

Pay-roll Tax Act 1971 No 22

[1971-22]



New South Wales

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Notes—

- **See also**
[Pay-roll Tax Legislation Amendment \(Avoidance\) Bill 2002](#)

Authorisation

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Pay-roll Tax Act 1971 No 22



New South Wales

An Act to impose a tax upon employers in respect of certain wages; to provide for the assessment and collection of the tax; and for purposes connected therewith.

Part 1 Preliminary

1 Name of Act and commencement

- (1) This Act may be cited as the *Pay-roll Tax Act 1971*.
- (2) This Act shall be deemed to have commenced upon the first day of September, one thousand nine hundred and seventy-one.

2 Taxation Administration Act 1996

This Act is to be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of this Act and other taxation laws.

3 Definitions

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

agent includes every person who in New South Wales, for or on behalf of another person outside New South Wales, holds or has the management or control of the business of that other person and every person who, by an order of the Chief Commissioner, is declared to be an agent or the sole agent for any other person for the purposes of this Act and on whom notice of that order has been served.

Australia means the States of the Commonwealth.

Board of Review means the Board of Review constituted under section 33.

Chief Commissioner means the Chief Commissioner of State Revenue referred to in section 60 of the *Taxation Administration Act 1996*.

Commonwealth Act means the *Pay-roll Tax Assessment Act 1941*, as subsequently amended, of the Commonwealth.

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

corporation has the same meaning as in the [Corporations Act 2001](#) of the Commonwealth.

corresponding law, in relation to another State, means a law in force in that State relating to the imposition upon employers of a tax on wages paid or payable by them and the assessment and collection of that tax, but does not include the Commonwealth Act.

council has the same meaning as in the [Local Government Act 1993](#).

county council has the same meaning as in the [Local Government Act 1993](#).

designated group employer, in relation to a group, means the member of that group who, under section 16I, is for the time being the designated group employer in respect of that group.

employer means any person who pays or is liable to pay any wages and includes the Crown in right of the State of New South Wales.

financial year means each year commencing on 1 July.

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

fringe benefit has the same meaning as in the [Fringe Benefits Tax Assessment Act 1986](#) of the Commonwealth, but does not include:

- (a) a tax-exempt body entertainment fringe benefit within the meaning of that Act, or
- (b) anything that is prescribed by the regulations not to be a fringe benefit for the purposes of this definition.

group means a group constituted under Part 4A.

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.

month means the month of January, February, March, April, May, June, July, August, September, October, November or December.

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

pay-roll tax means pay-roll tax chargeable under section 7.

person includes a company.

record means:

- (a) a documentary record, or
- (b) a record made by an electronic, electromagnetic, photographic or optical process, or
- (c) any other kind of record.

regulations means regulations made under this Act.

return period, in relation to an employer, means the period relating to which that employer is required to furnish a return under this Act.

superannuation benefit means money paid or payable by an employer in respect of an employee:

- (a) to or as a superannuation fund within the meaning of the [Superannuation Industry \(Supervision\) Act 1993](#) of the Commonwealth, or
- (b) as a superannuation guarantee charge within the meaning of the [Superannuation Guarantee \(Administration\) Act 1992](#) of the Commonwealth, or
- (c) to or as any other form of superannuation, provident or retirement fund or scheme, including a wholly or partly unfunded fund or scheme.

tax means pay-roll tax, further tax, additional tax or penal tax imposed by or under this Act.

taxable wages means wages that, under section 6, are liable to pay-roll tax.

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.

voting share has the same meaning as in section 9 of the [Corporations Act 2001](#) of the Commonwealth.

wages has the meaning given by section 3AA.

- (2) A reference, in the definition of **superannuation benefit** in subsection (1), to an employee includes a reference to any person to whom, by virtue of section 3AA (2), an

amount paid or payable in the circumstances referred to in section 3AA (2) constitutes wages.

(2A) (Repealed)

(3) For the purposes of this Act, the Australian Capital Territory (including the Jervis Bay Territory) and the Northern Territory of Australia shall each be deemed to be a State of the Commonwealth.

