

Country Industries (Pay-roll Tax Rebates) Act 1977 No 79

[1977-79]



New South Wales

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced — to commence on 7.7.2003)

Authorisation

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Country Industries (Pay-roll Tax Rebates) Act 1977 No 79



New South Wales

An Act to allow rebates of pay-roll tax in respect of certain country manufacturing or processing industries.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Country Industries (Pay-roll Tax Rebates) Act 1977*.

2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3 (Repealed)

4 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

Director means the Director, Department of Industrial Development and Decentralisation, or the person for the time being acting in that office.

eligible employer means a person for the time being registered as an eligible employer under section 5.

eligible industry means a manufacturing or processing industry:

- (a) which is carried on at an establishment within the State other than an establishment within an area that was, as at 1 July 1976 within the boundaries of:
 - (i) the County of Cumberland,

(ii) the City of Liverpool, the City of Newcastle, the City of Penrith or the City of Wollongong, or

(iii) the Municipality of Camden, and

(b) which is, in the opinion of the Minister, within a class of industry prescribed for the purposes of this definition.

financial year means the year commencing 1 July 1976 and each following year commencing on 1 July.

group means a group constituted under Part 4A of the [Pay-roll Tax Act 1971](#).

pay-roll tax means pay-roll tax payable under the [Pay-roll Tax Act 1971](#) excluding additional tax and penal tax imposed by or under that Act and excluding supplementary pay-roll tax payable under Schedule 1 to that Act.

pay-roll tax paid means pay-roll tax paid under the [Pay-roll Tax Act 1971](#) less the sum of any amounts refunded or rebated, or liable to be refunded or rebated, under that Act in respect of that pay-roll tax and any amounts which the Treasurer has advised the Director should be deducted by reason of payment of rebates in respect of that pay-roll tax under any pay-roll tax rebate scheme administered by the Treasury.

person includes a company and the Crown in right of the State of New South Wales.

regulations means regulations under this Act.

wages means wages liable to pay-roll tax under the [Pay-roll Tax Act 1971](#).

Part 2 Pay-roll tax rebates

5 Registration of eligible employers

- (1) A person may apply in writing to the Minister for registration as an eligible employer in respect of an establishment at which the person carries on, has carried on or intends to carry on an eligible industry.
- (2) If the Minister is satisfied that an applicant under subsection (1) is or will be eligible for a rebate of pay-roll tax in respect of the establishment the subject of the application, the Minister shall register that applicant as an eligible employer for the purpose of applying for rebates of pay-roll tax in respect of that establishment.
- (3) The Minister may cancel the registration of a person in respect of an establishment where the Minister is satisfied that that person is no longer eligible for a rebate of pay-roll tax in respect of that establishment.

6 Application for, and payment of, rebates

- (1) Subject to subsections (2) and (3), an eligible employer may, in respect of an

establishment or each establishment:

(a) at which the employer has carried on an eligible industry during a financial year, and

(b) in respect of which the employer is registered as an eligible employer,

apply to the Minister for a rebate of pay-roll tax paid in respect of that financial year.

(2) An eligible employer is not entitled to apply for a rebate of pay-roll tax under this Act in respect of a financial year:

(a) unless all pay-roll tax payable by the employer in respect of that year has been paid, and

(b) unless, where the employer has been a member of a group during the whole or any part of that year, all pay-roll tax payable by the other members of that group in respect of the period during which the employer was such a member has been paid.

(3) Subject to subsection (6), a person whose application under section 5 for registration as an eligible employer in respect of an establishment is not received by the Minister before 31st December in any year is not entitled to apply, in respect of that establishment, for a rebate of pay-roll tax under this Act in respect of the financial year ending on the 30th June immediately preceding the application for registration or any preceding financial year.

(4) An application under subsection (1) shall be made in a form and manner approved by the Director and shall be supported by such evidence relating to:

(a) the eligible industry and establishment in respect of which the application is made,

(b) the employment of employees, and

(c) the payment of wages and the payment of pay-roll tax,

as the Director may require.

