount, for the employer for a final period, means—

- (a) if the employer is not a group member on the last day of the period and the employer's final deduction for the period is greater than the employer's final wages for the period—zero; or
- (b) if the employer is not a group member on the last day of the period and paragraph (a) does not apply—the amount worked out by applying the appropriate rate of pay-roll tax to the employer's final wages for the period less the employer's final deduction for the period; or
- (c) if the employer is a group member on the last day of the period—the amount worked out by applying the appropriate rate of pay-roll tax to the employer's final wages for the period.

final wages, for the employer for a final period, means the total taxable wages paid or payable by the employer during the period.

wages does not include foreign wages.

38 Amount of final liability

- (1) The employer's liability (***final liability***) for pay-roll tax for a final period is—
 - (a) the employer's final adjustment amount for the period, if—
 - (i) either—

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- (A) the employer lodged, or was required under section 59 to lodge, a periodic return during the period; or
- (B) after the last day of the final period, the employer will be required under section 59 to lodge a periodic return for a periodic return period that is wholly or partly within the final period; and
- (ii) the employer's final pay-roll tax amount for the period is greater than the employer's periodic liability amount for the final period; or
- (b) the employer's final pay-roll tax amount for the period, if—
 - (i) the employer was not required under section 59 to lodge a periodic return during the period; and
 - (ii) paragraph (a) does not apply.

Example for paragraph (b)—

The amount of an employer's final liability would be the final pay-roll tax amount if the employer was exempt, under a certificate issued by the commissioner under section 62, from lodging periodic returns during the final period.

- (2) However, subsection (3) applies if—
 - (a) the employer did not pay and was not liable to pay taxable wages or interstate wages for any part of the final period; and
 - (b) the employer satisfies the commissioner that, because of the nature of the employer's trade or business, the taxable wages and interstate wages, if any, paid or payable by the employer fluctuate with different periods of the financial year.
- (3) If this subsection applies, for working out the employer's final liability for the final period, the commissioner may treat the employer—
 - (a) if the employer has conducted the employer's trade or business in Australia during the whole of the final period—as an employer throughout the final period; or

- (b) if the employer has conducted the employer's trade or business in Australia during part only of the final period—as an employer during that part of the final period.

Note 1—

Under section 30(1)(a) of the Administration Act, an employer's final liability for a final period must be paid on the date the employer is required to lodge a final return for the final period.

Note 2—

An employer may be required, under the Administration Act, to include assessed interest or penalty tax in an assessment of final liability.

39 Entitlement to final refund amount

- (1) This section applies if the employer's periodic liability amount for a final period is greater than the employer's final pay-roll tax amount for the period.
- (2) The employer is entitled to a refund of the amount (the *final refund amount*) of the difference between the periodic liability amount and the final pay-roll tax amount.
- (3) Subsection (2) is subject to section 83.¹¹
- (4) However, the employer is not entitled to a refund of the amount more than 5 years after the making of the assessment of the employer's final liability for the period.
- (5) This section does not apply in relation to a reassessment of the employer's final liability.

Note—

Entitlement to refunds on reassessments is provided for in the Administration Act, part 4, division 2.

11 Section 83 (Application of annual refund amount or final refund amount)

Subdivision 2 DGE for a group

40 Application of sdiv 2

This subdivision applies to an employer who is the DGE for a group on the last day of a final period.

41 Definitions for sdiv 2

In this subdivision—

final adjustment amount, for the DGE for a final period, means the difference between—

- (a) the DGE's final pay-roll tax amount for the period; and
- (b) the DGE's periodic liability amount for the final period.

final deduction, for the DGE for a final period, means the greater of zero and the amount worked out using the following formula—

$$FD = \frac{TW}{TW + IW} \left(\frac{K(A+B)}{365} - \frac{1}{3} \left(TW + IW - \frac{K(A+B)}{365} \right) \right)$$

where—

A means the number of days—

- (a) that are in the part of the final period starting on 1 July and ending on 31 December; and
- (b) for which 1 or more relevant group employers pay, or are liable to pay, as members of the group taxable wages or interstate wages or taxable wages and interstate wages.

B means the number of days—

- (a) that are in the part of the final period starting on 1 January and ending on 30 June; and
- (b) for which 1 or more relevant group employers pay, or are liable to pay, as members of the group taxable wages or interstate wages or taxable wages and interstate wages.

FD means the final deduction in dollars.

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IW means the amount of interstate wages paid or payable for the final period by each relevant group employer as a member of the group.

K means 1000000.

TW means the amount of taxable wages paid or payable for the final period by each relevant group employer as a member of the group.

final pay-roll tax amount, for the DGE for a final period, means—

- (a) if the DGE's final deduction for the period is greater than the DGE's final wages for the period—zero; or
- (b) if paragraph (a) does not apply—the amount worked out by applying the appropriate rate of pay-roll tax to the DGE's final wages for the period less the DGE's final deduction for the period.

final wages, for the DGE for a final period, means the total taxable wages paid or payable by the DGE during the period.

relevant group employer, for a final period for the DGE, means an employer who was a member of the group for all or part of the period.

42 Amount of DGE's final liability

- (1) The DGE's liability (***final liability***) for pay-roll tax for a final period is—
 - (a) the DGE's final adjustment amount for the period, if—
 - (i) either—
 - (A) the DGE lodged, or was required under section 59 to lodge, a periodic return during the period; or
 - (B) after the last day of the final period, the DGE will be required under section 59 to lodge a periodic return for a periodic return period that is wholly or partly within the final period; and

- (ii) the DGE's final pay-roll tax amount for the period is greater than the DGE's periodic liability amount for the period; or
- (b) the DGE's final pay-roll tax amount for the period, if—
 - (i) the DGE was not required under section 59 to lodge a periodic return during the period; and
 - (ii) paragraph (a) does not apply.
- (2) If the DGE does not pay the DGE's final liability for the period on the return date for lodgment of the DGE's final return, every relevant group employer for the period is liable jointly and severally to pay the amount of the liability.

Note 1—

Under section 30(1)(a) of the Administration Act, a DGE's final liability for a final period must be paid on the date the DGE is required to lodge a final return for the final period.

Note 2—

A DGE may be required, under the Administration Act, to include assessed interest or penalty tax in an assessment of final liability.

43 Entitlement to final refund amount

- (1) This section applies if the DGE's periodic liability amount for a final period is greater than the DGE's final pay-roll tax amount for the period.
- (2) The DGE is entitled to a refund of the amount (the *final refund amount*) of the difference between the periodic liability amount and the final pay-roll tax amount.
- (3) Subsection (2) is subject to section 83.¹²
- (4) However, the DGE is not entitled to a refund of the amount more than 5 years after the making of the assessment of the DGE's final liability for the period.
- (5) This section does not apply in relation to a reassessment of the DGE's final liability.

¹² Section 83 (Application of annual refund amount or final refund amount)

Note—

Entitlement to refunds on reassessments is provided for in the Administration Act, part 4, division 2.

Division 6 Sharing of excess deduction by group members

44 Definitions for div 6

In this division—

entitled group member, for an excess deduction, means a non-DGE group member who—

- (a) is nominated by the DGE for the group under section 46, or determined by the commissioner under section 47, as a group member to share in the excess deduction; and
- (b) if the excess deduction is shared by the entitled group members at the end of the relevant financial year under section 48—is a member of the group on 30 June in the year and has an annual liability for the year.

order of entitled group members means the order in which entitled group members are to share in an excess deduction under a nomination made by the DGE for the group under section 46, or a determination made by the commissioner under section 47, for the assessment of the DGE's annual liability or final liability.

relevant financial year, for an excess deduction, means—

- (a) if the excess deduction relates to an assessment of annual liability of the DGE for the group—the financial year to which the assessment relates; or
- (b) if the excess deduction relates to an assessment of final liability of the DGE for the group—the financial year that includes the final period to which the assessment relates.

45 Meaning of *excess deduction*

- (1) Subsection (2) applies—
 - (a) for an assessment of the annual liability of the DGE for a group, if the DGE's annual deduction for the financial year is greater than the DGE's annual wages for the year; or
 - (b) for an assessment of the final liability of the DGE for a group, if the DGE's final deduction for the final period is greater than the DGE's final wages for the period.
- (2) The amount of the difference is the *excess deduction* for the assessment.
- (3) In this section—
 - annual deduction* see section 33.
 - annual wages* see section 33.
 - final deduction* see section 41.
 - final wages* see section 41.

46 Nomination by DGE of group members to share in excess deduction

The DGE for a group may nominate, in an annual return or final return—

- (a) 1 or more group members to share in any excess deduction for the assessment of the DGE's annual liability or final liability; and
- (b) the order in which the members are to share in the excess deduction.

47 Determination by commissioner of group members to share in excess deduction

- (1) This section applies, for an assessment of annual liability or final liability of the DGE for a group, if—
 - (a) the DGE does not make a nomination under section 46; and
 - (b) there is an excess deduction.

- (2) The commissioner may make a determination of—
 - (a) 1 or more non-DGE group members to share in the excess deduction; and
 - (b) the order in which the members are to share in the excess deduction.
- (3) The determination may apply in relation to an assessment of the DGE's annual liability or final liability made before or after the determination is made.

48 Sharing of excess deduction by entitled group members at end of financial year

- (1) This section applies if—
 - (a) there is an excess deduction for an assessment of the annual liability or final liability of the DGE for a group; and
 - (b) if the excess deduction is for an assessment of the DGE's final liability—at least 1 member of the group continues to pay, or be liable to pay, wages as a member of the group for the period—
 - (i) starting on the day the DGE's change of status happens; and
 - (ii) ending on 30 June in the relevant financial year.
- (2) An entitled group member for the excess deduction is, after the end of the relevant financial year, entitled to the following share of the excess deduction—
 - (a) if the member is first in the order of entitled group members—the lesser of the following amounts—
 - (i) the excess deduction;
 - (ii) the member's annual wages for the year;
 - (b) for another entitled group member, the lesser of the following amounts—
 - (i) so much of the excess deduction remaining after the preceding entitled group member in the order of entitled group members has received the preceding member's share;

- (ii) the member's annual wages for the year.
- (3) The commissioner must make an assessment or reassessment of an entitled group member's annual liability for the year.
- (4) An assessment or reassessment mentioned in subsection (3) must be made on the basis that, for part 2, division 4, subdivision 1, the member's *annual pay-roll tax amount* for the year is the amount worked out by applying the appropriate rate of pay-roll tax to the member's annual wages for the year less the member's share of the excess deduction under subsection (2).
- (5) In this section—
annual wages see section 29(1).

49 Sharing of excess deduction by entitled group members on group ceasing to exist

- (1) This section applies if—
 - (a) there is an excess deduction for an assessment of final liability of the DGE for a group; and
 - (b) all members of the group cease to pay, or be liable to pay, wages as members of the group before 30 June in the relevant financial year.
- (2) An entitled group member for the excess deduction is, after all group members have ceased to pay, or be liable to pay, wages as members of the group, entitled to the following share of the excess deduction—
 - (a) if the member is first in the order of entitled group members—the lesser of the following amounts—
 - (i) the excess deduction;
 - (ii) the member's final wages for the relevant final period; or
 - (b) for another entitled group member, the lesser of the following amounts—
 - (i) so much of the excess deduction remaining after the preceding entitled group member in the order

of entitled group members has received the preceding member's share;

- (ii) the member's final wages for the relevant final period.
- (3) The commissioner must make an assessment or reassessment of an entitled group member's final liability for the relevant final period.
- (4) An assessment or reassessment mentioned in subsection (3) must be made on the basis that, for part 2, division 5, subdivision 1, the member's *final pay-roll tax amount* for the relevant final period is the amount worked out by applying the appropriate rate of pay-roll tax to the member's final wages for the period less the member's share of the excess deduction under subsection (2).
- (5) In this section—
final wages see section 37.

relevant final period, for an entitled group member, means the final period for the change of status of the member happening at the time the member ceases to pay, or be liable to pay, wages as a member of the group.

Division 7 Avoidance arrangements

50 Arrangements for avoidance of tax may be disregarded

- (1) Where any person enters into any agreement, transaction, or arrangement, whether in writing or otherwise, whereby a natural person performs or renders, for or on behalf of another person, services in respect of which any payment is made to some other person related or connected to the natural person performing or rendering the services and the effect of such agreement, transaction or arrangement is to reduce or avoid the liability of any person to the assessment, imposition or payment of pay-roll tax, the commissioner may—
 - (a) disregard such agreement, transaction, or arrangement; and

- (b) determine that any party to such agreement, transaction or arrangement shall be deemed to be an employer for the purposes of this Act; and
 - (c) determine that any payment made in respect of such agreement, transaction or arrangement shall be deemed to be wages for the purposes of this Act.
- (2) Where the commissioner makes a determination under subsection (1), the commissioner shall serve a notice to that effect on the person deemed to be an employer for the purposes of this Act and shall set out in the notice the facts on which the commissioner relies and the commissioner's reasons for making the determination.

51 Avoidance arrangements involving employment agents

- (1) This section applies if—
- (a) an avoidance arrangement exists in relation to an employment agency in a return period; and
 - (b) the assumed non-adjusted tax for the period is less than the assumed adjusted tax for the period.
- (2) If this section applies in a return period, for the period—
- (a) if the avoidance arrangement involves an employment agent acting as trustee for a client of the employment agent under a trust or acting as agent for a client of the employment agent under an agency agreement—section 92(1) does not apply to the trustee or agent, or in relation to the trust or agency agreement; and
 - (b) if the avoidance arrangement involves a client of an employment agent acquiring, or clients of an employment agent jointly acquiring, a controlling interest in the business of the employment agent referable to the client or clients—the client or clients is or are taken not to have the controlling interest; and
 - (c) the employment agent, or each employment agent, involved in the employment agency is answerable as an employer for doing everything required to be done under this Act for the payment of wages by the employment agent that are subject to pay-roll tax under

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this Act (including the giving of returns and payment of pay-roll tax); and

- (d) if the employment agency involves more than 1 employment agent—the employment agents constitute a group.
- (3) For this section, a client has, or clients have, a controlling interest in a business if the client has, or the clients have, a controlling interest in the business under section 69.¹³
- (4) In subsection (1)—
 - (a) a reference to the assumed non-adjusted tax for a return period is a reference to the total amount of pay-roll tax that would be payable by the employment agent or agents involved in the employment agency for the period if the amount were calculated without applying any resultant provision; and
 - (b) a reference to the assumed adjusted tax for a return period is a reference to the total amount of pay-roll tax that would be payable by the employment agent or agents involved in the employment agency for the period if the amount were calculated applying each relevant resultant provision.
- (5) To remove any doubt about the application of subsection (4)(b), it is declared that if an employment agency is involved in more than 1 avoidance arrangement in a return period, subsection (4)(b) is to be applied by first applying each relevant resultant provision to each avoidance arrangement and then calculating the total amount for the subsection.
- (6) In this section—

avoidance arrangement means an arrangement involving an employment agency if the arrangement involves 1 or more of the following—

 - (a) an employment agent acting as trustee for a client of the employment agent under a trust;
 - (b) an employment agent acting as agent for a client of the employment agent under an agency agreement;

13 Section 69 (Grouping of commonly controlled businesses)

- (c) a client of an employment agent acquiring, or clients of an employment agent jointly acquiring, a controlling interest in the business of the employment agent referable to the client or clients.

client includes an individual or company that—

- (a) under the *Duties Act 2001*, section 164, is a related person of the client; or
- (b) is related to the client in another way prescribed under a regulation.

employment agency means a business enterprise involving—

- (a) the business of an employment agent; or
- (b) the businesses of 2 or more employment agents.

resultant provision means subsection (2), paragraph (a), (b), (c) or (d).

return period means—

- (a) for an employment agent who is required to lodge periodic returns—a periodic return period; or
- (b) for an employment agent who is exempt under section 62 from lodging periodic returns—a financial year.

Part 3 Registration and returns

Division 1 Registration

52 Meaning of *criteria for registration*

For this division, the ***criteria for registration*** are that, during a month, an employer pays, or is liable to pay, taxable wages and the employer—

- (a) pays, or is liable to pay, wages anywhere of more than \$19230 a week; or
- (b) is a group member.