(4) If:

- (a) any money or other valuable consideration paid or given, or to be paid or given, to an employee, for the employee's services as an employee of an employer, by a person other than the employer, or
- (b) any money or other valuable consideration paid or given, or to be paid or given, by an employer, for an employee's services as the employee of the employer, to a person other than the employee, or
- (c) any money or other valuable consideration paid or given, or to be paid or given, by a person other than an employer, for an employee's services as an employee of the employer, to a person other than the employee,

would, if paid or given or to be paid or given directly to the employee, be regarded as wages paid or payable by the employer to the employee for the purposes of this Act, the money or other valuable consideration is taken to be wages paid or payable by the employer to the employee for those purposes.

(5) For the purposes of this Act, a superannuation, provident or retirement fund or scheme is **unfunded** to the extent that money paid or payable by an employer in respect of an employee covered by the fund or scheme is not paid or payable during the employee's period of service with the employer.

3AA Wages

(1) In this Act, **wages** means (subject to this section) any wages, salary, commission, bonuses or allowances paid or payable (whether at piece work rates or otherwise and whether paid or payable in cash or in kind) to an employee as such.

(2) Wages 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 New South Wales or in the service of the Crown in right of the State of New South Wales, and
- (b) any amount paid or payable under any prescribed classes of contracts to the extent to which the payment is attributable to labour, and

- (c) any amount paid or payable by a company by way of remuneration to a director or member of the governing body of the company, and
 - (d) any amount paid or payable by way of commission to an insurance or time-payment canvasser or collector, and
 - (e) any amount deemed by or under a provision of this Act to be wages.
- (3) Wages includes fringe benefits, but does not include benefits that are exempt benefits for the purposes of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth, even though those exempt benefits would, apart from this subsection, be treated as wages for the purposes of this Act.
- (4) (Repealed)
- (5) Wages includes, subject to subsection (6), a payment made in consequence of the retirement from, or termination of, any office or employment of an employee, being:
- (a) a lump sum payment paid before or after that retirement or termination in respect of unused annual leave, or unused annual leave and a bonus, loading or other additional payment relating to that leave, or
 - (b) an amount paid in respect of unused long service leave, or
 - (c) an amount paid in respect of unused sick leave.
- (6) A payment referred to in subsection (5) or (6B) is not wages if the leave to which the payment relates accrued before 1 January 1990.
- (6A) Wages includes a superannuation benefit, other than one paid or payable in respect of services rendered by an employee before 1 July 1996.
- (6B) Wages includes so much of any eligible termination payment (within the meaning of section 27A of the *Income Tax Assessment Act 1936* of the Commonwealth) paid or payable by an employer, whether or not paid to the employee or to any other person or body, that would be included in the assessable income of an employee under Subdivision AA of Division 2 of Part III of that Act if the whole of the eligible termination payment had been paid to the employee.
- (6C) Wages referred to in subsection (6B) that are not paid in respect of services performed or rendered by an employee in a particular month are liable to pay-roll tax under this Act as if they were paid or payable in respect of services performed or rendered during the month in which they were paid or became payable.
- (7) An allowance of the kind prescribed by the regulations which is paid or payable to an employee is to be regarded as an allowance to which subsection (1) applies only to the extent to which it exceeds:

- (a) the prescribed amount, or
 - (b) an amount calculated at the prescribed rate, or
 - (c) an amount calculated in the prescribed manner,
- that is applicable to the particular case.

(8) Wages does not include anything that is prescribed by the regulations not to be wages for the purposes of this section.

(9) In this section:

annual leave has the same meaning as in section 26AC of the *Income Tax Assessment Act 1936* of the Commonwealth.

long service leave has the same meaning as in section 26AD of the *Income Tax Assessment Act 1936* of the Commonwealth.

(10) Money paid or payable that constitutes or is taken to be wages by virtue of more than one provision of this Act is taxable once only.

3AB GST excluded from wages

(1) For the purposes of this Act, the amount or value of wages paid or payable to a person is to be reduced by the relevant proportion of the amount of GST, if any, payable by that person on the supply to which the wages relate.

(2) In this section:

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth except that it includes notional GST of the kind for which payments may be made under section 5 of the *Intergovernmental Agreement Implementation (GST) Act 2000* by a person who is a State entity within the meaning of that Act.

relevant proportion, in relation to GST payable on a supply to which wages relate, means the proportion that the amount or value of the wages bears to the consideration (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth) for the supply to which the wages relate.