(5) Upon the grant by the Minister of an application under subsection (1), a rebate of pay-roll tax shall be paid to the applicant in accordance with this Act.

(6) The Minister may, either generally or in a particular case, determine that the provisions of subsection (3) shall not be a bar to an application by a person for a rebate of pay-roll tax in respect of the financial year commencing 1 July 1976 if the application by that person for registration under section 5 is made within a time to be specified by the Minister.

(7) For the purposes of this Act, where pay-roll tax is paid by the members of a group in

respect of a period, each member of that group shall be deemed to have paid (or paid only) that part of the pay-roll tax that bears to the pay-roll tax the same proportion as the wages paid by that member in respect of that period bears to the total wages paid by the members of that group in respect of that period.

7 Amount of rebate

- (1) Subject to this section, the amount of rebate payable under this Act upon the grant of an application made under section 6 in respect of the year commencing on 1 July 1983, or any following year commencing on 1 July, shall be an amount calculated on such basis as is determined by the Minister.
- (2) Upon the grant of an application made under section 6, a rebate is payable under this Act only in respect of pay-roll tax paid by the applicant on wages which:
 - (a) were paid or payable by the applicant to employees who were employed at, or whose base for employment purposes was, the establishment in respect of which the application is made (not including employees employed at that establishment whose base for employment purposes was another establishment), and
 - (b) were paid or payable by the applicant in respect of time when employees referred to in paragraph (a) were engaged in the eligible industry,less that part of those wages which were paid or payable in respect of time when employees referred to in paragraph (a) were engaged in:
 - (c) retail selling,
 - (d) distribution, installation or service activities associated with retail selling, or
 - (e) an administrative, clerical or secretarial capacity in connection with retail selling or the activities referred to in paragraph (d),in the eligible industry.
- (3) Where the establishment in respect of which an application is made under section 6 is within an area that was, as at 1 July 1976, within the boundaries of a city, municipality or shire referred to in Schedule 1, the amount of the rebate payable under this Act in respect of that application shall be 50 per centum of the amount calculated under subsection (1).
- (4) The rebate payable under this Act shall be calculated to the nearest whole dollar or, where the odd amount is 50 cents, to the next highest whole dollar.
- (5) The Minister shall cause a record of the basis on which the amounts of rebates payable under this Act are to be calculated to be kept by the Director and made available for public information.

- (6) Where the amount of any rebate payable under this Act upon the grant of an application made under section 6 in respect of a financial year has been calculated on a particular basis, all other amounts of rebate so payable upon the grant of any such other application in respect of that year shall be calculated on the same basis, notwithstanding that the Minister may have determined some other basis of calculation for the purpose of this section.

8 Reduction of rebate

- (1) Where an application under section 6 in respect of a financial year is received by the Minister more than 6 months after the end of that financial year, the rebate payable under this Act in respect of that application shall be reduced by 10 per centum for each month or part thereof that ensues between the end of that period of 6 months and the date the application is received.
- (2) The Minister may, if he or she thinks fit, waive wholly or partially a reduction effected by subsection (1).

9 Rebate of tax paid by applicant's predecessor

Where an eligible employer makes an application under section 6 in respect of an establishment and a predecessor of that eligible employer has paid pay-roll tax in respect of the relevant financial year or would, if the predecessor was the eligible employer, have been deemed under section 6 (7) to have paid pay-roll tax in respect of that year, the Minister may, if in his or her opinion the circumstances warrant a rebate under this Act to the applicant of the tax so paid or deemed to be paid, grant that rebate and, for the purposes of this Act, that tax shall be deemed to have been paid by the applicant.