53 Application for registration

- (1) An employer who is not already registered as an employer under this division and who meets the criteria for registration must, within 7 days after the end of the month during which the employer meets the criteria, give the commissioner an application for registration as an employer.

Maximum penalty—100 penalty units.

- (2) The application must be made in the approved form.
- (3) If—
 - (a) the commissioner cancels the registration of a person as an employer in a financial year; and
 - (b) the person subsequently pays or is liable to pay taxable wages (otherwise than as a member of a group) during the financial year;

the person may give the commissioner an application, in the approved form, for registration as an employer, even though the person is not required under subsection (1) to apply for registration as an employer.

- (4) If an employer applies under subsection (1) or (3) for registration as an employer, the commissioner must register the employer.

54 Registration of employer without application

The commissioner may, by written notice given to a person who meets the criteria for registration, register the person as an employer.

55 Notice of registration

- (1) On registration of a person as an employer, the commissioner must give written notice to the person of the registration.

- (2) The notice must state each of the following—
 - (a) the date of registration;
 - (b) the types of reassessments the employer is required or permitted to make;
 - (c) whether the employer is permitted to remit the whole or part of unpaid tax interest or penalty tax.

56 Amendment of registration

- (1) The commissioner may amend an employer's registration by written notice given to the employer.
- (2) The notice must state the particulars of the employer's notice of registration that are amended.

57 Cancellation of registration

- (1) The commissioner must cancel the registration of a person as an employer if—
 - (a) the person has—
 - (i) ceased to be an employer; and
 - (ii) lodged a final return and paid the person's final liability, if any, for the final period; or
 - (b) each of the following applies—
 - (i) the person is not a group member;
 - (ii) the person has lodged an annual return and paid the person's annual liability, if any, for a financial year;
 - (iii) before lodging the annual return, the person ceased to be an employer paying, or being liable to pay, wages mentioned in section 52(a);
 - (iv) the commissioner is satisfied the person will not pay, or be liable to pay, wages mentioned in section 52(a) during the next financial year.
- (2) If the commissioner cancels the registration of a person as an employer, the commissioner must give written notice of the cancellation to the person.

Division 2 Returns

58 Definition for div 2

In this division—

relevant employer means an employer who is—

- (a) registered as an employer under division 1; or
- (b) required to apply for registration as an employer under division 1.

59 Periodic returns

- (1) A relevant employer must, not later than 7 days after the last day of each periodic return period for all or part of which the employer is a relevant employer, lodge a return for taxable wages paid or payable by the employer for the period.

Note—

Failure to lodge a periodic return is an offence under section 121 of the Administration Act.

- (2) However, if the commissioner considers it would be unduly onerous to require the employer to lodge periodic returns within the 7 day period required under subsection (1), the commissioner may, by written notice, vary the time within which the employer is required to lodge returns under this section.
- (3) The commissioner may revoke a notice given under subsection (2) at any time by written notice.
- (4) The return must—
 - (a) be in the approved form; and
 - (b) state the employer's periodic liability for the periodic return period.
- (5) This section is subject to sections 60 to 62.

Note—

Lodgment of an annual return or final return does not, of itself, affect a relevant employer's obligation to lodge periodic returns.

60 Duration of periodic return period

- (1) Subject to subsection (2), a periodic return period is the period—
 - (a) starting on the first day of a month; and
 - (b) ending on the last day of the month.
- (2) However, if the commissioner considers it would be unduly onerous to require the employer to lodge periodic returns for each month, the commissioner may, by written notice, authorise the employer to lodge periodic returns for the periods stated in the notice.
- (3) A period stated in the notice must be less than 1 year.
- (4) The commissioner may revoke a notice given under subsection (2) at any time by written notice.

61 Deemed lodgment of periodic return—payment by electronic transfer of funds

- (1) This section applies if—
 - (a) an amount of pay-roll tax may be or is required to be, under the Administration Act, section 29,¹⁴ paid by the electronic transfer of funds; and
 - (b) an employer makes a payment of periodic liability for a periodic return period by an electronic transfer of funds as required under that Act.
- (2) The employer is taken to have lodged a periodic return for the periodic return period to which the payment relates.
- (3) The amount of the payment is, for the Administration Act, section 14(a),¹⁵ taken to be the amount of the employer's periodic liability stated in the return.
- (4) However, if the employer makes more than 1 payment for a periodic return period by the electronic transfer of funds, subsections (2) and (3) apply only to the first payment made by the employer for the period.

14 Administration Act, section 29 (Methods of payment)

15 Administration Act, section 14 (Making self assessment by lodging return)

62 Exemption from requirement to lodge periodic returns

- (1) If the commissioner considers that no tax will be payable by a relevant employer or, if paid, would be refunded, the commissioner may issue a certificate to the employer exempting the employer from the requirement under section 59 to lodge periodic returns.
- (2) An employer to whom a certificate is issued under subsection (1) is not required to lodge periodic returns.

Note—

An employer who is not required to lodge periodic returns is subject to a notification requirement under section 87 and is not exempt from the requirement to lodge an annual return or final return.

- (3) A certificate issued under subsection (1) may be either unconditional or subject to such conditions as are prescribed or as the commissioner thinks fit.
- (4) The commissioner may, at any time by notice in writing, revoke any certificate issued under subsection (1).
- (5) The issue of a certificate under subsection (1) shall not exempt an employer from the payment of any pay-roll tax, notwithstanding that it may have the effect of postponing the time for payment of any pay-roll tax.

63 Annual return

- (1) This section applies to an employer who is a relevant employer on 30 June in a financial year.
- (2) The employer must, not later than 21 July immediately after the end of the year, lodge a return for taxable wages paid or payable by the employer for the year.

Note—

Failure to lodge an annual return is an offence under section 121 of the Administration Act.

- (3) The return must—
 - (a) be in the approved form; and
 - (b) state—
 - (i) if the employer is the DGE for a group—the wages that were paid or payable during the designated

- period for the DGE in the year, as a member of the group, by each employer who was a member of the group for all or part of the designated period; or
- (ii) for another employer, the wages that were paid or payable during the year by the employer, other than wages that were included, or required to be included, in a final return for a final period for the employer during the year; and
- (c) state the employer's annual liability or annual refund amount for the year.
- (4) Despite subsection (2), an employer is not required to lodge an annual return for a financial year if the employer—
- (a) lodged, or was required under section 64 to lodge, a final return during the year; and
 - (b) did not pay, and was not liable to pay, taxable wages during the financial year after the last day of the final period for which the final return was lodged or required to be lodged.

Note—

Lodgment of a final return does not, of itself, affect a relevant employer's obligation to lodge an annual return.

64 Final return

- (1) This section applies if, during a financial year, a change of status happens for a relevant employer.
- (2) The employer must, not later than 21 days after the change of status happens, lodge a return for taxable wages paid or payable by the employer for the final period for the change of status.

Note—

Failure to lodge a final return is an offence under section 121 of the Administration Act.

- (3) The return must—
 - (a) be in the approved form; and
 - (b) state—

- (i) if the employer is the DGE for a group—the wages that were paid or payable during the period, as a member of the group, by each employer who was a member of the group for all or part of the period; or
- (ii) for another employer, the wages that were paid or payable during the period by the employer; and
- (c) state the employer's final liability or final refund amount for the period.

65 Further returns

The commissioner may, by notice in writing, call upon any employer or person to lodge, within the time specified in the notice, such return or such further or fuller return, as the commissioner requires, whether on the employer's or person's own behalf or as an agent or a trustee.

Part 4 Grouping provisions

Division 1 Preliminary

66 Interpretation

In this part, *business* includes—

- (a) a trade or profession; and
- (b) any other activity carried on for fee, gain or reward; and
- (c) the activity, carried on by an employer, of employing 1 or more persons where that person performs or those persons perform duties for or in connection with another business.

Division 2 Grouping of persons

67 Grouping of corporations

For this Act, 2 corporations constitute a group if they are, because of the Corporations Act, part 1.2, section 50, taken for that law to be related to each other.

68 Grouping where employees used in another business

(1) For the purposes of this Act, where—

- (a) an employee of an employer or 2 or more employees of an employer performs or perform duties solely or mainly for or in connection with a business carried on by that employer and another person or other persons or by another person or other persons; or
- (b) an employer has, in respect of the employment of or the performance of duties by 1 or more of the employer's employees, an agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to a business carried on by that other person or those other persons, whether alone or together with another person or other persons;

that employer and—

- (c) each such other person; or
- (d) both or all of those other persons;

constitute a group.

(2) Where the commissioner is satisfied, having regard to the nature and degree of the duties referred to in subsection (1) and to any other matters that the commissioner considers relevant, that it would not be just and reasonable to include as a member of a group a person or persons carrying on a business, the commissioner may, by order in writing served

on that person or those persons, exclude the person or persons from the group.

- (3) In this section—
- (a) a reference to a business carried on by an employer includes a reference to a business carried on by an employer under a trust; and
 - (b) a reference to a business carried on by a person includes a reference to a business carried on by a person under a trust; and
 - (c) a reference to an employer includes a reference to an employer who is the trustee of a trust; and
 - (d) a reference to a person with whom an employer has an agreement, arrangement or undertaking includes a reference to a person who is the trustee of a trust.

69 Grouping of commonly controlled businesses

- (1) A reference in this section to 2 businesses does not include a reference to 2 businesses both of which are owned by the same person not being a trustee or by the trustee or trustees of a trust.
- (2) For the purposes of this Act, where the same person has or the same persons have together a controlling interest as referred to in subsection (3) in each of 2 businesses the persons who carry on those businesses constitute a group.
- (3) For the purposes of subsection (2), the same person has or the same persons have together a controlling interest in each of 2 businesses if that person has or those persons have together a controlling interest under any of the following paragraphs in 1 of the businesses and a controlling interest under the same or another of the following paragraphs in the other business—
 - (a) a person has or persons have together a controlling interest in a business, being a business carried on by a corporation, if the directors or a majority of the directors or 1 or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors, of the corporation are or is accustomed or under an obligation

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- (whether formal or informal) to act in accordance with the directions, instructions or wishes of that person or of those persons acting together;
- (b) a person has or persons have together a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together may (whether directly or indirectly) exercise, control the exercise of or substantially influence the exercise of 50% or more of the voting power attached to voting shares issued by the corporation;
 - (c) a person has or persons have together a controlling interest in a business, being a business carried on by a partnership, if that person or those persons—
 - (i) owns or own together (whether or not beneficially) 50% or more of the capital of the partnership; or
 - (ii) is or are together entitled (whether or not beneficially) to 50% or more of any profits of the partnership;
 - (d) a person has or persons have together a controlling interest in a business, being a business carried on under a trust, if that person (whether or not as the trustee of another trust) is the beneficiary or those persons (whether or not as the trustees of another trust) are together the beneficiaries in respect of 50% or more of the value of the interests in the trust first mentioned in this paragraph;
 - (e) a person has a controlling interest in a business if, whether or not the person is a trustee of a trust, the person is the sole owner of the business or persons, being 2 or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.
- (4) If a corporation has a controlling interest under subsection (3) in a business, it is taken for this Act to have a controlling interest in any other business in which another corporation that is, because of the Corporations Act, part 1.2, section 50, taken for that law to be related to it has a controlling interest.

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(5) Where—

- (a) a person has or persons have together a controlling interest under subsection (3) in a business; and
- (b) the person or persons who carries or carry on that business has or have such a controlling interest in another business;

the person or persons referred to in paragraph (a) shall be deemed to have a controlling interest in the business referred to in paragraph (b).

(6) Where—

- (a) a person is a beneficiary under a trust; or
- (b) 2 or more persons together are beneficiaries under a trust;

in respect of 50% or more of the value of the interests in that trust and the trustee or trustees of that trust has or have under subsection (3) a controlling interest in a business, that beneficiary or those beneficiaries shall, for the purposes of subsection (3), be deemed to have a controlling interest in that business.

(7) Where the commissioner is satisfied, having regard to the nature and degree of ownership or control of businesses that constitute a group and to any other matters that the commissioner considers relevant, that—

- (a) a business carried on by a member of that group is carried on substantially independently of and is not substantially connected with the carrying on of a business carried on by any other member of that group; and
- (b) it is just and reasonable that the firstmentioned member be excluded from that group;

the commissioner may, by order in writing served on the firstmentioned member, exclude that member from that group.

(8) In subsection (3)(a) and (b), a reference to a business carried on by a corporation includes a reference to a business carried on by a corporation under a trust.

- (9) In subsection (4), a reference to a corporation includes a reference to a corporation that is the trustee of a trust.

70 Grouping of head and branch businesses

- (1) For the purposes of this Act, 2 businesses constitute a group if—
- (a) 1 of the businesses is a branch, agency or subsidiary of a head or parent business; and
 - (b) the head or parent business exercises managerial control, whether administrative, financial or procedural over the branch, agency or subsidiary.
- (2) Where the commissioner is satisfied, having regard to the nature and degree of managerial control exercised by the head or parent business and to any other matters that the commissioner considers relevant, that it would not be just and reasonable to include as a member of a group a person or persons carrying on a business, the commissioner may, by order in writing served on that person or those persons, exclude the person or persons from the group.
- (3) In this section, a reference to a business includes a reference to a business carried on under a trust.

71 Smaller groups subsumed into larger groups

- (1) Notwithstanding any other provision of this part (except subsection (2)), where a person is whether or not by virtue of this subsection a member of 2 or more groups (each of which is in subsection (2) referred to as a smaller group), all of the members of those groups constitute, for the purposes of this Act, one group.
- (2) Except for the purpose of determining whether a group is constituted under subsection (1), a group which, but for this subsection, would be a smaller group, ceases to be a group if its members are members of a group constituted under subsection (1).
- (3) Where the commissioner is satisfied, having regard to any matters that the commissioner considers relevant, that it would not be just and reasonable to include as members of

one group the members of 2 or more groups, the commissioner may, by order in writing served on the person or persons who are members of those groups, exclude them from that one group.

- (4) In this section, a reference to a person who is a member of 2 or more groups includes a reference to a person who, as a trustee of a trust, is a member of 2 or more groups.

72 Grouping provisions to operate independently

The fact that a person is not a member of a group constituted under a provision of this part does not prevent that person from being a member of a group constituted under another provision of this part.

73 Beneficiaries under discretionary trusts

A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and other person, may benefit under that trust shall be deemed, for the purposes of this part, to be a beneficiary in respect of 50% or more of the value of the interests in that trust.

74 Exclusion of persons from group

- (1) The commissioner must not under section 68, 69, 70 or 71 make an order that excludes a person from a group on and from a day if the person is or was on that day a related corporation to another corporation that is a member of the group.
- (2) A person who is excluded from a group by order of the commissioner under section 68, 69, 70 or 71 shall inform the commissioner in writing immediately if the circumstances which were prevailing at the time of the exclusion order, as made known to the commissioner prior to the making of the order, change in a material respect.
- (3) The commissioner may at any time, by order in writing served on the person or persons excluded from a group, revoke an order made under section 68, 69, 70 or 71.

(4) Notwithstanding any other provision of this part, an order under section 68(2), 69(7), 70(2) or 71(3) shall have effect according to its tenor on and from the date specified in the order (being a date that is the date of the order or before the date of the order) as the date on and from which the person referred to in the order is or shall be deemed to have been excluded from the group so referred to.

(5) In this section—

related corporation, of a corporation, means a corporation that, under the former Corporations Law or the Corporations Act, is a related body corporate of the other corporation.

Division 3 Designated group employer

75 Designation of group member as DGE

(1) The members of a group may, by an instrument in writing in the approved form executed by or on behalf of each member of the group and served on the commissioner, designate 1 of its members to be the DGE in respect of the group for the purposes of this Act.

(2) If the members of a group do not in accordance with subsection (1) designate 1 of the members of the group to be the DGE in respect of the group for the purposes of this Act, the commissioner may exercise in respect of the group the powers of designation conferred on members of the group by that subsection and for the purposes of this Act such a designation by the commissioner shall be by instrument in writing served on the member of the group designated as the DGE and shall have the same effect and give rise to the same consequences as if validly made by the members of the group.