3A Application of this Act to certain contracts

(1) A reference in this section to a relevant contract in relation to a financial year is a reference to a contract under which a person (in this subsection referred to as the **designated person**), during that financial year, in the course of a business carried on by the person:

- (a) supplies to another person services for or in relation to the performance of work,

- (b) is supplied with the services of persons for or in relation to the performance of work, or
- (c) gives out goods to natural persons for work to be performed by those persons in respect of those goods and for re-supply of those goods to a designated person or, where the designated person is a member of a group, to another member of that group,

but does not include a reference to a contract of service or a contract under which the designated person, during a financial year, in the course of a business carried on by the designated person:

- (d) is supplied with services for or in relation to the performance of work that are ancillary to the supply of goods under the contract by the person by whom the services are supplied or to the use of goods which are the property of that person,
- (e) is supplied with services for or in relation to the performance of work where:
 - (i) those services are of a kind not ordinarily required by the designated person and are rendered by a person who ordinarily renders services of that kind to the public generally,
 - (ii) those services are of a kind ordinarily required by the designated person for less than 180 days in that financial year,
 - (iii) those services are provided for a period that does not exceed 90 days or for periods that, in the aggregate, do not exceed 90 days in that financial year and are not services:
 - (A) provided by a person by whom similar services are provided to the designated person, or
 - (B) for or in relation to the performance of work where any of the persons who perform the work also perform similar work for the designated person, for periods that, in the aggregate, exceed 90 days in that financial year,
 - (iv) the payment of the consideration under the contract is made at a rate that is not less than \$800,000 per annum, or
 - (v) those services are supplied under a contract to which subparagraphs (i)-(iv) do not apply and the Chief Commissioner is satisfied that those services are rendered by a person who ordinarily renders services of that kind to the public generally, or
- (f) is supplied by a person (in this paragraph referred to as **the contractor**) with services for or in relation to the performance of work under a contract to which paragraphs (d) and (e) do not apply, where the work to which the services relate is performed:

- (i) by 2 or more persons employed by, or who provide services for, the contractor in the course of a business carried on by the contractor,
- (ii) where the contractor is a partnership of 2 or more natural persons, by 1 or more of the members of the partnership and 1 or more persons employed by, or who provide services for, the contractor in the course of a business carried on by the contractor, or
- (iii) where the contractor is a natural person, by the contractor and 1 or more persons employed by, or who provide services for, the contractor in the course of a business carried on by the contractor,

unless the Chief Commissioner determines that the contract under which the services are so supplied was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person.

(1A) For the purposes of this section, a contract under which:

- (a) a person is supplied with services ancillary to the conveyance of goods by means of a vehicle provided by the person conveying them,
- (b) a person is supplied with services for or in relation to the procurement of persons desiring to be insured by the person, or
- (c) a person is supplied with services for or in relation to the door-to-door sale of goods to consumers on the person's behalf,

is not a relevant contract, unless the Chief Commissioner determines that the contract was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person.

(1B) For the purposes of this section, a contract under which services are supplied by an employment agent, or a contract worker is procured by an employment agent, under an employment agency contract within the meaning of section 3C is not a relevant contract.

(2) For the purposes of this Act:

- (a) a person:
 - (i) (Repealed)
 - (ii) to whom during a financial year, under a relevant contract, the services of persons are supplied for or in relation to the performance of work, or
 - (iii) who during a financial year, under a relevant contract, gives out goods to other persons,

shall be deemed to be an employer in respect of that financial year,

(b) a person who during a financial year:

- (i) performs work for or in relation to which services are supplied to another person under a relevant contract, or
- (ii) being a natural person, under a relevant contract, re-supplies goods to an employer,

shall be deemed to be an employee in respect of that financial year,

(c) amounts paid or payable by an employer, and benefits paid or payable by an employer and received by a person that would be fringe benefits if they were paid or payable to the person in the capacity of an employee of the employer, during a financial year for or in relation to the performance of work relating to a relevant contract or the re-supply of goods by an employee under a relevant contract shall be deemed to be wages paid or payable during that financial year, and

(d) where an amount referred to in paragraph (c) is included in a larger amount paid or payable by an employer under a relevant contract during a financial year, that part of the larger amount which is not attributable to the performance of work relating to the relevant contract or the re-supply of goods by an employee under the relevant contract may be prescribed by the regulations, and

(e) an amount paid or payable for or in relation to the performance of work under a relevant contract is taken to include any payment made by a person who is taken to be an employer under a relevant contract in relation to a person who is taken to be an employee under the relevant contract that would be a superannuation benefit if made in relation to a person in the capacity of an employee.