10 Determinations by Minister

- (1) Where the Minister is satisfied:
- (a) that incorrect or inadequate information with respect to any or all of the following matters, namely:
 - (i) whether an employee was engaged in an eligible industry,
 - (ii) whether an employee was employed at an establishment,
 - (iii) an employee's base for employment purposes,
 - (iv) the amount of time when an employee was engaged in an eligible industry, and
 - (v) the amount of time when an employee was engaged in the activities referred to in section 7 (2) (c), (d) and (e),
- has been made available to the Minister for the purposes of an application for a

rebate under this Act,

- (b) that from that information it is not possible to ascertain with certainty:
 - (i) whether or not the applicant is entitled to a rebate, or
 - (ii) the amount of the rebate payable, and
- (c) that correct and adequate information with respect to the matter or matters with respect to which that information was given is not readily available,

the Minister may determine the matter in such manner as the Minister judges to be appropriate, having regard to the circumstances of the case and to such estimates and other matters (if any) as the Minister thinks proper.

(2) For the purpose of ascertaining:

- (a) whether or not an applicant is entitled to a rebate under this Act, or
- (b) the amount of the rebate payable,

any determination of the Minister under subsection (1) is conclusive as to the matter or matters the subject of the determination.

Part 3 Offences

11 False information

A person shall not, in connection with an application under this Act, wilfully or negligently furnish to the Minister any information that is false or misleading in a material particular.

Maximum penalty: 10 penalty units.

12 Disclosure of information

A person shall not disclose any information or publish any document or part of a document obtained by the person in connection with the administration or execution of this Act or the regulations, unless the disclosure or publication is made:

- (a) with the consent of the person from whom the information or document was obtained,
- (b) in connection with the administration or execution of this Act, or
- (c) for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings.

Maximum penalty: 10 penalty units.

13 Proceedings

Proceedings for offences against this Act may be taken in a summary manner before a

Local Court constituted by a Magistrate sitting alone.

14 Failure to disclose all material facts

- (1) Where a person has not made to the Minister a full and true disclosure of all the material facts necessary to determine an amount payable to the person under this Act and where the applicant has been paid an amount in excess of the amount which would have been payable under this Act if those facts had been fully and truly disclosed, the Minister may:
 - (a) where the Minister is of the opinion that the failure was wilful or negligent—at any time, and
 - (b) in any other case—within 6 years from the date upon which the overpayment was made to the applicant,by notice in writing require the applicant to pay to the Minister:
 - (c) where the Minister is of the opinion that the failure was wilful or negligent—such sum being not less than the amount overpaid and not exceeding double the amount overpaid to the applicant as the Minister thinks fit, and
 - (d) in any other case—an amount equal to the amount overpaid to the applicant.
- (2) Any amount that an applicant is required to repay under subsection (1) may be recovered as a debt or liquidated demand in a court of competent jurisdiction or may be deducted from any amount to which the applicant is or becomes entitled under this Act.

Part 4 General

15 Communication of information

The Minister, or any person authorised by the Minister, may communicate any matter which comes to his or her knowledge in the exercise or performance of his or her powers and duties under this Act or the regulations to any person administering a law relating to pay-roll tax.

16 Power of entry

The Director or any person authorised by the Director in writing in that behalf shall at all reasonable times have full and free access to all buildings (other than buildings used for residential purposes), places, books, documents and other papers for any of the purposes of this Act or the regulations and for any such purpose may make extracts from or copies of any such books, documents or papers.

17 Regulations

- (1) The Governor may make regulations for or with respect to all matters that by this Act

are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

- (2) The Governor shall not make a regulation for the purposes of paragraph (b) of the definition of **eligible industry** in section 4 unless the proposed regulation has been approved by the Treasurer.
- (3) Subject to subsection (2), a regulation made for the purposes of paragraph (b) of the definition of **eligible industry** in section 4 may adopt wholly or partially a standard industrial classification prepared by a Department or instrumentality of the State or the Commonwealth or may define classes of industry in the same terms as, or by reference to, classes listed in such a classification.

Schedule 1

Section 7 (3)

City of Blue Mountains.
City of Greater Cessnock.
City of Maitland.
Municipality of Bowral.
Municipality of Kiama.
Municipality of Shellharbour.
Shire of Colo.
Shire of Gosford.
Shire of Lake Macquarie.
Shire of Mittagong.
Shire of Port Stephens.
Shire of Wingecarribee.
Shire of Wollondilly.
Shire of Wyong.