(3) Subject to subsection (4), the DGE in respect of a group ceases to be the DGE in respect of that group on and from the first day of the periodic return period relating to the DGE during which—

(a) the composition of the group alters; or

(b) the members of the group, by an instrument in writing in the approved form executed by or on behalf of each of

them who is known to the commissioner to be a member of the group and served on the commissioner, revoke the designation;

whichever occurs the earlier.

- (4) The members of a group may exercise the power of revoking a designation conferred by subsection (3) only with the prior written consent of the commissioner or, if at the same time as revoking the designation, the members make a further designation of 1 of their members to be the DGE in substitution for the member whose designation is revoked.
- (5) Where the commissioner has exercised the powers conferred on the commissioner by subsection (2), the commissioner may, by instrument in writing served on the member of the group designated as the DGE, revoke the commissioner's designation of that member as the DGE and thereafter may further exercise the powers conferred on the commissioner by that subsection.

Part 5 Provisions about assessments

Division 1 Reassessments

76 When registered employer may make reassessment

- (1) An employer who is registered as an employer under part 3, division 1 may make a reassessment of the employer's periodic liability, annual liability or final liability only if—
 - (a) the employer is required or permitted under the employer's notice of registration; and
 - (b) the employer is satisfied the amount assessed is not correct; and
 - (c) the commissioner has not made an assessment of the liability, other than under the Administration Act,

section 14(a).¹⁶

- (2) A registered employer must not make a self assessment of a reassessment made by the commissioner.

77 Reassessment—determination of periodic deduction

- (1) This section applies if—
- (a) the commissioner—
 - (i) makes a determination under section 21(1) or 27(1) of the amount of an employer's deduction for a periodic return period; or
 - (ii) revokes a determination mentioned in subparagraph (i); and
 - (b) the making or revocation of the determination—
 - (i) relates to a periodic return period for which an assessment of the employer's periodic liability has been made; and
 - (ii) would change the amount of the employer's periodic liability for the period.
- (2) A reassessment of the employer's periodic liability for the periodic return period must be made to give effect to the making or revocation of the determination.
- (3) If a reassessment required under subsection (2) would change the amount of the employer's annual liability for a financial year, or final liability for a final period, for which an assessment has been made, a reassessment of the employer's annual liability or final liability must be made to take into account the making or revocation of the determination.

78 Reassessment—annual liability of non-group employer who has lodged a final return

- (1) This section applies if—

¹⁶ Administration Act, section 14 (Making self assessment by lodging return)
See, also, section 24 (Reassessment by self assessors) of the Administration Act.

-
- (a) an employer is not a group member on 30 June in a financial year; and
 - (b) the employer lodged, or was required under section 64 to lodge, a final return for a final period during the year and the employer was not a group member during the final period; and
 - (c) the original assessment of the employer's annual liability for the year—
 - (i) was not made by the commissioner; and
 - (ii) was made as required under section 30(2); and
 - (d) the employer's annual liability for the year worked out as required under section 30(2) is greater than it would be if the final return wages and final return liability for a final period mentioned in paragraph (b) were included for working out the liability.
- (2) Despite section 30(2), the commissioner must make a reassessment of the employer's annual liability for the year to include the final return wages and final return liability mentioned in subsection (1)(d) for working out the liability.
 - (3) If the commissioner includes final return wages and final return liability under subsection (2) for working out the employer's annual liability, the employer's annual deduction for the financial year must be worked out having regard to the days in a final period mentioned in subsection (1)(b).
 - (4) In this section—

final return liability means the employer's periodic liability amount for a final period mentioned in subsection (1)(b).

final return wages means taxable wages paid or payable by the employer for a final period mentioned in subsection (1)(b).

79 Reassessment—change of DGE

- (1) This section applies for an employer who is a group member if—

- (a) the DGE for the group changes;¹⁷ and
- (b) the change of DGE—
 - (i) relates to a periodic return period for which an assessment of the employer's periodic liability has been made; and
 - (ii) would change the amount of the employer's periodic liability for the period.
- (2) A reassessment of the employer's periodic liability for the periodic return period must be made to give effect to the change of DGE.
- (3) If a reassessment required under subsection (2) would change the amount of the employer's annual liability for a financial year, or final liability for a final period, for which an assessment has been made, a reassessment of the employer's annual liability or final liability must be made to take into account the change of DGE.

80 Reassessment—making or revocation of order excluding a person from a group

- (1) This section applies if—
 - (a) the commissioner—
 - (i) makes an order under section 68, 69, 70 or 71 excluding a person from a group; or
 - (ii) revokes an order mentioned in subparagraph (i); and
 - (b) the making or revocation of the order—
 - (i) relates to a periodic return period for which an assessment of the person's periodic liability has been made; and
 - (ii) would change the amount of the person's periodic liability for the period.

¹⁷ See section 75 (Designation of group member as DGE).

- (2) A reassessment of the person's periodic liability for the periodic return period must be made to give effect to the making or revocation of the order.
- (3) If a reassessment required under subsection (2) would change the amount of the person's annual liability for a financial year, or final liability for a final period, for which an assessment has been made, a reassessment of the person's annual liability or final liability must be made to take into account the making or revocation of the order.

Division 2 Provisions about particular assessments made by the commissioner

81 Provision about assessments made by commissioner—employer who is required to lodge periodic returns

- (1) Subsection (2) applies if an employer lodged, or was required under section 59 to lodge, a periodic return during all or part of a financial year (the *relevant period*).
- (2) In making an assessment or reassessment of the employer's annual liability for the year, the commissioner may treat the employer as if the employer had been exempt under section 62 from lodging periodic returns during all or part of the relevant period.
- (3) Subsection (4) applies if an employer lodged, or was required under section 59 to lodge, a periodic return during all or part of a final period (also the *relevant period*).
- (4) In making an assessment or reassessment of the employer's final liability for the final period, the commissioner may treat the employer as if the employer had been exempt under section 62 from lodging periodic returns during all or part of the relevant period.
- (5) If subsection (2) or (4) applies—
 - (a) the employer must be treated for this Act and the Administration Act as if the employer did not have periodic liability, and had been exempt under section 62

- from lodging periodic returns, for periodic return periods during all or part of the relevant period; and
- (b) any assessment of periodic liability for a periodic return period mentioned in paragraph (a) is taken not to have been made; and
 - (c) the commissioner may apply, in the order required under the Administration Act, section 42,¹⁸ the whole or part of an amount paid or payable by the employer for periodic liability for a periodic return period mentioned in paragraph (a) as payment for a prescribed pay-roll tax liability of the employer; and
 - (d) the commissioner is not prevented from making a subsequent reassessment of the employer's periodic liability, annual liability or final liability under section 82.
- (6) For this section, the circumstances in which an employer was required under section 59 to lodge a periodic return during the relevant period include an assessment or reassessment mentioned in section 82(2) or (4) being made by the commissioner in relation to the period.

82 Provision about assessments made by commissioner—employer who is exempt from lodging periodic returns

- (1) Subsection (2) applies if—
 - (a) an employer was exempt under section 62 from lodging a periodic return during all or part of a financial year (the *exemption period*); or
 - (b) the commissioner authorised the employer, under section 60, to lodge periodic returns for periods other than a month during all or part of a financial year (also the *exemption period*).
- (2) In making an assessment or reassessment of the employer's periodic liability for a periodic return period during the exemption period, and the employer's annual liability for the

¹⁸ Administration Act, section 42 (Application of payments to assessment liability)

year, the commissioner may treat the employer as if the employer had been required under section 59 to lodge a periodic return for each month during all or part of the exemption period.

- (3) Subsection (4) applies if—
 - (a) an employer was exempt under section 62 from lodging a periodic return during all or part of a final period (also the *exemption period*); or
 - (b) the commissioner authorised the employer, under section 60, to lodge periodic returns for periods other than a month during all or part of a final period (also the *exemption period*).
- (4) In making an assessment or reassessment of the employer's periodic liability for a periodic return period during the exemption period, and the employer's final liability for the final period, the commissioner may treat the employer as if the employer had been required under section 59 to lodge a periodic return for each month during all or part of the exemption period.
- (5) The commissioner may make an assessment or reassessment mentioned in subsection (2) or (4) only if—
 - (a) the employer contravenes section 87¹⁹ during the exemption period; or
 - (b) the employer gave the commissioner false or misleading information in contravention of the Administration Act, section 122 or 123, and the commissioner relied on the information in—
 - (i) granting an exemption under section 62; or
 - (ii) authorising the employer, under section 60, to lodge periodic returns for periods other than a month; or
 - (c) the commissioner has made an assessment or reassessment mentioned in section 81(2) or (4) in relation to the exemption period.

19 Section 87 (Notification requirement—employers exempt from lodging periodic returns)

- (6) If the commissioner makes an assessment or reassessment mentioned in subsection (2) or (4)—
- (a) the employer must be treated for this Act and the Administration Act, other than the Administration Act, section 121,²⁰ as if the employer had been required under section 59 to lodge, on the return date, a periodic return for each month during all or part of the exemption period; and
 - (b) the commissioner is not prevented from making a subsequent reassessment of the employer's annual liability or final liability under section 81.
- (7) For this section, the circumstances in which an employer was exempt under section 62 from lodging a periodic return during the exemption period include an assessment or reassessment mentioned in section 81(2) or (4) being made by the commissioner in relation to the period.

Part 6 Miscellaneous

Division 1 Refund provisions

83 Application of annual refund amount or final refund amount

- (1) This section applies if an employer is entitled to an annual refund amount or final refund amount on an original assessment of the employer's annual liability or final liability.

Note—

See the Administration Act, part 4, division 2, for provisions about entitlement to refunds on a reassessment of an employer's annual liability or final liability.

²⁰ Administration Act, section 121 (Failure to comply with information or lodgment requirement)

- (2) The commissioner may apply the amount wholly or partly as payment for—
 - (a) a tax law liability of the employer; or
 - (b) if the employer is a group member—a prescribed pay-roll tax liability of another member of the group; or
 - (c) a liability mentioned in paragraph (a) or (b) that the commissioner reasonably believes will become payable within 60 days after the entitlement to the refund arises.
- (3) If the commissioner does not apply any part of the amount as payment for a liability mentioned in subsection (2) within the 60 day period mentioned in subsection (2)(c), the commissioner must refund immediately to the employer the amount not applied.
- (4) This section applies despite the Administration Act, section 36.²¹
- (5) The Administration Act, section 39,²² applies to a refund of an amount to the employer, or an application of an amount as payment for an employer, under this section.
- (6) For subsection (5), a reference to a taxpayer in the Administration Act, section 39, includes a reference to—
 - (a) the employer; and
 - (b) if the employer is a group member—another member of the group.

84 Provision for refunds under Administration Act to group members

- (1) This section applies if a group member is entitled to a refund, under the Administration Act, section 37,²³ of an amount paid by the group member under this Act or the Administration Act in relation to pay-roll tax.
- (2) The commissioner may apply all or part of the amount as payment for—

21 Administration Act, section 36 (Refunds made only under this division)

22 Administration Act, section 39 (General provision about refunds)

23 Administration Act, section 37 (Commissioner to refund tax and other amounts)

Pay-roll Tax Act 1971

- (a) a prescribed pay-roll tax liability of another member of the group; or
 - (b) a liability mentioned in paragraph (a) that the commissioner reasonably believes will become payable within 60 days after the entitlement to the refund arises.
- (3) Subsection (2) applies in addition to the Administration Act, section 38(2).²⁴
- (4) If the commissioner applies any part of the amount held to a liability mentioned in subsection (2) within the 60 day period mentioned in subsection (2)(b)—
- (a) the Administration Act, section 38(3) does not apply; and
 - (b) the commissioner must refund immediately to the employer any part of the amount not applied under subsection (2) or the Administration Act, section 38(2).
- (5) This section has effect subject to the Administration Act, section 39.
- (6) For subsection (5)—
- (a) the Administration Act, section 39 applies to an amount applied under subsection (2) as a payment for a group member; and
 - (b) a reference to a taxpayer in the Administration Act, section 39, includes a reference to a group member.

85 Entitlement to a refund of pay-roll tax

An employer is not entitled to a refund of an amount of pay-roll tax paid, or purportedly paid, by the employer other than under—

- (a) section 31, 35, 39 or 43; or
- (b) the Administration Act, part 4, division 2.

²⁴ Administration Act, section 38 (Applying amounts to current and future tax liabilities)

Division 2 Notification requirements

86 Notification requirement—employers required to work out fixed periodic deduction

- (1) An employer who works out the employer's fixed periodic deduction under part 2, division 3 must give written notice to the commissioner of the amount.
- (2) The notice must—
 - (a) be in the approved form; and
 - (b) be given on or before the return date for lodgment of a periodic return by the employer for the periodic return period that includes the relevant calculation day.
- (3) In this section—

calculation day—

 - (a) for an employer who is not a group member—see section 18; or
 - (b) for the DGE for a group—see section 24.

fixed periodic deduction—

 - (a) for an employer who is not a group member—see section 17; or
 - (b) for the DGE for a group—see section 23.

Note—

Failure to give the notice is an offence under the Administration Act, section 120.

87 Notification requirement—employers exempt from lodging periodic returns

- (1) This section applies if—
 - (a) an employer is exempt under section 62 from lodging periodic returns; and
 - (b) the total taxable wages paid or payable by the employer for a month is greater than \$83333 in each of 3 consecutive months.

- (2) Within 28 days of the last day of the third month mentioned in subsection (1)(b), the employer must give written notice to the commissioner stating that the event mentioned in the subsection has happened.

Note—

Failure to give the notice is an offence under the Administration Act, section 120.

88 Notification requirement—particular group members

- (1) This section applies to an employer who is a non-DGE group member—
- (a) at any time during the designated period for the employer who is the DGE for the group on 30 June in a financial year; or
 - (b) at any time during a final period for the DGE for the group.
- (2) The employer must, within 7 days after the last day, notify the DGE of the taxable wages and interstate wages that were paid or payable by the employer, as a member of the group, during—
- (a) if subsection (1)(a) applies—the designated period for the DGE in the year; or
 - (b) if subsection (1)(b) applies—the final period for the DGE.²⁵

Maximum penalty—100 penalty units.

- (3) In this section—

last day means—

- (a) if subsection (1)(a) applies—
 - (i) if the employer is not a member of the group on 30 June in the year—the last day of the final period for the employer ending on the day the employer

²⁵ See also section 126 (Application of s 88 notification requirement in relation to a transitional year).

- ceases to pay, or be liable to pay, wages as a member of the group; or
- (ii) otherwise—30 June in the year; or
- (b) if subsection (1)(b) applies—
- (i) if the employer is not a member of the group on the last day of the final period for the DGE—the last day of the final period for the employer ending on the day the employer ceases to pay, or be liable to pay, wages as a member of the group; or
 - (ii) otherwise—the last day of the final period for the DGE.

89 Notification requirement—liquidators and other administrators

- (1) This section applies to a person who—
- (a) becomes the liquidator of a company that is—
 - (i) being wound up; and
 - (ii) an employer registered, or required to be registered, as an employer under part 3, division 1; or
 - (b) is appointed as administrator for the property of a person who is registered, or required to be registered, as an employer under part 3, division 1.
- (2) The person must, within 14 days of becoming the liquidator or being appointed as the administrator, give written notice to the commissioner stating the person has become the liquidator or been appointed as the administrator.
- Maximum penalty—40 penalty units.
- (3) The Administration Act, section 48,²⁶ does not apply to the person.
- (4) In this section—
- administrator*** does not include a liquidator.

26 Administration Act, section 48 (Particular administrators to notify commissioner of appointment)

Division 3 Other provisions

90 Commissioner may require payment of penalty

- (1) This section applies if an employer—
 - (a) does not lodge a periodic return, annual return or final return in contravention of this Act; or
 - (b) does not pay, in contravention of this Act, an amount of the employer's liability for pay-roll tax in relation to a return; or
 - (c) gives the commissioner a return containing false or misleading information in contravention of the Administration Act, section 122 or 123.
- (2) The commissioner may, by written notice given to the employer, require the employer to pay a penalty (the *penalty amount*) of the greater of the following—
 - (a) not more than 75% of the amount of the employer's liability for pay-roll tax in relation to the return;
 - (b) \$100.
- (3) The notice must state—
 - (a) the date for payment of the penalty amount, being a day that is at least 30 days after the employer receives the notice; and
 - (b) the reasons for the decision to require payment of the penalty amount.
- (4) The commissioner may enter into an arrangement for payment of the penalty amount by instalments.
- (5) The arrangement may include provision for the payment of interest calculated at the rate for unpaid tax interest for the period starting on the start day and ending on the day the penalty amount is paid in full, both days inclusive.
- (6) For this section—

start day means the day after the failure or contravention mentioned in subsection (1).