(3), (3A) (Repealed)

(4) Where:

(a) a contract under which a person (in this subsection referred to as the **designated person**) in the course of a business carried on by the person supplies to another person services for or in relation to the performance of work would, but for subsection (1) (e) (iv), be a relevant contract, and

(b) contracts under which the designated person in the course of the same business is supplied with the services of persons for or in relation to the performance of work would, but for subsection (1) (e) (ii) or (iii), be relevant contracts,

the Chief Commissioner may, unless the designated person satisfies the Chief Commissioner that the business is carried on independently of, and is not connected with, the carrying on of a business carried on by another person or other persons and that the business is not carried on with an intention either directly or indirectly of avoiding or evading the payment of tax whether by the designated person or another

person, by notice in writing given to the designated person determine that the contracts referred to in paragraph (b) are relevant contracts notwithstanding subsection (1) (e) (ii) and (iii).

- (5) Where, in respect of a payment for or in relation to the performance of work that is deemed to be wages under this section, pay-roll tax is paid by a person deemed under this section to be an employer:
- (a) no other person shall be liable to pay-roll tax in respect of that payment, and
 - (b) where another person is liable to make a payment for or in relation to that work, that person shall not be liable to pay-roll tax in respect of that payment unless it or the payment by the person so deemed to be an employer is made with an intention either directly or indirectly of avoiding or evading the payment of tax whether by that deemed employer or another person.
- (6) In this section:
- (a) a reference to a contract includes a reference to an agreement, arrangement or undertaking, whether formal or informal and whether express or implied,
 - (b) a reference to supply includes a reference to supply by way of sale, exchange, lease, hire or hire-purchase and, in relation to services, includes a reference to the providing, granting or conferring of services,
 - (c) a reference (however expressed) to the re-supply of goods acquired from a person includes a reference to:
 - (i) a supply to the person of goods in an altered form or condition,
 - (ii) a supply to the person of goods in which the firstmentioned goods have been incorporated, and
 - (iii) a supply to the person of an article manufactured or produced from any such goods,
 - (d) a reference to services includes a reference to results (whether goods or services) of work performed, and
 - (e) a reference to a financial year shall be deemed to include a reference to the period from the commencement of this section to 30 June 1986.

3B Agreement etc to reduce or avoid liability to pay-roll tax

- (1) Where any person enters into any agreement, transaction or arrangement, whether in writing or otherwise, under which 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 the 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 Chief Commissioner may:

- (a) disregard the agreement, transaction or arrangement,
 - (b) determine that any party to the 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 the agreement, transaction or arrangement shall be deemed to be wages for the purposes of this Act.
- (2) Where the Chief Commissioner makes a determination under subsection (1), the Chief 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 Chief Commissioner relies and the reasons for making the determination.
- (3) This section has effect in relation to agreements, transactions and arrangements made before, on or after the commencement of this section.

3C Employment agents

- (1) For the purposes of this Act, an **employment agency contract** is a contract under which a person (in this section referred to as an **employment agent**) by arrangement procures the services of another (in this section referred to as a **contract worker**) for a client of the employment agent (by a means other than a contract of employment between the contract worker and the client) and as a result receives directly or indirectly payment in respect of the services provided by the contract worker to the client, whether by way of a lump sum or ongoing fee, during or in respect of the period when the services are provided.
- (2) For the purposes of this Act:
- (a) the employment agent under an employment agency contract is taken to be an employer, and
 - (b) the contract worker under an employment agency contract is taken to be an employee of the employment agent, and
 - (c) an amount, the value of a benefit or a payment, being:
 - (i) any amount paid or payable to the contract worker in respect of the provision of services in connection with an employment agency contract, and
 - (ii) the value of any benefit provided for or in relation to the provision of services in connection with an employment agency contract that would be a fringe benefit if provided to a person in the capacity of an employee, and

(iii) any payment made in relation to the contract worker that would be a superannuation benefit if made in relation to a person in the capacity of an employee,

is taken to be wages paid or payable by the employment agent.

(3) If it is not reasonably practicable to determine the extent to which an amount, benefit or payment constitutes wages under subsection (2) (c), the Chief Commissioner may accept a return, or make an assessment, in which the amount on which pay-roll tax is levied is determined on the basis of estimates.

