

1993—No. 432

PAY-ROLL TAX ACT 1971—REGULATION

(Pay-roll Tax Regulation 1993)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Pay-roll Tax Act 1971, has been pleased to make the Regulation set forth hereunder.

PETER COLLINS, Q.C., M.P.,
Treasurer.

Citation

1. This Regulation may be cited as the Pay-roll Tax Regulation 1993.

Commencement

2. This Regulation commences on 1 September 1993.

Definitions

3. (1) In this Regulation:

“award” means:

- (a) an award or agreement within the meaning of the Industrial Relations Act 1991; or
- (b) a contract of employment under the Public Sector Management Act 1988; or
- (c) an award made by the Coal Industry Tribunal under the Coal Industry Act 1946; or
- (d) an agreement with respect to salaries or wages entered into under the provisions of any other law of the State between an employer constituted by that law and an association or organisation representing a group or class of employees; or

- (e) an award or industrial agreement under the law of another State or of the Commonwealth;

“business journey” means:

- (a) a journey undertaken in a motor vehicle by a person otherwise than in the application of the vehicle to a private use, being an application that, if the person is paid a motor vehicle allowance for that use, results in the provision of a fringe benefit (within the meaning of the Fringe Benefits Tax Assessment Act 1986 of the Commonwealth) by the employer; or
- (b) a journey undertaken in a motor vehicle by a person in the course of producing assessable income of the person (within the meaning of the Income Tax Assessment Act 1936 of the Commonwealth);

“the Act” means the Pay-roll Tax Act 1971.

Motor vehicle allowances

4. (1) For the purposes of section 3AA (7) of the Act, a motor vehicle allowance is a prescribed allowance.

(2) For the purposes of section 3AA (7) (b) of the Act, the prescribed rate in relation to a motor vehicle allowance is:

- (a) in the case of a person paid an allowance under an award that specifies the allowance as a rate for each kilometre or part of a kilometre travelled by the person in the course of the person’s employment by means of a motor vehicle provided or maintained by the person—the rate specified in the award; or
- (b) in the case of any other person 45 cents for each kilometre or part of a kilometre travelled by the person in the course of business journeys by means of a motor vehicle provided or maintained by the person.

Motor vehicle allowance records to be kept

5. (1) For the purposes of section 44 (1B) (c) of the Act, the prescribed details to be kept of any motor vehicle allowance paid or payable to a person during a financial year are the details required by subclause (2) or the details required by subclause (3), whichever the employer prefers.

(2) The details required by this subclause are:

- (a) the odometer readings at the beginning and end of each business journey undertaken by the person during the financial year by means of a motor vehicle provided or maintained by the person; and
- (b) the specific purpose for which each such business journey was taken;
- (c) the distance travelled by the person during the financial year in the course of all such business journeys, calculated on the basis of the odometer readings referred to in paragraph (a).

(3) The details required by this subclause are:

- (a) the odometer readings at the beginning and end of each business journey undertaken by the person during the relevant 12-week period by means of a motor vehicle provided or maintained by the person; and
- (b) the specific purpose for which each such business journey was taken;
- (c) the distance travelled by the person during the relevant 12-week period in the course of all such business journeys, calculated on the basis of the odometer readings referred to in paragraph (a); and
- (d) the odometer readings at the beginning and end of the relevant 12-week period for each vehicle provided or maintained by the person for the purpose of undertaking business journeys; and
- (e) the distance travelled by each such vehicle during the relevant 12-week period, calculated on the basis of the odometer readings referred to in paragraph (d); and
- (f) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the relevant 12-week period, calculated as a percentage of the distance travelled by that vehicle during that period; and
- (g) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the financial year, calculated on the basis that the percentage for each such vehicle for the financial year is the same as the percentage for that vehicle for the relevant 12-week period.

(4) If the odometer of a motor vehicle is replaced or recalibrated during any period for which its readings are relevant for the purposes of this clause, the odometer readings immediately before and after the replacement or recalibration are to be recorded in the appropriate log book.

(5) For the purpose of making the calculation referred to in subclause (3) (g) for the financial year during which this Regulation commences, an employer may estimate the distance travelled by a motor vehicle during any part of that financial year that occurs before that commencement.

(6) In this clause:

“relevant 12-week period” means:

- (a) the first 12 weeks of a financial year; or
- (b) the first 12 weeks after payment of a motor vehicle allowance begins; or
- (c) any other period of 12 weeks approved by the Chief Commissioner.

Accommodation allowances

6. (1) For the purposes of section 3AA (7) of the Act, an accommodation allowance is a prescribed allowance.

(2) For the purposes of section 3AA (7) (b) of the Act, the prescribed rate in relation to an accommodation allowance is:

- (a) in the case of a person paid an allowance under an award that specifies the allowance as a rate for each night the person is absent from the person’s usual place of residence—the rate specified in the award; or
- (b) in the case of any other person—\$110 for each night the person is absent from the person’s usual place of residence in the course of the person’s employment.

Application of Education and Training Foundation Fund

7. For the purposes of section 31A of the Act, the funds in the Education and Training Foundation Fund may be applied for any one or more of the following purposes:

- (a) to benefit a public university;
- (b) to benefit a public fund for the establishment of a public university;
- (c) to benefit a higher educational institution within the meaning of the Employment, Education and Training Act 1988 of the Commonwealth;
- (d) to benefit a residential educational institution established by the Commonwealth or affiliated with a public university;

- (e) to benefit public education (including providing benefits to primary and secondary institutions);
- (f) to benefit a public fund for the acquisition, construction or maintenance of a building used or to be used as a school or college;
- (g) to benefit a private educational institution;
- (h) for the purposes of an industry training scheme.

Repeal

8. The Pay-roll Tax Regulations 1971 are repealed.

NOTES

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EXPLANATORY NOTE

The purpose of this Regulation is to repeal and replace the Pay-roll Tax Regulations 1971. The new Regulation makes provision with respect to the following matters:

- (a) prescribing motor vehicle allowances as allowances on which pay-roll tax is not payable under a threshold amount and prescribing the way in which that threshold amount is to be calculated (clause 4);
- (b) prescribing the details to be kept by employers with respect to business journeys for which motor vehicle allowances are paid by them (clause 5);
- (c) prescribing accommodation allowances as allowances on which pay-roll tax is not payable under a threshold amount and prescribing the way in which that threshold amount is to be calculated (clause 6);
- (d) prescribing the purposes for which funds in the Education and Training Foundation Fund may be used (clause 7).

This Regulation is made under the Pay-roll Tax Act 1971, including section 51 (the general regulation making power) and various other sections mentioned in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