Note—

The penalty amount is a debt payable to the commissioner and may be recovered in a court of competent jurisdiction, see the Administration Act, section 45.

91 Period for keeping particular records relating to fringe benefits tax

- (1) This section applies to an employer who elects under a regulation to include in returns estimated value amounts for fringe benefits.
- (2) The employer must keep a record of the fringe benefits paid or payable by the employer during the financial year in which the election is made.
- (3) The person must keep the record until 5 years has elapsed after the earlier of the following—
 - (a) the employer lodges a final return;
 - (b) the employer elects under a regulation to include in returns actual value amounts for fringe benefits.

Maximum penalty—100 penalty units.

- (4) The Administration Act, section 118,²⁷ does not apply to the keeping of the record.

92 Application of Act to trustees

- (1) If an employer pays, or is liable to pay, wages as trustee of a trust—
 - (a) the employer must lodge returns, and pay pay-roll tax, as required under this Act in the employer's capacity as trustee; and
 - (b) except as otherwise provided under this Act, each return mentioned in paragraph (a) must be separate and distinct from any return lodged by the employer for wages paid or payable—

²⁷ Administration Act, section 118 (Period for keeping records)

- (i) other than as trustee; or
- (ii) as trustee of another trust; and
- (c) the employer must do all other things required under this Act in relation to wages paid by the employer.

Example—

An employer, Company X, pays wages in its personal capacity and also as a trustee of Trust Y and Trust Z. The company and trusts are not members of a group and all are registered or required to register as employers under part 3, division 1. The employer must lodge 3 separate returns: for Company X in its personal capacity, as trustee of Trust Y and as trustee of Trust Z.

- (2) Subsection (1) does not exclude, limit or otherwise affect the operation of part 4 to the extent the part applies to—
 - (a) a trustee; or
 - (b) 2 or more persons, 1 or more of whom is a trustee.

93 Avoiding taxation

Any person who, by any wilful act, default or neglect, or by any fraud, art or contrivance whatever, avoids or attempts to avoid pay-roll tax chargeable under this Act, shall be guilty of an offence.

Maximum penalty—20 penalty units and treble the amount of pay-roll tax avoided or attempted to be avoided.

94 Notice of change of address for service

- (1) An employer who is registered as an employer under part 3, division 1 must give the commissioner written notice of a change of the employer's address for service within 1 month after each change.

Note—

Failure to give the notice is an offence under the Administration Act, section 120.

(2) In this section—

address for service, for an employer, means—

- (a) the employer's address for service shown in the last return lodged by the employer; or
- (b) if the employer has given the commissioner a notice under this section, the address stated in the last notice given.

95 Cents to be disregarded for calculations

(1) This section applies if—

- (a) for this Act, it is necessary to do any of the following—
 - (i) reduce an amount by a fixed sum for each other fixed sum by which another amount exceeds another amount or a certain proportion of a third amount;
 - (ii) calculate the proportion that 1 amount bears to another amount;
 - (iii) calculate an amount using a formula; and
- (b) if subsection (2) did not apply, 1 or more of the amounts mentioned in paragraph (a), or an amount included in a formula, would be amounts of dollars and cents.

(2) The cents must be disregarded.

96 Approval of forms

The commissioner may approve forms for use under this Act.

97 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Regulations may be made with respect to—
 - (a) the way of making an application to the commissioner under this Act; and

- (b) the evidence the commissioner may require to decide whether or not—
 - (i) an employer was an employer for part only of a financial year; or
 - (ii) a person was a member of a group; or
 - (iii) a notice under section 59(2) or 60(2) or a certificate under section 62(1) should be given; and
 - (c) providing that a return, application, notice, statement or form signed on behalf of an employer is taken to have been signed by the employer; and
 - (d) in relation to fringe benefits, what is to be included in a return as the value of fringe benefits paid or payable by an employer; and
 - (e) any other matter for the application of this Act to a fringe benefit.
- (3) A regulation may impose a penalty of not more than 20 penalty units for a contravention of the regulation.

97A Application of particular amendments

This Act, as amended by the *Revenue Legislation Amendment Act 2006*, applies for pay-roll tax levied on taxable wages paid or payable in the financial year beginning on 1 July 2006 and each later financial year.

Part 7 Savings and transitional provisions

Division 1 Preliminary

98 Definitions for pt 7

In this part—

amended, for a provision of this Act, means the provision as amended or inserted by the amending Act.

amended Act means this Act as amended by the amending Act.

amending Act means the *Pay-roll Tax Administration Amendment Act 2004*.

commencement means the commencement of section 38²⁸ of the amending Act.

post-commencement liability means a liability for pay-roll tax arising on or after the commencement, other than a liability relating to a transitional return period.

Example—

The commencement is on 1 March 2005.

For an employer who is required under previous section 13²⁹ to lodge returns for quarterly periods starting on 1 July, 1 October, 1 January and 1 April, the employer's liability for pay-roll tax for the return period ending on 30 June 2005 would be a post-commencement liability.

An employer's liability for pay-roll tax for the 2004/2005 financial year would be a post-commencement liability.

pre-commencement act or omission means an act or omission done or omitted to be done for this Act before the commencement.

pre-commencement liability means a liability for pay-roll tax arising before the commencement.

Example—

The commencement is on 1 March 2005.

For an employer who is required under previous section 13 to lodge returns for each month, the employer's liability for pay-roll tax for the previous return period ending on 28 February 2005 would be a pre-commencement liability.

For an employer who is required under previous section 13 to lodge returns for quarterly periods starting on 1 July, 1 October, 1 January and 1 April, the employer's liability for pay-roll tax for the previous return period ending on 31 December 2004 would be a pre-commencement liability.

28 Section 38 (Amendment of s 6 (Revenue laws)) of the amending Act

29 Previous section 13 (Returns)

prescribed period means a prescribed period under previous section 11C or 16L.³⁰

previous, for a provision of this Act, means the provision as in force before the commencement.

previous return period means a return period within the meaning of previous section 3(1)³¹ ending before the commencement.

transitional final period means the final period for the first change of status happening for an employer on or after the commencement during a transitional year.

transitional return period means a return period within the meaning of previous section 3(1) that has started but not ended before the commencement.

Example—

The commencement is on 1 March 2005. For an employer who is required under previous section 13 to lodge returns for quarterly periods starting on 1 July, 1 October, 1 January and 1 April, the return period ending on 31 March 2005 would be a transitional return period. However, for an employer required to lodge monthly returns, there would not be a transitional return period.

transitional year means the financial year during which the commencement falls, except if the commencement is on the first day of the year.

Example—

The commencement is on 1 March 2005. The 2004/2005 financial year would be a transitional year.

The commencement is on 1 July 2005. There would not be a transitional year.

30 Previous section 11C (Adjustment of pay-roll tax when employer ceases to be an employer during a financial year) or 16L (Adjustment of payment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year)

31 Previous section 3 (Interpretation)

Division 2 Application of amended Act and Administration Act

99 Application of amended Act in relation to liabilities etc. arising on or after commencement

- (1) The amended Act applies in relation to—
- (a) a post-commencement liability; and
 - (b) an act or omission done or omitted to be done for this Act on or after the commencement.

Example for subsection (1)(b)—

The commencement is on 1 March 2005. After the commencement, it is discovered that a person was required to apply for registration as an employer from 1 July 2004. After 1 March 2005, the continuing failure to apply for registration is, although it may also relate to a pre-commencement liability, an act or omission done or omitted to be done for this Act after the commencement.

- (2) Subsection (1) has effect subject to division 4.³²

100 Registration under s 54 of person required to register before commencement

- (1) This section applies if a person was required to apply for registration as an employer under previous section 12³³ but did not do so before the commencement.
- (2) The commissioner may register the person under section 54.³⁴
- (3) If the commissioner registers the person under section 54, a reference in the previous provisions of this Act to an employer registered under section 12 is taken to include a reference to the person.

32 Division 4 (Provisions about periodic liability after commencement)

33 Previous section 12 (Registration)

34 Section 54 (Registration of employer without application)

101 Application of amended ss 58–62 for previous return periods

- (1) This section applies if an employer was required under previous section 13 or 14³⁵ to furnish a return for a previous return period but did not do so before the commencement.
- (2) Amended sections 58 to 62 apply in relation to the employer for the previous return period.
- (3) For subsection (2), the employer is taken to be a relevant employer for the return period.
- (4) Previous sections 13 and 14 do not apply to the employer for the previous return period.
- (5) However, subsection (4) does not affect the employer's liability for contravening previous section 13 or 14 before the commencement.

102 Assessment under amended s 81 in relation to particular pre-commencement liabilities

- (1) The commissioner may make an assessment under section 81(2)³⁶ in relation to an employer's liability for pay-roll tax for a financial year ending before the commencement.
- (2) For subsection (1), a reference in section 81(5)(c) to a prescribed pay-roll tax liability of the employer is taken to be a reference to tax, within the meaning of previous section 3,³⁷ payable by the employer.
- (3) Section 81(5)(d) does not apply if the commissioner makes an assessment mentioned in subsection (1).
- (4) This section applies subject to section 104.
- (5) In this section—

assessment means an assessment under previous part 5.³⁸

35 Previous section 13 (Returns) or 14 (Exemption from furnishing returns)

36 Section 81 (Provision about assessments made by commissioner—employer who is required to lodge periodic returns)

37 Previous section 3 (Interpretation)

38 Previous part 5 (Collection and recovery of tax)

103 Application of amended s 95 to calculations made under previous provisions

- (1) Amended section 95 applies for a calculation made under the previous provisions of this Act.
- (2) Previous section 3(3) does not apply for the calculation.

104 This Act as a revenue law for the Administration Act

- (1) This section provides for how the Administration Act applies to this Act, in relation to particular liabilities, acts and omissions, as a revenue law under the Administration Act.³⁹

Note—

The Administration Act applies to this Act, as a revenue law, except to the extent its application is limited or modified under this section or section 105 or 106.

- (2) The provisions of the Administration Act mentioned in subsection (3) do not apply in relation to—
 - (a) a pre-commencement liability; or
 - (b) a liability for pay-roll tax for a transitional return period.
- (3) For subsection (2), the provisions of the Administration Act that do not apply are each of the following—
 - (a) part 3 (Assessments of tax);
 - (b) part 4 (Payments and refunds of tax and other amounts), other than sections 29, 34, 40(1)(a) and (b) and (2), 41 and 42, division 4, division 5, subdivision 1 and sections 49 to 53;
 - (c) part 5 (Interest and penalty tax);
 - (d) part 6 (Objections and appeals against assessments);
 - (e) sections 124, 125 and 132.
- (4) To remove doubt, it is declared that the Administration Act applies in relation to an act or omission done or omitted to be done on or after the commencement, even if the act or omission relates to a liability mentioned in subsection (2).

³⁹ The Administration Act, section 6 (Revenue laws), declares this Act to be a revenue law.

Pay-roll Tax Act 1971

Example—

The commencement is on 1 March 2005. During an audit in July 2005 in relation to the 2003/2004 financial year, a taxpayer fails to provide wage details for the financial year as required under the Administration Act, part 7. Failure to provide the information would be an omission after the commencement, even though it relates to a pre-commencement liability.

- (5) However, the Administration Act, sections 124, 125 and 132 do not apply in relation to an act or omission mentioned in subsection (4) if the act or omission relates to a liability mentioned in subsection (2).
- (6) For applying the Administration Act, part 4, in relation to a liability, act or omission mentioned in subsection (2) or (4)—
 - (a) a liability mentioned in subsection (2)(a) or (b) is taken to be an assessment liability for the Administration Act, sections 41 and 42; and
 - (b) penal tax and additional tax are not primary tax for the Administration Act, section 42; and
 - (c) an assessment of further tax under previous part 5 is taken to be a reassessment for the Administration Act, section 46.
- (7) Subsection (4) applies subject to subsection (8).
- (8) However, to the extent this Act applies to an act or omission mentioned in subsection (4), the application of the Administration Act, section 136 is subject to previous section 38.⁴⁰
- (9) If, under this section, a provision of the Administration Act relating to a particular matter applies to this Act and this Act contains provision about the same matter, this Act does not apply to the matter.

40 Previous section 38 (Time for commencing prosecutions)

105 Application of Administration Act, s 38

An amount relating to a post-commencement liability may be applied under the Administration Act, section 38,⁴¹ as payment for a pre-commencement liability or a liability for pay-roll tax for a transitional return period.

106 Second or subsequent offences

- (1) For applying the Administration Act, section 138⁴² to this Act, the reference in subsection (1)(b) of that section to a further offence is a reference to an offence committed on or after the commencement.
- (2) If the Administration Act, section 138(1)(a), applies for an offence against a previous provision of this Act that is repealed by the amending Act, the reference in subsection (1)(b) of that section to a further offence against the provision includes a reference to an offence against a provision of the amended Act or the Administration Act that corresponds to the previous provision.

Division 3 Application of previous provisions**107 Application of previous provisions to particular liabilities etc.**

- (1) Despite their amendment or repeal by the amending Act, the previous provisions of this Act continue to apply in relation to—
 - (a) a pre-commencement liability; and
 - (b) a liability for pay-roll tax in relation to a transitional return period; and
 - (c) a pre-commencement act or omission.

41 Administration Act, section 38 (Applying amounts to current and future tax liabilities)

42 Administration Act, section 138 (Second or subsequent offence)

- (2) However, previous section 16L(5)⁴³ does not apply.
- (3) Also, subsection (1) has effect subject to sections 100, 101, 103 and 104(9).⁴⁴

Division 4 Provisions about periodic liability after commencement

108 Fixed periodic deduction for periodic return periods after commencement—existing determination

- (1) This section applies if—
 - (a) there is a transitional year; and
 - (b) a determination by the commissioner of the amount of an employer's deduction for a return period, made under previous section 9(7) or 16I(4),⁴⁵ is in effect immediately before the commencement.
- (2) The amount determined is, for part 2, division 3,⁴⁶ the employer's fixed periodic deduction for each periodic return period in the transitional year.
- (3) However, if the commissioner determines the employer's fixed periodic deduction under amended section 21 or 27 on or after the commencement during the transitional year, the amount determined under the section is the employer's fixed periodic deduction.

43 Previous section 16L (Adjustment of payment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year)

44 Sections 100 (Registration under s 54 of person required to register before commencement), 101 (Application of amended ss 58–62 for previous return periods), 103 (Application of amended s 95 to calculations made under previous provisions) and 104 (This Act as a revenue law for the Administration Act)

45 Previous section 9 (Deduction from taxable wages) or 16I (Designated group employer)

46 Part 2 (Liability to taxation), division 3 (Periodic liability)

109 Fixed periodic deduction for periodic return periods after commencement—existing nomination

- (1) This section applies if—
 - (a) there is a transitional year; and
 - (b) immediately before the commencement—
 - (i) a nomination made by an employer under previous section 9(5) is in effect; or
 - (ii) a nomination made by the members of a group or the commissioner under previous section 16I(1) or (1A) of the amount of the DGE's deduction is in effect.
- (2) The amount nominated is, for part 2, division 3, the employer's fixed periodic deduction for each periodic return period in the transitional year until the earlier of the following—
 - (a) there is a calculation day;
 - (b) the commissioner determines the employer's fixed periodic deduction under amended section 21 or 27.
- (3) Subsection (2) applies subject to section 110.

110 Application of fixed periodic deduction to particular non-group employers after commencement

- (1) This section applies to an employer—
 - (a) who is not a member of a group on the commencement; and
 - (b) whose deduction for the last previous return period ending before the commencement was an amount worked out under previous section 9(3).
- (2) For section 20, the employer can not be a previous interstate wage payer for a periodic return period unless the employer has paid, or been liable to pay, interstate wages on or after the commencement.