(4) An employment agent is not liable to pay-roll tax under this Act in relation to an employment agency contract:

(a) if the contract worker is liable to pay pay-roll tax (as the employer of the person who actually provides the services to the client of the employment agent under the contract) in respect of wages paid for those services and a declaration to that effect has been given by the contract worker to the employment agent, or

(b) if the wages that the amount, value of the benefit or payment under subsection (2) (c) is taken to be would have been exempt from pay-roll tax under section 10 had the contract worker been paid those wages by the client of the employment agent and a declaration to that effect has been given by the client to the employment agent, or

(c) if the client of the employment agent:

(i) is not registered or required to be registered as an employer under this Act, and

(ii) would not be required to be registered as an employer under this Act if the client were the employer in respect of the wages paid or payable under all the employment agency contracts to which the client is a party,

and a declaration to that effect has been given by the client to the employment agent.

(5) If a contract worker gives a declaration to an employment agent under subsection (4) (a), and that paragraph does not apply or at any time ceases to apply to the contract worker, the employment agent is liable to pay pay-roll tax in respect of the wages paid or payable under the employment agency contract during any period in which the paragraph does not apply.

(6) If a client of an employment agent gives a declaration to the employment agent under subsection (4) (b), and that paragraph does not apply or at any time ceases to apply in respect of the wages paid or payable under the employment agency contract, the client, and not the employment agent, is liable to pay pay-roll tax in respect of the

wages paid or payable under the employment agency contract during any period in which the paragraph does not apply.

- (7) If a client of an employment agent gives a declaration to the employment agent under subsection (4) (c), and that paragraph does not apply or at any time ceases to apply to the client, the client, and not the employment agent, is liable to pay pay-roll tax in respect of the wages paid or payable under the employment agency contract at any time during the financial year in which the paragraph does not apply.
- (8) A declaration under subsection (4) is to be in a form approved by the Chief Commissioner.

Part 2

4-5 (Repealed)

Part 3 Liability to taxation

6 Wages liable to pay-roll tax

- (1) The wages liable to pay-roll tax under this Act are wages that are paid or payable by an employer for services performed or rendered during a month or part of a month and:
- (a) are wages that are paid or payable in New South Wales, other than wages so paid or payable:
 - (i) to a person who does not perform or render any services to that employer in New South Wales during any part of the relevant month and performs or renders those services wholly in one other State, or
 - (ii) to a person for services performed or rendered wholly in another country for more than 6 months after wages were first paid to that person for services so performed or rendered, or
 - (b) are wages that are paid or payable outside New South Wales for services performed or rendered wholly in New South Wales, or
 - (c) are wages that are paid or payable outside Australia for services performed or rendered mainly in New South Wales.
- (1A) Subsection (1) applies to wages paid or payable after the commencement of that subsection (as substituted by the [State Revenue Legislation \(Further Amendment\) Act 1992](#)) for services performed or rendered by a person wholly outside Australia even though the first payment for services so performed or rendered was made before that commencement.
- (2) For the purposes of paragraph (a) of subsection (1), 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 New South Wales or in another State) shall be deemed:

- (a) where those wages are payable in respect of services performed or rendered wholly in New South Wales—to be wages payable to that person in New South Wales,
- (b) where those wages are not payable in respect of services performed or rendered wholly in New South Wales 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 New South Wales, 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 New South Wales 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 paragraph (a) of subsection (1), where:

- (a) wages are paid or payable in a State, other than New South Wales, to a person on or after a day to be appointed by the Governor for the purposes of this subsection and notified by proclamation published in the Gazette,
- (b) portion (in this subsection referred to as the **attributable portion**) of those wages is attributable to services performed or rendered in New South Wales and portion is attributable to services performed or rendered elsewhere (whether or not in Australia), and
- (c) that attributable portion is liable to tax under the corresponding law of that State at a rate less than the rate of five per centum,

such part of the attributable portion as is equal to an amount that bears to the whole of the attributable portion the same proportion as the difference in the rates referred to in paragraph (c) bears to five shall be deemed to be wages paid or payable to that person in New South Wales.

(4) For the purposes of this section, where for the purpose of the payment of wages:

- (a) 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 any person or the agent of any person at any place in Australia, or
- (b) an instruction is given by an employer for the crediting of an amount to the account of any person or the agent of any person at any place in Australia,

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 or when the account is credited in accordance with the instruction, as the case may be.

