

1994—No. 236

**PAY-ROLL TAX ACT 1971—REGULATION**

(Relating to allowances paid under an award)

NEW SOUTH WALES



*[Published in Gazette No. 80 of 17 June 1994]*

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  
Treasurer.

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**Commencement**

**1.** This Regulation commences on 1 July 1994.

**Amendment**

**2.** The Pay-roll Tax Regulation 1993 is amended by inserting in clause 3 (1) after paragraph (b) of the definition of "award" the following paragraph:

(b1) a determination under section 63 of the Public Sector Management Act 1988 or an agreement under section 64 of that Act, or any similar determination or agreement relating to employment in the public sector (such as a determination made by a declared authority within the meaning of that Act); or

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**EXPLANATORY NOTE**

The Pay-roll Tax Regulation 1993 provides that motor vehicle and accommodation allowances are only liable to pay-roll tax to the extent that they exceed an amount calculated at the rate prescribed by the Regulation. At present, the Regulation distinguishes between allowances paid under an “award” (such as an award or agreement under the Industrial Relations Act 1991 or a contract of employment under the Public Sector Management Act 1988) and allowances paid otherwise than under an award. A motor vehicle or accommodation allowance paid under an award is pay-roll tax exempt if paid at the rate specified in the award, but an allowance paid otherwise than under an award is pay-roll tax exempt only if paid at the rate specified in the Regulation.

At present, an allowance that is paid under a determination of the Public Employment Industrial Relations Authority or an agreement entered into by the Authority, or a similar public sector determination or agreement, is not regarded as paid under an award because of the definition of “award” in the Regulation. Accordingly, even if the allowance is paid at a rate comparable to that paid under a public sector award, it is only pay-roll tax exempt to the extent that the rate does not exceed the rate specified in the Regulation for non-award allowances.

The object of this Regulation is to extend the definition of “award” to cover public sector determinations and agreements (including determinations made by certain public authorities). This will mean that a motor vehicle or accommodation allowance paid under such a determination or agreement will be exempt from pay-roll tax in the same way as allowances paid under an “award” (as currently defined).

This Regulation is made under the Pay-roll Tax Act 1971, in particular section 3AA (7) and section 51 (the general regulation making power).

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