Division 5 Provisions for annual liability for transitional year

111 Purpose of div 5

This division provides for working out an employer's annual liability for a transitional year.

112 Basic principles for working out employer's annual liability

- (1) This section applies if there was a prescribed period during the year for—
 - (a) the employer; or
 - (b) if the employer was a member of a group during the year—the group.
- (2) For working out the employer's annual liability for the transitional year—
 - (a) taxable wages paid or payable by the employer for the prescribed period are not included in the employer's annual wages for the year; and
 - (b) pay-roll tax paid or payable by the employer for the prescribed period is not included in the employer's periodic liability for periodic returns during the year; and
 - (c) the employer's annual deduction must be worked out without having regard to the days in the prescribed period.
- (3) This section applies subject to sections 113, 114, 118 and 119.⁴⁷

⁴⁷ Sections 113 (Employer who was not a group member for a prescribed period during the transitional year), 114 (Employer who is a DGE on 30 June in the transitional year), 118 (Commissioner assessment—employer who becomes a DGE in a transitional year before commencement) and 119 (Commissioner assessment—employer who ceases to be a DGE in a transitional year before commencement)

113 Employer who was not a group member for a prescribed period during the transitional year

- (1) This section applies if—
 - (a) the employer is not a member of a group on 30 June in the transitional year; and
 - (b) there was a prescribed period for the employer during the year; and
 - (c) the employer was not a member of a group for the prescribed period; and
 - (d) the employer's annual liability for the transitional year worked out as required under section 112(2) is greater than it would be if the section did not apply to the employer.
- (2) If the commissioner makes an original assessment of the employer's annual liability for the year, other than under the Administration Act, section 14(a), section 112(2) does not apply to the employer.
- (3) If the original assessment of the employer's annual liability for the year was made by the commissioner under the Administration Act, section 14(a), the commissioner must make a reassessment of the liability on the basis that section 112(2) does not apply to the employer.

114 Employer who is a DGE on 30 June in the transitional year

- (1) This section applies if—
 - (a) the employer became the DGE for a group—
 - (i) during the transitional year; and
 - (ii) before the commencement; and
 - (b) the employer is the DGE for the group continuously until 30 June in the year; and
 - (c) immediately before becoming the DGE for the group, the employer was a member of the group.
- (2) For working out the employer's annual liability for the transitional year—

Pay-roll Tax Act 1971

- (a) taxable wages paid or payable by the employer for the period (the *group member period*) in the year during which the employer was a member of the group must be included in the employer's annual wages for the year; and
 - (b) pay-roll tax paid or payable by the employer for the group member period must be included in the employer's periodic liability for periodic return periods during the designated period; and
 - (c) the employer's annual deduction must be worked out having regard to each of the following—
 - (i) the days in the year on which any employer paid, or was liable to pay, wages as a member of the group, even if the days are not included in the designated period for the DGE for the year; and
 - (ii) the taxable wages and interstate wages paid or payable by any employer, as a member of the group, on the days mentioned in subparagraph (i); and
 - (d) even if section 34(1)(a) does not apply, the employer's liability is the annual adjustment amount if the employer was required, under previous part 3,⁴⁸ to furnish a return during the year when the employer was a member of the group.
- (3) The employer's annual return for the transitional year must state the wages that were paid or payable, as a member of the group, by an employer—
- (a) during the designated period for the DGE in the year; and
 - (b) on the days in the year mentioned in subsection (2)(c)(i).
- (4) Subsection (3) applies despite section 63(3)(b).

48 Previous part 3 (Liability to taxation)

Division 6 Provisions for final liability for transitional final period

115 Purpose of div 6

This division provides for working out an employer's final liability for a transitional final period.

116 When transitional final period starts

- (1) A transitional final period starts on the latest of the following days in the transitional year—
 - (a) 1 July;
 - (b) the first day on which the person is required to register as an employer under previous part 4;⁴⁹
 - (c) if there was a prescribed period for the employer during the transitional year—the day after the last day of the latest prescribed period for the employer during the year.
- (2) This section applies despite section 6(a).⁵⁰

Example—

The commencement is on 1 March 2005. An employer who has been a member of a group from 1 July 2004 becomes the DGE for the group on 1 May 2005. This is the first change of status for the employer on or after the commencement. The final period for the change of status is a transitional final period starting on 1 July 2004.

117 Employer who is a DGE on the last day of a transitional final period

- (1) This section applies if—
 - (a) the employer became the DGE for a group—
 - (i) during a transitional year; and
 - (ii) before the commencement; and

⁴⁹ Previous part 4 (Registration and returns)

⁵⁰ Section 6 (Meaning of *final period*)

Pay-roll Tax Act 1971

- (b) the employer is the DGE for the group continuously until the last day of the transitional final period; and
 - (c) immediately before becoming the DGE for the group, the employer was a member of the group.
- (2) For working out the employer's final liability for the transitional final period—
- (a) taxable wages paid or payable by the employer for the period (the *group member period*) in the year during which the employer was a member of the group must be included in the employer's final wages for the final period; and
 - (b) pay-roll tax paid or payable by the employer for the group member period must be included in the employer's periodic liability amount for the final period; and
 - (c) the employer's final deduction must be worked out having regard to each of the following—
 - (i) the days in the year before the final period starts on which any employer paid, or was liable to pay, wages as a member of the group, even if the employer to whom this section applies was not a member of the group on those days;
 - (ii) the taxable wages and interstate wages paid or payable by any employer, as a member of the group, on the days mentioned in subparagraph (i); and
 - (d) even if section 42(1)(a) does not apply, the employer's liability is the final adjustment amount if the employer was required, under previous part 3, to furnish a return during the year when the employer was a member of the group.
- (3) The employer's final return for the transitional final period must state the wages that were paid or payable, as a member of the group, by an employer—
- (a) during the final period; and

- (b) on the days in the transitional year mentioned in subsection (2)(c)(i).
- (4) Subsection (3) applies despite section 64(3)(b).

Division 7 Miscellaneous provisions

118 Commissioner assessment—employer who becomes a DGE in a transitional year before commencement

- (1) This section applies in relation to an employer if—
 - (a) the employer becomes the DGE for a group—
 - (i) during a transitional year; and
 - (ii) before the commencement; and
 - (b) either—
 - (i) the employer—
 - (A) lodges, or is required under section 64 to lodge, a final return for a change of status happening in the transitional year after the commencement; and
 - (B) is the DGE for the group on the last day of the final period; or
 - (ii) if subparagraph (i) does not apply, the employer—
 - (A) lodges, or is required under section 63 to lodge, an annual return for the transitional year; and
 - (B) is the DGE for the group on 30 June in the year.
- (2) The commissioner must make a reassessment of the employer's final liability or annual liability, as applicable, to reduce the relevant deduction by the total amount of the deductions claimed during the year under previous section 16I⁵¹ by any earlier DGE for the group.

51 Previous section 16I (Designated group employer)

(3) Also, in making an original assessment of the employer's final liability or annual liability, as applicable, the commissioner must reduce the relevant deduction by the total amount of the deductions claimed during the year under previous section 16I by any earlier DGE for the group.

(4) In this section—

earlier DGE, for the group, means an employer who was the DGE for the group at any time during the transitional year before the employer to whom this section applies becomes the DGE for the group.

relevant deduction means—

(a) for an employer to whom subsection (1)(b)(i) applies—the employer's final deduction for the final period; or

(a) for an employer to whom subsection (1)(b)(ii) applies—the employer's annual deduction for the transitional year.

119 Commissioner assessment—employer who ceases to be a DGE in a transitional year before commencement

(1) This section applies in relation to an employer who—

(a) ceases to be the DGE for a group—

(i) during a transitional year; and

(ii) before the commencement; and

(b) either—

(i) the employer lodges, or is required under section 64 to lodge, a final return for a change of status happening in the transitional year after the commencement; or

(ii) if subparagraph (i) does not apply—lodges, or is required under section 63 to lodge, an annual return for the transitional year.

(2) The commissioner must make a reassessment of the employer's final liability or annual liability, as applicable, to reduce the relevant wages by the total amount of the

deductions claimed by the employer under previous section 16I during the year.

(3) Also, in making an original assessment of the employer's final liability or annual liability, as applicable, the commissioner must reduce the relevant wages by the total amount of the deductions claimed by the employer under previous section 16I during the year.

(4) In this section—

relevant wages means—

(a) for an employer to whom subsection (1)(b)(i) applies—the employer's final wages for the final period; or

(b) for an employer to whom subsection (1)(b)(ii) applies—the employer's annual wages for the transitional year.

120 Delegations under previous s 4A

A delegation under previous section 4A⁵² in force immediately before the commencement continues in force.

121 Employers registered under previous s 12 immediately before commencement

An employer who is registered as an employer under previous section 12⁵³ immediately before the commencement is, on and from the commencement, taken to be registered under part 3, division 1.

122 Notices given by commissioner under previous s 13

(1) A notice given by the commissioner under previous section 13(2)(a)⁵⁴ and in force immediately before the commencement is, on and from the commencement, taken to be a notice given under section 59(2).

52 Previous section 4A (Delegations)

53 Previous section 12 (Registration)

54 Previous section 13 (Returns)

- (2) A notice given by the commissioner under previous section 13(2)(b) and in force immediately before the commencement is, on and from the commencement, taken to be a notice given under section 60(2).

123 Continuing effect of exemptions given by commissioner under previous s 14

- (1) This section applies if—
- (a) the commissioner issued a certificate (an *existing exemption*), under previous section 14,⁵⁵ exempting an employer from lodging monthly returns; and
 - (b) the existing exemption was in force immediately before the commencement.
- (2) The existing exemption is, on the commencement, taken to be a certificate exempting the employer from the requirement under section 59 to lodge periodic returns.
- (3) To remove doubt, it is declared that the employer is required to lodge annual returns under section 63 even if the existing exemption states the employer is not required to lodge returns for each financial year.

124 Continuing use of particular forms

A form approved before the commencement relating to a provision of this Act repealed by the amending Act may continue to be used after the commencement to facilitate the operation of this part.

125 Application of ss 83 and 84

A refund to which section 83 or 84 applies may be applied under the section as payment for a liability mentioned in section 83(2) or 84(2), as applicable, even if the liability—

- (a) arose before the commencement; or
- (b) is for a transitional return period.

⁵⁵ Previous section 14 (Exemption from furnishing returns)

126 Application of s 88 notification requirement in relation to a transitional year

- (1) This section applies to an employer who is a non-DGE group member—
 - (a) at any time during a transitional year, if the employer who is the DGE for the group on 30 June in the year became the DGE before the commencement; or
 - (b) if there is a transitional final period for the DGE for the group—at any time in the transitional year on or before the last day of the final period.
- (2) If subsection (1)(a) applies, the wages the employer must notify to the DGE under section 88(2)⁵⁶ are the taxable wages and interstate wages paid or payable by the employer, as a member of the group, during the transitional year.
- (3) If subsection (1)(b) applies, the wages the employer must notify to the DGE under section 88(2) are the taxable wages and interstate wages paid or payable by the employer, as a member of the group, at any time in the transitional year on or before the last day of the DGE's transitional final period.
- (4) Subsections (2) and (3) apply despite section 88(2)(a) and (b).

127 Application of s 89 to particular liquidators

- (1) This section applies to a person who—
 - (a) becomes a liquidator within 14 days before the commencement; and
 - (b) does not give notice of the matter under previous section 25⁵⁷ before the commencement.
- (2) Section 89⁵⁸ applies to the liquidator as if the time within which the person is required to give notice under section 89(2) were 14 days after the commencement.

56 Section 88 (Notification requirement—particular group members)

57 Previous section 25 (Liquidator to give notice)

58 Section 89 (Notification requirement—liquidators and other administrators)

128 Application of s 94 to particular employers

- (1) This section applies to an employer—
 - (a) whose address for service changes within 1 month before the commencement; and
 - (b) who does not give notice of the change under the *Pay-roll Tax Regulation 1999*, section 26, before the commencement.
- (2) Section 94⁵⁹ applies to the employer as if the time within which the person is required to give notice under section 94 were 1 month after the commencement.

129 References in amended Act

For the application of this part, if the context permits, a reference in the amended Act—

- (a) to periodic liability includes a reference to liability for pay-roll tax under previous part 3; and
- (b) to a periodic return includes a reference to a return under previous section 13; and
- (c) to a periodic return period includes a reference to a previous return period or a transitional return period; and
- (d) to a return date includes a reference to the date by which a return is required to be furnished under previous section 13; and
- (e) to an employer required under section 59 to lodge a periodic return includes a reference to an employer required under previous section 13 to furnish a return; and
- (f) to an employer authorised under section 60 to lodge periodic returns for periods other than a month includes a reference to an employer authorised under previous section 13(2)(b) to furnish returns for periods other than a month; and

59 Section 94 (Notice of change of address for service)

- (g) to unpaid tax interest includes a reference to penal tax under previous section 22;⁶⁰ and
- (h) to penalty tax includes a reference to additional tax under previous section 18.⁶¹

130 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the previous provisions of this Act to the operation of the amended Act and the Administration Act; and
 - (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 5 years after the commencement.

60 Previous section 22 (Penal tax)

61 Previous section 18 (Assessments)

Schedule Dictionary

section 2

actual periodic deduction, for part 2, division 3, subdivision 1, see section 17.

Administration Act means the *Taxation Administration Act 2001*.

administrator see the Administration Act, schedule 2.

agent, for the definition *employment agent*, means an individual or company (whether or not the individual or company is acting as a trustee).

amended, for part 7, see section 98.

amended Act, for part 7, see section 98.

amending Act, for part 7, see section 98.

annual adjustment amount—

- (a) for part 2, division 4, subdivision 1, see section 29(1); and
- (b) for part 2, division 4, subdivision 2, see section 33.

annual deduction—

- (a) for part 2, division 4, subdivision 1, see section 29(1); and
- (b) for part 2, division 4, subdivision 2, see section 33.

annual liability—

- (a) for an employer other than the DGE for a group—see section 30(1); and
- (b) for the DGE for a group—see section 34(1).

annual pay-roll tax amount—

- (a) for part 2, division 4, subdivision 1, see sections 29(1) and 48(4); and
- (b) for part 2, division 4, subdivision 2, see section 33.

Schedule (continued)

annual refund amount—

- (a) for an employer other than the DGE for a group—see section 31(2); or
- (b) for the DGE for a group—see section 35(2).

annual return means a return mentioned in section 63.

annual wages—

- (a) for part 2, division 4, subdivision 1, see section 29(1); and
- (b) for part 2, division 4, subdivision 2, see section 33.

approved form see section 96.

assessed interest, see the Administration Act, section 54(3).⁶²

assessment see the Administration Act, schedule 2.

Australia means the States.

calculation day—

- (a) for part 2, division 3, subdivision 1, see section 18; and
- (b) for part 2, division 3, subdivision 2, see section 24.

change of status see section 5(1).

client, for the definition *employment agent*, means an individual or company (whether or not the individual or company is acting as a trustee).

commencement, for part 7, see section 98.

commissioner means the Commissioner of State Revenue appointed under the Administration Act.

Commonwealth Act means the *Pay-roll Tax Assessment Act 1941* (Cwlth).

company includes all bodies and associations (corporate and unincorporate) and partnerships.

corporation see the Corporations Act.

⁶² Administration Act, section 54 (Unpaid tax interest)

Schedule (continued)

corresponding law means—

- (a) in relation to Queensland—a law in force in Queensland imposing on employers a tax on wages paid or payable by them and the assessment and collection of the tax, but does not include the Commonwealth Act or this Act; and
- (b) in relation to another State—means a law in force in the State imposing on employers a tax on wages paid or payable by them and the assessment and collection of the tax, but does not include the Commonwealth Act.

criteria for registration, for part 3, division 1, see section 52.

death benefit ETP means a death benefit ETP within the meaning of the *Income Tax Assessment Act 1936* (Cwlth), section 27A.

designated group employer, in relation to a group, means the member of that group who under section 75 is for the time being the designated group employer in respect of that group.

designated period, for an employer who is the DGE for a group on 30 June in a financial year—

- (a) means the part of the year for which the employer was the DGE for the group; but
- (b) does not include a part of the year for which the DGE lodged, or was required under section 64 to lodge, a final return.