7 Imposition of pay-roll tax on taxable wages

- (1) Subject to, and in accordance with, the provisions of this Act, there shall be charged, levied, collected and paid, for credit of the Consolidated Fund in the Treasury, on all taxable wages pay-roll tax:
 - (a) ascertained in accordance with Schedule 1 in respect of such of those wages as are paid or payable after the month of June 1995 and before the month of July 1996, and
 - (b) ascertained in accordance with Schedule 2 in respect of such of those wages as are paid or payable after the month of June 1996 and before the month of July 2000, and
 - (c) ascertained in accordance with Schedule 3 in respect of such of those wages as are paid or payable after the month of June 2000 and before the month of July 2001, and
 - (d) ascertained in accordance with Schedule 4 in respect of such of those wages as are paid or payable after the month of June 2001.
 - (e)-(g) (Repealed)
- (2) If taxable wages are paid after a month in which they became payable, pay-roll tax is to be charged in respect of those wages at the rate applicable to the month in which they became payable.

8 Employer to pay pay-roll tax

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

9 Taxable value of fringe benefits

For the purposes of this Act, the value of taxable wages, comprising a fringe benefit, is to be determined in accordance with the formula:

$$TV \times \frac{1}{1 - \text{FBT rate}}$$

where:

TV is the value that would be the taxable value of the benefit as a fringe benefit for the

purposes of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth, and

FBT rate is the rate of fringe benefits tax imposed by the *Fringe Benefits Tax Act 1986* of the Commonwealth that applies when the liability to pay-roll tax under this Act occurs.

9A, 9B (Repealed)

10 Exemption from pay-roll tax

- (1) Subject to subsections (1A) and (2), the wages liable to pay-roll tax under this Act do not include wages paid or payable:
- (a) by the Governor of a State,
 - (a1) by a religious institution,
 - (a2) by a public benevolent institution (other than an instrumentality of the State),
 - (b) by a public hospital,
 - (b1) by an area health service constituted under the *Health Services Act 1997*,
 - (b2) by the Home Care Service,
 - (c) by a hospital which is carried on by a society or association otherwise than for the purpose of profit or gain to the individual members of the society or association,
 - (c1) by the Home Care Service to a person in respect of time when the person is engaged in work of a kind ordinarily performed in connection with the conduct of the Home Care Service,
 - (d) by a school or college (other than a technical school or a technical college) which:
 - (i) is carried on by a body corporate, society or association otherwise than for the purpose of profit or gain to the individual members of the body corporate, society or association and is not carried on by or on behalf of the State of New South Wales, and
 - (ii) provides education at or below, but not above, the secondary level of education,
 - (e) by or on behalf of a council or county council, except to the extent that the wages were paid for or in connection with the following trading undertakings:
 - (i) the supply of electricity, water, sewerage services, gas, liquefied petroleum gas or hydraulic power and the supply and installation of associated fittings and appliances and of pipes and apparatus,
 - (ii) the operation of an abattoir or a public food market, parking station, cemetery, crematorium or hostel,

- (iii) the operation of a coal mine and the supply and distribution of coal,
 - (iv) the operation of a transport service,
 - (v) the supply of building materials,
 - (vi) a prescribed activity,
 - (vii) the construction of any building or work or the installation of plant, machinery or equipment for use in or in connection with any of the activities listed in subparagraphs (i)–(vi),
- (f) to members of 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,
- (g) by the Commonwealth War Graves Commission,
- (h) by the Australian-American Educational Foundation,
- (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 the employer from whose employment the person is on leave by reason of being such a member,
- (j) by a non-profit organisation (other than a school or college, statutory body or an instrumentality of the State) having as one of its objects a charitable, benevolent, philanthropic or patriotic purpose,
- (j1) by an organisation (other than a school or college, statutory body or an instrumentality of the State) that:
- (i) was, immediately before the repeal of the *Charitable Collections Act 1934*, a charity within the meaning of that Act and registered or exempted from registration under that Act, and
 - (ii) has not, since the repeal of that Act, altered its constitution in so far as its constitution relates to its charitable objects,
- (k) by a society or an institution (other than a school or college, statutory body or an instrumentality of the State) which:
- (i) is, in the opinion of the Chief Commissioner, a charitable society or institution, and