DGE means designated group employer.

employer means any person who pays or is liable to pay any wages and includes the Crown in right of the State of Queensland and any person who is an employment agent.

employment agent means an agent that, by an arrangement, procures (either directly or indirectly through interposed individuals, companies or trusts) the services of an individual (the ***worker***) for a client (other than the agent or worker) if, under the arrangement—

Schedule (continued)

- (a) the worker does not become the employee of either the agent or the client but does carry out functions similar to the functions of an employee; and
- (b) remuneration is paid, or is payable, (either directly or indirectly) by the agent to—
 - (i) the worker; or
 - (ii) an individual (other than the worker), whether or not as trustee; or
 - (iii) a company, whether or not as trustee;
 for services supplied, or to be supplied, by the worker to the client; and
- (c) the agent receives, or is entitled to receive, (either directly or indirectly) a payment (whether by way of a lump sum or ongoing fee) during or for the period in which the services are supplied by the worker to the client.

entitled group member, for part 2, division 6, see section 44.

ETP means an eligible termination payment within the meaning of the *Income Tax Assessment Act 1936* (Cwlth), section 27A.

excess deduction, for part 2, division 6, see section 45(2).

false or misleading includes false or misleading because of the omission of a statement.

final adjustment amount—

- (a) for part 2, division 5, subdivision 1, see section 37; and
- (b) for part 2, division 5, subdivision 2, see section 41.

final deduction—

- (a) for part 2, division 5, subdivision 1, see section 37; and
- (b) for part 2, division 5, subdivision 2, see section 41.

final liability—

- (a) for an employer other than the DGE for a group—see section 38(1); and

Schedule (continued)

(b) for the DGE for a group—see section 42(1).

final pay-roll tax amount—

(a) for part 2, division 5, subdivision 1, see sections 37 and 49(4); and

(b) for part 2, division 5, subdivision 2, see section 41.

final period see section 6.

final refund amount—

(a) for an employer other than the DGE for a group—see section 39(2); or

(b) for the DGE for a group—see section 43(2).

final return means a return mentioned in section 64.

final wages—

(a) for part 2, division 5, subdivision 1, see section 37; and

(b) for part 2, division 5, subdivision 2, see section 41.

fixed periodic deduction—

(a) for part 2, division 3, subdivision 1, see section 17; and

(b) for part 2, division 3, subdivision 2, see section 23.

foreign wages means wages that are not taxable wages and are not interstate wages.

fringe benefit means—

(a) a benefit that, in relation to an employee, or an employer of an employee, is a fringe benefit under the Fringe Benefits Assessment Act; or

(b) anything prescribed by regulation to be a fringe benefit; but does not include—

(c) a car parking fringe benefit within the meaning of that Act; or

(d) anything prescribed by regulation not to be a fringe benefit.

Schedule (continued)

Fringe Benefits Assessment Act means the *Fringe Benefits Tax Assessment Act 1986* (Cwlth).

group means a group constituted under part 4.

group member means a person who is a member of a group.

interstate wages means wages that are taxable wages within the meaning of a corresponding law.

liquidator means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company.

non-DGE group member means a group member, other than the DGE for the group.

order of entitled group members, for part 2, division 6, see section 44.

original assessment see the Administration Act, schedule 2.

paid or payable, in relation to wages that are fringe benefits, means—

- (a) paid;
- (b) if another meaning is prescribed by regulation—that meaning.

partial amount, for a periodic return period, means the amount worked out using the following formula—

$$PA = PL \times \frac{X}{Y}$$

where—

PA means the partial amount in dollars.

PL means the employer's periodic liability for the period.

X means the number of days in the period that are in the final period.

Y means the total number of days in the period.

pay, in relation to wages, includes provide, confer and assign.

pay-roll tax means pay-roll tax chargeable under section 10.

Schedule (continued)

penalty tax see the Administration Act, section 58(1).⁶³

periodic liability—

- (a) for an employer other than the DGE for a group, see section 20(1); or
- (b) for the DGE for a group, see section 26.

periodic liability amount, for an employer for a final period, means the sum of—

- (a) the employer's periodic liability for a periodic return period wholly within the final period, even if the return date for lodging the periodic return is after the return date for lodging the final return; and
- (b) for a day in the final period not included in a periodic return period mentioned in paragraph (a)—the partial amount for the periodic return period that includes the day, even if the return date for lodging the periodic return is after the return date for lodging the final return.

periodic return means a return mentioned in section 59.

periodic return period, for lodgment of periodic returns by an employer, means the period under section 60 for which the employer is required to lodge periodic returns.

post-commencement liability, for part 7, see section 98.

pre-commencement act or omission, for part 7, see section 98.

pre-commencement liability, for part 7, see section 98.

prescribed pay-roll tax liability means a liability for any of the following—

- (a) pay-roll tax;
- (b) unpaid tax interest in relation to an assessment of liability for pay-roll tax;
- (c) penalty tax in relation to an assessment of liability for pay-roll tax;

⁶³ Administration Act, section 58 (Liability for penalty tax)

Schedule (continued)

- (d) any other amount payable under this Act or the Administration Act, or a liability to pay court ordered costs, in relation to pay-roll tax.

prescribed period, for part 7, see section 98.

previous, for part 7, see section 98.

previous return period, for part 7, see section 98.

reasonably believes see the Administration Act, schedule 2.

reassessment see the Administration Act, schedule 2.

relevant employer, for part 3, division 2, see section 58.

relevant financial year, for part 2, division 6, see section 44.

relevant group employer—

- (a) for part 2, division 4, subdivision 2, see section 33; and
(b) for part 2, division 5, subdivision 2, see section 41.

return means a form approved for lodgment by an employer.

return date, for lodgment of a periodic return, annual return or final return by an employer, means the date by which the employer is required under part 3, division 2 to lodge the return and pay tax.

self assessment see the Administration Act, schedule 2.

significant wage change—

- (a) for part 2, division 3, subdivision 1, see section 19; and
(b) for part 2, division 3, subdivision 2, see section 25.

State includes a Territory.

superannuation contribution see section 3.

tax see the Administration Act, schedule 2.

taxable ETP means an ETP that, under the *Income Tax Assessment Act 1936* (Cwlth), part 3, division 2, subdivision AA, would be included in an employee's assessable income if the whole of the payment were paid to the employee, but does not include a death benefit ETP.

Schedule (continued)

taxable wages means wages that, under section 9, are liable to pay-roll tax.

tax law liability see the Administration Act, schedule 2.

transitional final period, for part 7, see section 98.

transitional return period, for part 7, see section 98.

transitional year, for part 7, see section 98.

trustee, in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court or by operation of law, includes—

- (a) an executor or administrator, guardian, committee, receiver or liquidator; and
- (b) every person having or taking upon himself or herself the administration or control of any real or personal property affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control or management of any real or personal property of a person under any legal or other disability.

unpaid tax interest see the Administration Act, section 54(1).

voting share see the Corporations Act, part 1.2, section 9.

wages, for part 2, division 5, subdivision 1, see section 37.

wages means any wages, salary, commission, bonuses or allowances paid or payable (whether at piecework rates or otherwise and whether paid or payable in cash or in kind) to, or in relation to, an employee as an employee, or applied for the employee's benefit, and, without limiting the generality of the foregoing, includes—

- (a) any amount paid or payable by way of remuneration to a person holding office under the Crown in right of the State of Queensland or in the service of the Crown in right of the State of Queensland; and
- (b) any amount paid or payable under any prescribed classes of contracts to the extent to which that payment is attributable to labour; and

Schedule (continued)

- (c) any amount paid or payable by a company by way of remuneration to a director or member of the governing body of that company; and
- (d) any amount paid or payable by way of commission to an insurance or time payment canvasser or collector; and
- (e) the provision by the employer of meals or sustenance or the use of premises or quarters as consideration or part consideration for the employee's services; and
- (f) remuneration mentioned in the definition *employment agent*, paragraph (b); and
- (g) fringe benefits; and
- (h) a superannuation contribution, other than a superannuation contribution for the employee's services performed or rendered before 1 January 2000; and
- (i) a taxable ETP.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2006. Future amendments of the Pay-roll Tax Act 1971 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

| Key | Explanation | Key | Explanation |
|--------|--------------------------------|---------|---|
| AIA | = Acts Interpretation Act 1954 | (prev) | = previously |
| amd | = amended | proc | = proclamation |
| amdt | = amendment | prov | = provision |
| ch | = chapter | pt | = part |
| def | = definition | pubd | = published |
| div | = division | R[X] | = Reprint No.[X] |
| exp | = expires/expired | RA | = Reprints Act 1992 |
| gaz | = gazette | reloc | = relocated |
| hdg | = heading | renum | = renumbered |
| ins | = inserted | rep | = repealed |
| lap | = lapsed | (retro) | = retrospectively |
| notfd | = notified | rv | = revised edition |
| o in c | = order in council | s | = section |
| om | = omitted | sch | = schedule |
| orig | = original | sdiv | = subdivision |
| p | = page | SIA | = Statutory Instruments Act 1992 |
| para | = paragraph | SIR | = Statutory Instruments Regulation 2002 |
| prec | = preceding | SL | = subordinate legislation |
| pres | = present | sub | = substituted |
| prev | = previous | unnum | = unnumbered |

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments to | Effective | Reprint date |
|-------------|-----------------|------------------|------------------|
| 1 | 1995 Act No. 57 | 28 November 1995 | 18 January 1996 |
| 2 | 1996 Act No. 70 | 9 December 1996 | 21 January 1997 |
| 2A | 1997 Act No. 43 | 25 August 1997 | 25 November 1997 |
| 2B | 1999 Act No. 13 | 1 July 1999 | 13 July 1999 |
| 2C | 1999 Act No. 78 | 14 December 1999 | 21 December 1999 |
| 2D | 2000 Act No. 20 | 1 July 2000 | 5 July 2000 |
| 2E | 2000 Act No. 48 | 17 November 2000 | 20 November 2000 |
| 3 | 2001 Act No. 45 | 15 July 2001 | 31 July 2001 |
| 3A | 2001 Act No. 72 | 1 March 2002 | 1 March 2002 |
| 3B | 2002 Act No. 17 | 17 May 2002 | 28 May 2002 |

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|-----------------|-------|
| 3C | 2002 Act No. 17 | 1 July 2002 | |
| 3D | 2002 Act No. 56 | 1 December 2002 | |
| 3E | 2003 Act No. 63 | 1 January 2004 | |
| 4 | 2004 Act No. 46 | 1 July 2005 | |

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|-------------|-------|
| 4A | 2006 Act No. 34 | 1 July 2006 | |

5 Tables in earlier reprints

| Name of table | Reprint No. |
|-----------------------------------|-------------|
| Changed names and titles | 1 |
| Corrected minor errors | 2, 4 |
| Obsolete and redundant provisions | 1 |
| Renumbered provisions | 1 |

6 List of legislation

Pay-roll Tax Act 1971 No. 37

date of assent 30 September 1971

commenced 1 September 1971 (see s 1(2)–(3))

amending legislation—

Pay-roll Tax Act Amendment Act 1973 No. 45

date of assent 28 September 1973

commenced 1 September 1973 (see s 2)

Pay-roll Tax Act Amendment At 1974 No. 59

date of assent 27 September 1974

commenced 1 September 1974 (see s 2)

Pay-roll Tax Act Amendment Act 1975 No. 80

date of assent 16 December 1975

commenced 1 January 1976 (see s 2)

Pay-roll Tax Act Amendment Act 1976 No. 77

date of assent 14 December 1976

commenced on date of assent

Pay-roll Tax Act Amendment Act 1977 No. 59

date of assent 7 October 1977

commenced on date of assent

Pay-roll Tax Act Amendment Act 1979 No. 54

date of assent 19 November 1979

commenced 1 January 1980 (see s 2)

Pay-roll Tax Act Amendment Act 1980 No. 28

date of assent 12 May 1980

commenced on date of assent

Pay-roll Tax Act Amendment Act 1980 (No. 2) No. 54

date of assent 22 September 1980
commenced 1 January 1981 (see s 2)

Companies (Consequential Amendments) Act 1981 No. 111 s 23 sch

date of assent 16 December 1981
ss 1–2 commenced on date of assent (see s 2(1))
remaining provisions commenced 1 July 1982 (see s 2(4) and proc pubd gaz 29 June 1982 p 2102)

Pay-roll Tax Act Amendment Act 1982 No. 64

date of assent 13 December 1982
commenced 1 January 1983 (see s 2)

Pay-roll Tax Act Amendment Act 1984 No. 4

date of assent 6 January 1984
ss 6–7, 9, 16–17 commenced 1 January 1984 (see s 2(2))
remaining provisions commenced on date of assent (see s 2(1))

Pay-roll Tax Act Amendment Act 1984 (No. 2) No. 107

date of assent 12 December 1984
ss 1–2 commenced on date of assent (see s 2(1))
remaining provisions commenced 1 January 1985 (see s 2(2))

Pay-roll Tax Act Amendment Act 1985 No. 100

date of assent 13 December 1985
s 4(a) commenced 1 October 1984 (see s 2(2))
ss 4(b), 5, 7–8, 10 and 13 commenced 1 January 1986 (see s 2(3))
remaining provisions commenced on date of assent (see s 2(1))

Pay-roll Tax Act Amendment Act 1986 No. 50

date of assent 25 September 1986
ss 1–2 commenced on date of assent (see s 2(1))
remaining provisions commenced 1 January 1987 (see s 2(2))

Pay-roll Tax Act Amendment Act 1988 No. 99

date of assent 8 December 1988
ss 1–2 commenced on date of assent (see s 2(1))
remaining provisions commenced 1 January 1989 (see s 2(2))

Pay-roll Tax Act Amendment Act 1990 No. 22

date of assent 13 June 1990
s 6 commenced 1 November 1989 (see s 3(2))
ss 5, 7–9 commenced 1 January 1990 (see s 3(3))
remaining provisions commenced on date of assent (see s 3(1))

Corporations (Consequential Amendments) Act 1990 No. 99 ss 1.1–1.2, 3.1 sch

date of assent 12 December 1990
ss 1.1–1.2 commenced on date of assent (see s 1.2(1))
remaining provisions commenced 1 January 1991 (proc pubd gaz 22 December 1990 p 2270)

Pay-roll Tax Amendment Act 1991 No. 74

date of assent 21 November 1991

ss 4–7 commenced 1 January 1992 (see s 2)

remaining provisions commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 1

date of assent 2 July 1992

commenced on date of assent

Pay-roll Tax Amendment Act 1992 No. 54

date of assent 30 November 1992

ss 4–7 commenced 1 January 1993 (see s 2)

remaining provisions commenced on date of assent

Revenue Laws Amendment Act 1993 No. 51 pts 1, 4

date of assent 25 October 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 1994 (see s 2(3))

Revenue Laws Amendment Act 1995 No. 28 pts 1, 3

date of assent 14 June 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (see s 2(1))

Revenue Laws Amendment Act (No. 2) 1995 No. 44 pts 1, 3

date of assent 22 November 1995

s 11 commenced 1 July 1995 (see s 2(2))

remaining provisions commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (this Act is amended, see amending legislation below)

date of assent 28 November 1995

commenced on date of assent

amending legislation—

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1 (amends 1995 No. 57 above)

date of assent 28 November 1995

commenced on date of assent

Revenue Laws Amendment Act 1996 No. 48 pts 1, 3

date of assent 15 November 1996

commenced on date of assent

Revenue Laws Amendment Act (No. 2) 1996 No. 70 pts 1, 4

date of assent 9 December 1996

commenced on date of assent

Revenue Laws Amendment Act 1997 No. 43 s 1 pt 3

date of assent 25 August 1997

commenced on date of assent

Revenue and Other Legislation Amendment Act 1999 No. 13 ss 1, 2(7) pt 5

date of assent 30 March 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 82)

Revenue and Other Legislation Amendment Act (No. 2) 1999 No. 49 ss 1, 2(3) pt 4 s 38 sch

date of assent 4 November 1999

commenced on date of assent

Revenue Laws Amendment Act 1999 No. 78 s 1 pt 3

date of assent 14 December 1999

commenced on date of assent

GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3

date of assent 23 June 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(4))

Revenue Laws Amendment Act 2000 No. 48 pts 1, 3

date of assent 17 November 2000

s 6(1) commenced 1 July 2000 (see s 2(1))

s 6(2) commenced 8 September 2000 (see s 2(2))

remaining provisions commenced on date of assent

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3

date of assent 28 June 2001

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285))

Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 10)

Taxation Administration Act 2001 No. 72 ss 1–2, 164 sch 1

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 12)

Revenue and Other Legislation Amendment Act 2002 No. 17 ss 1, 2(6), (8), pt 9

date of assent 17 May 2002

ss 51, 53 commenced 1 July 2002 (see s 2(6))

remaining provisions commenced on date of assent (see s 2(8))

Treasury Legislation Amendment Act 2002 No. 56 ss 1, 2(2), pt 5

date of assent 1 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2002 (see s 2(2))

Training Reform Act 2003 No. 63 ss 1, 2(2), 60 sch

date of assent 13 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2004 (2003 SL No. 293)

Pay-roll Tax Administration Amendment Act 2004 No. 46 pts 1–2, s 41 sch

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2005 (2005 SL No. 8)

Revenue Legislation Amendment Act 2006 No. 34 pts 1, 4

date of assent 16 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2006 (see s 2)

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 9.

Title amd 2004 No. 46 s 4

Short title

prov hdg amd 1995 No. 57 s 4 sch 1

s 1 amd 1995 No. 57 s 4 sch 1

Dictionary

prov hdg sub 2004 No. 46 s 5(1)

s 2 prev s 2 amd 1975 No. 80 s 3; 1984 No. 4 s 4

om R1 (see RA s 36)

pres s 2 amd 1975 No. 80 s 4(b)–(c); 1976 No. 77 s 2; 1984 No. 4 s 5(b); 1985 No. 100 s 4(b); 1993 No. 51 s 15(4); 1995 No. 57 s 4 sch 1; R1 (see RA s 39); 1999 No. 78 s 7 (3)–(4)

Note—orig s 3 contained definitions for this Act. Definitions are now located in the schedule (Dictionary). Annotations for definitions contained in orig s 3 are located in annotations for the schedule.

amd 2004 No. 46 s 5(4)

Meaning of “superannuation contribution”

s 3 ins 1999 No. 78 s 8

Other provisions about meaning of “wages”

s 4 prev s 4 amd 1995 No. 57 s 4 sch 1; 2001 No. 72 s 164 sch 1

om 2004 No. 46 s 7

pres s 4 ins 1999 No. 78 s 8

amd 2000 No. 20 s 29 sch 3; 2004 No. 46 s 41 sch

Delegations

prov hdg sub 2001 No. 72 s 164 sch 1

s 4A ins 1995 No. 57 s 4 sch 1

amd 2001 No. 72 s 164 sch 1

om 2004 No. 46 s 7

Meaning of “change of status”

s 5 prev s 5 amd 1995 No. 57 s 4 sch 1; 2001 No. 72 s 164 sch 1; 2002 No. 56 s 18
om 2004 No. 46 s 7
pres s 5 ins 2004 No. 46 s 6

Meaning of “final period”

s 6 ins 2004 No. 46 s 6

Notes in text

s 7 ins 2004 No. 46 s 6

Relationship of Act with Administration Act

s 8 ins 2004 No. 46 s 6

PART 2—ADMINISTRATION

pt hdg prev pt 2 hdg om 2004 No. 46 s 7

Division 1—Imposition of liability

div hdg ins 2004 No. 46 s 41 sch

Wages liable to pay-roll tax

s 9 prev s 9 amd 1975 No. 80 s 5
om 1979 No. 54 s 3
pres s 9 amd 1995 No. 44 s 12
(1A) exp 22 November 1995 (see s 9(1C))
AIA s 20A applies (see s 6(1B))
(1B), (1C) exp 22 November 1995 (see s 9(1C))
amd 2004 No. 46 s 41 sch

Imposition of pay-roll tax on taxable wages

s 10 amd 1973 No. 45 s 3 (retro); 1974 No. 59 s 3; 1999 No. 78 s 9; 2002 No. 17 s
52

When liability for pay-roll tax arises

s 11 prev s 11 amd 1975 No. 80 s 7
om 1979 No. 54 s 6
pres s 11 ins 2004 No. 46 s 8

Value of taxable wages

s 13 ins 1993 No. 51 s 16
amd 1999 No. 78 s 10; 2002 No. 17 s 53; 2004 No. 46 s 9

Division 2—Exemptions

div hdg ins 2004 No. 46 s 41 sch

Exemption from pay-roll tax

s 14 (orig s 10) amd 1980 No. 28 s 2; 1985 No. 100 s 6; 1990 No. 22 s 6 (retro);
1995 No. 57 s 4 sch 1; 2000 No. 48 s 6 (retro); 2002 No. 56 s 19; 2003 No.
63 s 60 sch
reloc and renum 2004 No. 46 s 13

Exemption from pay-roll tax—certain CWA wages

s 15 (orig s 11) ins 1995 No. 44 s 13
reloc and renum 2004 No. 46 s 13
amd 2004 No. 46 s 41 sch

Division 3—Periodic liability**div hdg** ins 2004 No. 46 s 10**Subdivision 1—Employer other than the DGE for a group****sdiv hdg** ins 2004 No. 46 s 10**Application of sdiv 1****s 16** prev s 16 om 2004 No. 46 s 24
pres s 16 ins 2004 No. 46 s 10**Interpretation****s 16J** ins 1975 No. 80 s 14
sub 1976 No. 77 s 8
amd 1977 No. 59 s 5; 1979 No. 54 s 11; 1980 No. 54 s 6; 1982 No. 64 s 6;
1984 No. 4 s 16 (retro); 1984 No. 107 s 7; 1985 No. 100 s 10; 1986 No. 50
s 7; 1988 No. 99 s 7; 1990 No. 22 s 9 (retro); 1991 No. 74 s 7; 1992 No. 54
s 7; 1995 No. 28 s 10; 1996 No. 48 s 9; 1997 No. 43 s 18
om 2004 No. 46 s 26**Annual adjustment****s 16K** ins 1975 No. 80 s 14
amd 1979 No. 54 s 12
om 2004 No. 46 s 26**Adjustment of payment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year****s 16L** ins 1975 No. 80 s 14
om 2004 No. 46 s 26**Definitions for sdiv 1****s 17** ins 2004 No. 46 s 10
def “**actual periodic deduction**” amd 2006 No. 34 s 13
def “**fixed periodic deduction**” amd 2006 No. 34 s 13**Meaning of “calculation day”****s 18** ins 2004 No. 46 s 10**Rounding down amounts of tax etc.****s 18A** ins 1992 No. 36 s 2 sch 1
om 2004 No. 46 s 27**Meaning of “significant wage change”****s 19** ins 2004 No. 46 s 10**Amount of periodic liability****s 20** ins 2004 No. 46 s 10**Determination by commissioner of fixed periodic deduction****prov hdg** sub 1979 No. 54 s 4(b)
s 21 (prev s 9A) ins 1975 No. 80 s 6
amd 1976 No. 77 s 3; 1977 No. 59 s 2
renum 1979 No. 54 s 4(a)
amd 1979 No. 54 s 5; 1980 No. 54 s 3; 1982 No. 64 s 3; 1984 No. 4 s 6 (retro);
1984 No. 107 s 4; 1985 No. 100 s 5; 1986 No. 50 s 4; 1988 No. 99 s 4;
1990 No. 22 s 5 (retro); 1991 No. 74 s 4; 1992 No. 54 s 4; 1995 No. 28 s 7;

1995 No. 57 s 4 sch 1; 1996 No. 48 s 6; 1997 No. 43 s 15; 1999 No. 49 s 38
sch
sub 2004 No. 46 s 11

Subdivision 2—DGE for a group

sdiv hdg ins 2004 No. 46 s 12

Application of sdiv 2

s 22 ins 2004 No. 46 s 12

Definition for sdiv 2

s 23 ins 2004 No. 46 s 12
def “**fixed periodic deduction**” amd 2006 No. 34 s 14

Meaning of “calculation day”

s 24 prev s 24 om 2004 No. 46 s 27
pres s 24 ins 2004 No. 46 s 12

Meaning of “significant wage change”

s 25 prev s 25 amd 1975 No. 80 s 16; 1981 No. 111 s 23 sch; 1990 No. 99 s 3.1 sch;
1995 No. 57 s 4 sch 1; 2001 No. 45 s 29 sch 3
om 2004 No. 46 s 27
pres s 25 ins 2004 No. 46 s 12

Amount of periodic liability

s 26 prev s 26 amd 1995 No. 57 s 4 sch 1
om 2004 No. 46 s 27
pres s 26 ins 2004 No. 46 s 12

Determination by commissioner of fixed periodic deduction

s 27 prev s 27 om 2004 No. 46 s 27
pres s 27 ins 2004 No. 46 s 12

Division 4—Annual liability

div hdg ins 2004 No. 46 s 14

Subdivision 1—Employer other than the DGE for a group

sdiv hdg ins 2004 No. 46 s 14

Application of sdiv 1

s 28 prev s 28 om 2004 No. 46 s 27
pres s 28 ins 2004 No. 46 s 15

Definitions for sdiv 1

prov hdg sub 2004 No. 46 s 16(1)
s 29 prev s 29 om 2004 No. 46 s 27
pres s 29 ins 1975 No. 80 s 8
amd 1976 No. 77 s 4; 1977 No. 59 s 3; 1979 No. 54 s 7; 1980 No. 54 s 4; 1982
No. 64 s 4; 1984 No. 4 s 7 (retro); 1984 No. 107 s 5; 1985 No. 100 s 7;
1986 No. 50 s 5; 1988 No. 99 s 5; 1990 No. 22 s 7 (retro); 1991 No. 74 s 5;
1992 No. 54 s 5; 1995 No. 28 s 8; 1996 No. 48 s 7; 1997 No. 43 s 16; 2004
No. 46 s 16(2)–(5)
def “**annual deduction**” amd 2006 No. 34 s 15

Amount of annual liability

- s 30** prev s 30 om 2004 No. 46 s 27
 pres s 30 ins 1975 No. 80 s 9
 amd 1976 No. 77 s 5; 1979 No. 54 s 8
 sub 2004 No. 46 s 17

Entitlement to annual refund amount

- s 31** prev s 31 amd 1995 No. 57 s 4 sch 1
 om 2004 No. 46 s 27
 pres s 31 ins 2004 No. 46 s 17

Subdivision 2—DGE for a group

- sdiv hdg** ins 2004 No. 46 s 17

Application of sdiv 2

- s 32** prev s 32 om 2004 No. 46 s 29
 pres s 32 ins 2004 No. 46 s 17

Definitions for sdiv 2

- s 33** prev s 33 om 2004 No. 46 s 29
 pres s 33 ins 2004 No. 46 s 17
 def “**annual deduction**” amd 2006 No. 34 s 16

Amount of DGE’s annual liability

- s 34** prev s 34 om 2004 No. 46 s 29
 pres s 34 ins 2004 No. 46 s 17

Entitlement to annual refund amount

- s 35** prev s 35 amd 1985 No. 100 s 11; 1995 No. 57 s 4 sch 1
 om 2004 No. 46 s 29
 pres s 35 ins 2004 No. 46 s 17

Division 5—Final liability

- div hdg** ins 2004 No. 46 s 17

Subdivision 1—Employer other than the DGE for a group

- sdiv hdg** ins 2004 No. 46 s 17

Application of sdiv 1

- s 36** prev s 36 amd 1973 No. 45 s 4 (retro)
 om 2004 No. 46 s 29
 pres s 36 ins 1975 No. 80 s 9
 sub 2004 No. 46 s 17

Definitions for sdiv 1

- s 37** ins 2004 No. 46 s 17
 def “**final deduction**” amd 2006 No. 34 s 17

Amount of final liability

- s 38** prev s 38 amd 1985 No. 100 s 12
 om 2004 No. 46 s 29
 pres s 38 ins 2004 No. 46 s 17

Entitlement to final refund amount

s 39 prev s 39 om 2004 No. 46 s 29
pres s 39 ins 2004 No. 46 s 17

Subdivision 2—DGE for a group

sdiv hdg ins 2004 No. 46 s 17

Application of sdiv 2

s 40 prev s 40 amd 1995 No. 57 s 4 sch 1
om 2004 No. 46 s 29
pres s 40 ins 2004 No. 46 s 17

Definitions for sdiv 2

s 41 ins 2004 No. 46 s 17
def “**final deduction**” amd 2006 No. 34 s 18

Amount of DGE’s final liability

s 42 ins 2004 No. 46 s 17

Entitlement to final refund amount

s 43 ins 2004 No. 46 s 17

Division 6—Sharing of excess deduction by group members

div hdg ins 2004 No. 46 s 17

Definitions for div 6

s 44 ins 2004 No. 46 s 17

Meaning of “excess deduction”

s 45 prev s 45 om 2004 No. 46 s 33
pres s 45 ins 2004 No. 46 s 17

Nomination by DGE of group members to share in excess deduction

s 46 prev s 46 amd 1975 No. 80 s 19; 1995 No. 57 s 4 sch 1; 1999 No. 49 s 38 sch;
2001 No. 72 s 164 sch 1
om 2004 No. 46 s 33
pres s 46 ins 2004 No. 46 s 17

Affidavit evidence in proceedings for recovery of tax

s 46A ins 1999 No. 13 s 33
om 2004 No. 46 s 33

Signature of commissioner

s 46B ins 1999 No. 13 s 33
om 2004 No. 46 s 33

Commissioner’s certificate

s 46C ins 1999 No. 13 s 33
om 2004 No. 46 s 33

Determination by commissioner of group members to share in excess deduction

s 47 prev s 47 amd 1981 No. 111 s 23 sch; 1995 No. 57 s 4 sch 1; 2001 No. 45 s 29
sch 3
om 2004 No. 46 s 33
pres s 47 ins 2004 No. 46 s 17

Sharing of excess deduction by entitled group members at end of financial year

s 48 prev s 48 om 2004 No. 46 s 33
pres s 48 ins 2004 No. 46 s 17

Sharing of excess deduction by entitled group members on group ceasing to exist

s 49 prev s 49 om 2004 No. 46 s 33
pres s 49 ins 2004 No. 46 s 17

Division 7—Avoidance arrangements

div hdg ins 2004 No. 46 s 41 sch

Arrangements for avoidance of tax may be disregarded

s 50 prev s 50 om 2004 No. 46 s 33
pres s 50 ins 1984 No. 4 s 8

Avoidance arrangements involving employment agents

s 51 ins 1996 No. 70 s 21
amd 2001 No. 71 s 551 sch 1; 2004 No. 46 s 41 sch

PART 3—REGISTRATION AND RETURNS**Division 1—Registration**

div hdg ins 2004 No. 46 s 41 sch

Meaning of “criteria for registration”

s 52 orig s 52 om 1988 No. 99 s 9
prev s 52 ins 1993 No. 51 s 17
exp 1 January 1994 (see s 52(2))
ins 1995 No. 57 s 4 sch 1 (amd 1995 No. 58 s 4 sch 1)
exp 28 February 1996 (see s 52(3))
ins 2004 No. 46 s 34
om R4 (see RA s 37)
pres s 52 ins 2004 No. 46 s 18
amd 2006 No. 34 s 19

Application for registration

prov hdg sub 2004 No. 46 s 19(1)

s 53 amd 1975 No. 80 s 10; 1976 No. 77 s 6; 1977 No. 59 s 4; 1979 No. 54 s 9;
1980 No. 54 s 5; 1982 No. 64 s 5; 1984 No. 4 s 9 (retro); 1984 No. 107 s 6;
1985 No. 100 s 8; 1986 No. 50 s 6; 1988 No. 99 s 6; 1990 No. 22 s 8
(retro); 1991 No. 74 s 6; 1992 No. 54 s 6; 1995 No. 28 s 9; 1995 No. 57 s 4
sch 1; 1996 No. 48 s 8; 1997 No. 43 s 17; 2004 No. 46 s 19(2)–(5)