- (ii) is for the time being approved by the Chief Commissioner for the purposes of this paragraph,
 - (l) to an apprentice within the meaning of the *Apprenticeship and Traineeship Act 2001*,
 - (m) to an employee who is employed in accordance with a group apprenticeship scheme or a group traineeship scheme approved for the time being by the Secretary of the Department of Education and Training, or
 - (n) to Aboriginal persons who are employed under the Community Development Employment Project administered by the Aboriginal and Torres Strait Islander Commission by an Aboriginal Corporation established under section 89 of the *Aboriginal and Torres Strait Islander Commission Act 1989* of the Commonwealth or by any other body corporate, a majority of whose members are Aboriginal persons, or
 - (o) to an employee in respect of any period during which the employee was taking part in bush fire fighting activities as a volunteer member of a rural fire brigade under the *Rural Fires Act 1997* (but not in respect of wages paid or payable as recreation leave, annual leave, long service leave or sick leave), or
 - (p) to an employee in respect of any period during which the employee was taking part in emergency operations as a member of an emergency services organisation under the *State Emergency and Rescue Management Act 1989* (but not in respect of wages paid or payable as recreation leave, annual leave, long service leave or sick leave), or
 - (q) that would be exempt from the payment of income tax by the employee under section 23 (z) of the *Income Tax Assessment Act 1936* of the Commonwealth.
- (1A) Paragraphs (a1), (a2), (b), (b1), (c) and (d) of subsection (1) only operate so as to exclude from wages liable to pay-roll tax under this Act wages which are paid or payable by:
- (a) a religious institution to a person in respect of time when the person is engaged in religious work of the religious institution,
 - (b) a public benevolent institution to a person in respect of time when the person is engaged in work of a public benevolent nature,
 - (c) a public hospital to a person in respect of time when the person is engaged in work of a kind ordinarily performed in connection with the conduct of public hospitals,
 - (c1) an area health service referred to in subsection (1) (b1), to a person in respect of time when the person is engaged in work of a kind ordinarily performed in

connection with the conduct of an area health service,

- (d) a hospital referred to in subsection (1) (c) to a person in respect of time when the person is engaged in work of a kind ordinarily performed in connection with the conduct of hospitals, or
- (e) a school or college (other than a technical school or a technical college) referred to in subsection (1) (d) to a person in respect of time when the person is engaged in work of a kind ordinarily performed in connection with the conduct of schools or colleges (other than technical schools or technical colleges).

(2) Paragraphs (j), (j1) and (k) of subsection (1) only operate so as to exclude from wages liable to pay-roll tax under this Act wages which are paid or payable to employees in respect of time when they are engaged in charitable, benevolent, philanthropic or patriotic work of the non-profit organisation or the charitable work of the organisation, society or institution.

(2A) Paragraph (l) of subsection (1) only operates to exclude from wages liable to pay-roll tax under this Act wages which are paid or payable under an apprenticeship contract (within the meaning of the [Apprenticeship and Traineeship Act 2001](#)) but, if an application for the approval of the apprenticeship to which the contract relates is dismissed by the Commissioner for Vocational Training (referred to in section 56 of that Act) or the Vocational Training Tribunal of New South Wales (constituted by section 59 of that Act), the exclusion ceases when the application is dismissed.

(3) In this section, **statutory body** does not include a company within the meaning of the [Corporations Act 2001](#) of the Commonwealth.

10A Exemptions from pay-roll tax of wages of apprentices

(1) In this section, **apprentice** has the same meaning as in the [Apprenticeship and Traineeship Act 2001](#).

(2) The wages liable to pay-roll tax under this Act do not include:

- (a) in the case of a first year apprentice (being a person who is recognised by the Department of Education and Training as a first year apprentice under the [Apprenticeship and Traineeship Act 2001](#))—75% of the wages paid or payable to the apprentice, or
- (b) in the case of a second year apprentice (being a person who is recognised by the Department of Education and Training as a second year apprentice under the [Apprenticeship and Traineeship Act 2001](#))—50% of the wages paid or payable to the apprentice, or
- (c) in the case of a third year apprentice (being a person who is recognised by the Department of Education and Training as a third year apprentice under the

Apprenticeship and Traineeship Act 2001)—25% of the wages paid or payable to the apprentice.

- (3) Nothing in this section affects section 10 (1) (m).
- (4) This section has effect in respect of wages paid or payable for services performed or rendered on or after 1 July 1999 and before 1 July 2002.

11 (Repealed)

11A Definitions for purposes of sections 11A-11C

- (1) In this section and sections 11B and 11C:

interstate wages does not include interstate wages paid or payable by a member of a group.

taxable wages does not include taxable wages paid or payable by a member of a group.