Registration of employer without application

s 54 ins 2004 No. 46 s 20

Notice of registration

s 55 ins 2004 No. 46 s 20

Amendment of registration

s 56 ins 2004 No. 46 s 20

Cancellation of registration

s 57 ins 2004 No. 46 s 20

Division 2—Returns**div hdg** ins 2004 No. 46 s 41 sch**Definition for div 2****s 58** amd 1975 No. 80 s 11; 1995 No. 57 s 4 sch 1
sub 2004 No. 46 s 21**Periodic returns****s 59** ins 2004 No. 46 s 21**Duration of periodic return period****s 60** ins 2004 No. 46 s 21**Deemed lodgment of periodic return—payment by electronic transfer of funds****s 61** ins 2004 No. 46 s 21**Exemption from requirement to lodge periodic returns****prov hdg** sub 2004 No. 46 s 22(1)**s 62** amd 1975 No. 80 s 12; 1976 No. 77 s 7; 1995 No. 57 s 4 sch 1; 2004 No. 46 s
22(2)–(3)**Annual return****s 63** ins 2004 No. 46 s 23**Final return****s 64** ins 2004 No. 46 s 23**Further returns****s 65** amd 1975 No. 80 s 13; 2004 No. 46 s 41 sch**PART 4—GROUPING PROVISIONS****pt hdg** ins 1975 No. 80 s 14**Division 1—Preliminary****div hdg** ins 2004 No. 46 s 41 sch**Interpretation****s 66** ins 1975 No. 80 s 14**Division 2—Grouping of persons****div hdg** ins 2004 No. 46 s 41 sch**Grouping of corporations****s 67** ins 1975 No. 80 s 14
amd 1981 No. 111 s 23 sch
sub 1995 No. 57 s 4 sch 1
amd 2001 No. 45 s 29 sch 3**Grouping where employees used in another business****s 68** ins 1975 No. 80 s 14
amd 1984 No. 4 s 10; 2000 No. 48 s 7; 2001 No. 45 s 29 sch 3**Grouping of commonly controlled businesses****s 69** ins 1975 No. 80 s 14
amd 1981 No. 111 s 23 sch; 1984 No. 4 s 11; 1995 No. 57 s 4 sch 1; 2000 No.
48 s 8; 2001 No. 45 s 29 sch 3; 2001 No. 45 s 29 sch 3

Grouping of head and branch businesses

s 70 ins 1984 No. 4 s 12
amd 2000 No. 48 s 9

Smaller groups subsumed into larger groups

s 71 ins 1975 No. 80 s 14
amd 1984 No. 4 s 13; 2000 No. 48 s 10

Grouping provisions to operate independently

s 72 ins 1975 No. 80 s 14

Beneficiaries under discretionary trusts

s 73 ins 1975 No. 80 s 14

Exclusion of persons from group

prov hdg sub 1985 No. 100 s 9
s 74 ins 1975 No. 80 s 14
amd 1981 No. 111 s 23 sch
sub 1984 No. 4 s 14
amd 1995 No. 57 s 4 sch 1; 2001 No. 45 s 29 sch 3

Division 3—Designated group employer

div hdg ins 2004 No. 46 s 41 sch

Designation of group member as DGE

prov hdg sub 2004 No. 46 s 25(1)
s 75 ins 1975 No. 80 s 14
amd 1979 No. 54 s 10; 1984 No. 4 s 15; 1995 No. 57 s 4 sch 1; 1999 No. 49 s
38 sch; 2004 No. 46 ss 25(2)–(4), 41 sch

PART 5—PROVISIONS ABOUT ASSESSMENTS

pt hdg sub 2004 No. 46 s 27

Division 1—Reassessments

div hdg ins 2004 No. 46 s 27

When registered employer may make reassessment

s 76 sub 2004 No. 46 s 27

Reassessments—determination of periodic deduction

s 77 amd 1975 No. 80 s 15
sub 2004 No. 46 s 27

Reassessment—annual liability of non-group employer who has lodged a final return

s 78 amd 1976 No. 77 s 9
sub 2004 No. 46 s 27

Reassessment—change of DGE

s 79 sub 2004 No. 46 s 27

Reassessment—making or revocation of order excluding a person from a group

s 80 sub 2004 No. 46 s 27

Division 2—Provisions about particular assessments made by the commissioner

div hdg ins 2004 No. 27 s 27

Provision about assessments made by commissioner—employer who is required to lodge periodic returns

s 81 sub 2004 No. 46 s 27

Provision about assessments made by commissioner—employer who is exempt from lodging periodic returnss 82 amd 2001 No. 72 s 164 sch 1
sub 2004 No. 46 s 27**PART 6—OBJECTIONS AND APPEALS**

pt hdg prev pt 6 hdg om 2004 No. 46 s 29

Division 1—Refund provisions

div hdg ins 2004 No. 46 s 30

Application of annual refund amount or final refund amounts 83 amd 1975 No. 80 s 17
sub 2004 No. 46 s 30**Provision for refunds under Administration Act to group members**

s 84 ins 2004 No. 46 s 30

Entitlement to a refund of pay-roll tax

s 85 ins 2004 No. 46 s 30

Division 2—Notification requirements

div hdg ins 2004 No. 46 s 30

Notification requirement—employers required to work out fixed periodic deduction

s 86 ins 2004 No. 46 s 30

Notification requirement—employers exempt from lodging periodic returnss 87 ins 2004 No. 46 s 30
amd 2006 No. 34 s 20**Notification requirement—particular group members**

s 88 ins 2004 No. 46 s 30

Notification requirement—liquidators and other administrators

s 89 ins 2004 No. 46 s 30

Division 3—Other provisions

div hdg ins 2004 No. 46 s 30

Commissioner may require payment of penalty

s 90 ins 2004 No. 46 s 30

Period for keeping particular records relating to fringe benefits tax

s 91 ins 2004 No. 46 s 30

Application of Act to trustees

prov hdg sub 2004 No. 46 s 31(1)

s 92 amd 1975 No. 80 s 18; 2000 No. 48 s 11; 2004 No. 46 s 31(2)–(3)

Avoiding taxations 93 (orig s 37) amd 1995 No. 57 s 4 sch 1
reloc and renum 2004 No. 46 s 28

Notice of change of address for service

s 94 sub 2004 No. 46 s 32

Cents to be disregarded for calculationss 95 amd 1995 No. 57 s 4 sch 1
sub 2004 No. 46 s 33**Approval of forms**

s 96 ins 1995 No. 57 s 4 sch 1

Regulation-making power

prov hdg sub 1999 No. 13 s 34(1)

s 97 amd 1975 No. 80 s 20

sub 1993 No. 51 s 17

amd 1995 No. 57 s 4 sch 1; 1999 No. 13 s 34(2)–(5); 2004 No. 46 s 41 sch

Application of particular amendments

s 97A ins 2006 No. 34 s 21

PART 7—PENAL PROVISIONS

pt hdg prev pt 7 hdg om 2004 No. 46 s 29

Division 1—Preliminary

div hdg ins 2004 No. 46 s 35

Definitions for pt 7

s 98 ins 2004 No. 46 s 35

Division 2—Application of amended Act and Administration Act

div hdg ins 2004 No. 46 s 35

Application of amended Act in relation to liabilities etc. arising on or after commencement

s 99 ins 2004 No. 46 s 35

Registration under s 54 of person required to register before commencement

s 100 ins 2004 No. 46 s 35

Application of amended ss 58–62 for previous return periods

s 101 ins 2004 No. 46 s 35

Assessment under amended s 81 in relation to particular pre-commencement liabilities

s 102 ins 2004 No. 46 s 35

Application of amended s 95 to calculations made under previous provisions

s 103 ins 2004 No. 46 s 35

This Act as a revenue law for the Administration Act

s 104 ins 2004 No. 46 s 35

Application of Administration Act, s 38

s 105 ins 2004 No. 46 s 35

Second or subsequent offences

s 106 ins 2004 No. 46 s 35

Division 3—Application of previous provisions**div hdg** ins 2004 No. 46 s 35**Application of previous provisions to particular liabilities etc.****s 107** ins 2004 No. 46 s 35**Division 4—Provisions about periodic liability after commencement****div hdg** ins 2004 No. 46 s 35**Fixed periodic deduction for periodic return periods after commencement—existing determination****s 108** ins 2004 No. 46 s 35**Fixed periodic deduction for periodic return periods after commencement—existing nomination****s 109** ins 2004 No. 46 s 35**Application of fixed periodic deduction to particular non-group employers after commencement****s 110** ins 2004 No. 46 s 35**Division 5—Provisions for annual liability for transitional year****div hdg** ins 2004 No. 46 s 35**Purpose of div 5****s 111** ins 2004 No. 46 s 35**Basic principles for working out employer's annual liability****s 112** ins 2004 No. 46 s 35**Employer who was not a group member for a prescribed period during the transitional year****s 113** ins 2004 No. 46 s 35**Employer who is a DGE on 30 June in the transitional year****s 114** ins 2004 No. 46 s 35**Division 6—Provisions for final liability for transitional final period****div hdg** ins 2004 No. 46 s 35**Purpose of div 6****s 115** ins 2004 No. 46 s 35**When transitional final period starts****s 116** ins 2004 No. 46 s 35**Employer who is a DGE on the last day of a transitional final period****s 117** ins 2004 No. 46 s 35**Division 7—Miscellaneous provisions****div hdg** ins 2004 No. 46 s 35**Commissioner assessment—employer who becomes a DGE in a transitional year before commencement****s 118** ins 2004 No. 46 s 35

Commissioner assessment—employer who ceases to be a DGE in a transitional year before commencement

s 119 ins 2004 No. 46 s 35

Delegations under previous s 4A

s 120 ins 2004 No. 46 s 35

Employers registered under previous s 12 immediately before commencement

s 121 ins 2004 No. 46 s 35

Notices given by commissioner under previous s 13

s 122 ins 2004 No. 46 s 35

Continuing effect of exemptions given by commissioner under previous s 14

s 123 ins 2004 No. 46 s 35

Continuing use of particular forms

s 124 ins 2004 No. 46 s 35

Application of ss 83 and 84

s 125 ins 2004 No. 46 s 35

Application of s 88 notification requirement in relation to a transitional year

s 126 ins 2004 No. 46 s 35

Application of s 89 to particular liquidators

s 127 ins 2004 No. 46 s 35

Application of s 94 to particular employers

s 128 ins 2004 No. 46 s 35

References in amended Act

s 129 ins 2004 No. 46 s 35

Transitional regulation-making powers 130 ins 2004 No. 46 s 35
exp 1 July 2010 (see s 130(4))**SCHEDULE—DICTIONARY**

ins 2004 No. 46 s 36

Note—definitions for this Act were originally located in orig s 3.

def “**agent**” (for the definition “employment agent”) ins 1996 No. 70 s 20(1)
reloc 2004 No. 46 s 5(3)def “**agent**” om from orig s 3 2004 No. 46 s 5(2)
ins 2004 No. 46 s 36def “**approved form**” ins 1995 No. 57 s 4 sch 1
reloc 2004 No. 46 s 5(3)def “**Australia**” reloc 2004 No. 46 s 5(3)def “**client**” ins 1996 No. 70 s 20(1)
reloc 2004 No. 46 s 5(3)def “**commissioner**” om from orig s 3 2004 No. 46 s 5(2)
ins 2004 No. 46 s 36def “**Commonwealth Act**” reloc 2004 No. 46 s 5(3)def “**company**” reloc 2004 No. 46 s 5(3)

- def “**corporation**” ins 1975 No. 80 s 4(a)(i)
sub 1995 No. 57 s 4 sch 1
amd 2001 No. 45 s 29 sch 3
reloc 2004 No. 46 s 5(3)
- def “**corresponding law**” sub 1999 No. 49 s 23
reloc 2004 No. 46 s 5(3)
- def “**death benefit ETP**” ins 2002 No. 17 s 51(1)
reloc 2004 No. 46 s 5(3)
- def “**designated group employer**” ins 1975 No. 80 s 4(a)(ii)
reloc 2004 No. 46 s 5(3)
- def “**employer**” amd 1984 No. 4 s 5(a)(i); 1996 No. 70 s 20(2)
reloc 2004 No. 46 s 5(3)
- def “**employment agent**” ins 1996 No. 70 s 20(1)
reloc 2004 No. 46 s 5(3)
- def “**ETP**” ins 2002 No. 17 s 51(1)
reloc 2004 No. 46 s 5(3)
- def “**financial year**” sub 1975 No. 80 s 4(a)(iii)
om from orig s 3 R1 (see RA s 39)
- def “**foreign wages**” ins 1975 No. 80 s 4(a)(iv)
reloc 2004 No. 46 s 5(3)
- def “**fringe benefit**” ins 1993 No. 51 s 15(1)
reloc 2004 No. 46 s 5(3)
- def “**Fringe Benefits Assessment Act**” ins 1993 No. 51 s 15(1)
reloc 2004 No. 46 s 5(3)
- def “**group**” ins 1975 No. 80 s 4(a)(iv)
reloc 2004 No. 46 s 5(3)
- def “**interstate wages**” ins 1975 No. 80 s 4(a)(iv)
reloc 2004 No. 46 s 5(3)
- def “**liquidator**” reloc 2004 No. 46 s 5(3)
- def “**Local Authority**” amd 1985 No. 100 s 4(a) (retro)
om from orig s 3 1992 No. 36 s 2 sch 1
- def “**Minister**” ins 1990 No. 22 s 4
om from orig s 3 1992 No. 36 s 2 sch 1
- def “**month**” om from orig s 3 R1 (see RA s 39)
- def “**paid or payable**” ins 1993 No. 51 s 15(1)
reloc 2004 No. 46 s 5(3)
- def “**pay**” ins 1993 No. 51 s 15(1)
reloc 2004 No. 46 s 5(3)
- def “**pay-roll tax**” reloc 2004 No. 46 s 5(3)
- def “**person**” om from orig s 3 1992 No. 36 s 2 sch 1
- def “**return period**” ins 1975 No. 80 s 4(a)(v)
om from orig s 3 2004 No. 46 s 5(2)
- def “**superannuation contribution**” ins 1999 No. 78 s 7(1)
reloc 2004 No. 46 s 5(3)
- def “**tax**” om from orig s 3 2004 No. 46 s 5(2)
ins 2004 No. 46 s 36
- def “**taxable ETP**” ins 2002 No. 17 s 51(1)
reloc 2004 No. 46 s 5(3)
- def “**taxable wages**” reloc 2004 No. 46 s 5(3)
- def “**trustee**” reloc 2004 No. 46 s 5(3)

- def “**voting share**” ins 1975 No. 80 s 4(a)(vi)
 sub 1995 No. 57 s 4 sch 1
 amd 2001 No. 45 s 29 sch 3
 reloc 2004 No. 46 s 5(3)
- def “**wages**” amd 1975 No. 80 s 4(a)(vii); 1984 No. 4 s 5(a)(ii); 1993 No. 51 s
 15(2)–(3); 1996 No. 70 s 20(3); 1999 No. 78 s 7(2); 2002 No. 17 s 51(2)
 reloc 2004 No. 46 s 5(3)

8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

Form OSR-P1 Version 1—Periodic Return

pubd gaz 11 November 2005 p 944

Form OSR-P2 Version 1—Application for Pay-roll Tax Registration

pubd gaz 11 November 2005 p 944

Form OSR-P5 Version 1—Final Return

pubd gaz 11 November 2005 p 944

Form OSR-P6 Version 1—Final Return/Notification of Fixed Periodic Deduction

pubd gaz 11 November 2005 p 944

Form OSR-P7 Version 1—Notification of Fixed Periodic Deduction

pubd gaz 11 November 2005 p 944

Form OSR-P8 Version 1—Notification of Designated Group Employer

pubd gaz 11 November 2005 p 944

Form PR7 Version 1—2004-2005 Annual Return

pubd gaz 11 November 2005 p 944

Form PR8 Version 1—2004-2005 Annual Return/Notification of Fixed Periodic Deduction

pubd gaz 11 November 2005 p 944

9 Table of renumbered provisions

under the Reprints Act 1992 s 43 as required by the Pay-roll Tax Act 1971 s 52
 [Reprint No. 4]

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10 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in footnotes to the text.

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