- (1A)-(2A) (Repealed)

- (3) Where 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 Chief 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 Chief 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 last-mentioned part of the financial year.

- (4) (Repealed)

11B Annual adjustments

- (1) In this section:

annual amount of pay-roll tax, in relation to an employer, means:

- (a) the amount ascertained in accordance with section 17 and Schedule 1 in respect of the employer for the financial year commencing on 1 July 1995, and
- (b) the amount ascertained in accordance with section 17 and Schedule 2 in respect of the employer for the financial year commencing on 1 July 1996, 1 July 1997, 1 July 1998 or 1 July 1999, and

- (c) the amount ascertained in accordance with section 17 and Schedule 3 in respect of the employer for the financial year commencing on 1 July 2000, and
 - (d) the amount ascertained in accordance with section 17 and Schedule 4 in respect of the employer for the financial year commencing on 1 July 2001 or any subsequent financial year.
- (2) Where taxable wages are paid or payable by an employer during a financial year:
- (a) the Chief Commissioner, on an application made by that employer in accordance with subsection (3), if the amount of pay-roll tax paid or payable by that employer when the employer made the returns relating to that financial year is greater than the annual amount of pay-roll tax in relation to that employer for that financial year, is to refund to that employer an amount equal to the difference, reduced by the amount of any refund of pay-roll tax made in respect of that financial year to that employer otherwise than under this section before the time of the refund under this section, or
 - (b) that employer shall, where the amount of pay-roll tax paid or payable by that employer when the employer made the returns relating to that financial year is less than the annual amount of pay-roll tax in relation to that employer for that financial year, pay to the Chief Commissioner as pay-roll tax, within the period during which the employer is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year, an amount equal to the difference.
- (3), (4) (Repealed)

11C Adjustment of pay-roll tax when employer ceases to be an employer etc during a financial year

- (1) In this section:

prescribed period, in relation to an employer who pays or is liable to pay wages, otherwise than as a member of a group, for part only of a financial year, means that part of that financial year.

total amount of pay-roll tax, in relation to an employer, means:

- (a) the amount ascertained in accordance with section 17 and Schedule 1 in respect of the employer for a prescribed period that falls within the financial year commencing on 1 July 1995, and
- (b) the amount ascertained in accordance with section 17 and Schedule 2 in respect of the employer for a prescribed period that falls within the financial year commencing on 1 July 1996, 1 July 1997, 1 July 1998 or 1 July 1999, and
- (c) the amount ascertained in accordance with section 17 and Schedule 3 in respect

of the employer for a prescribed period that falls within the financial year commencing on 1 July 2000, and

- (d) the amount ascertained in accordance with section 17 and Schedule 4 in respect of the employer for a prescribed period that falls within the financial year commencing on 1 July 2001 or any subsequent financial year.

wages does not include foreign wages.

- (2) Where in a financial year an employer ceases to pay wages or becomes a member of a group the employer shall, where the amount of pay-roll tax paid or payable by the employer when the employer made returns relating to the prescribed period is less than the total amount of pay-roll tax in relation to that employer for that prescribed period, pay to the Chief Commissioner as pay-roll tax, within the period during which the employer is required to furnish a return under this Act relating to that prescribed period or the last return under this Act relating to that prescribed period, an amount equal to the difference.
- (3) Where an employer, who has ceased to pay wages or has become a member of a group, as referred to in subsection (2), in any financial year, subsequently pays or is liable to pay taxable wages or interstate wages during that financial year otherwise than as a member of a group, section 11B applies to and in respect of the employer as if the reference in section 11B (2) to the amount of pay-roll tax paid or payable by that employer included a reference to any pay-roll tax paid or payable by that employer under subsection (2).

Part 4 Registration and returns

12 Registration

- (1) An employer who is not already registered shall apply for registration as an employer under this Act if:
- (a) during a month the employer pays or is liable to pay, anywhere, wages of more than \$11,538 per week which are wholly or partly taxable wages, or
 - (b) the employer is a member of a group the members of which together during a month pay or are liable to pay, anywhere, wages of more than \$11,538 per week which are wholly or partly taxable wages.
- (1A) The application for registration shall be made to the Chief Commissioner in a form and manner approved by the Chief Commissioner within 7 days after the end of the month concerned.
- (1B) The Chief Commissioner shall register the applicant as an employer under this Act.
- (2) The Chief Commissioner may cancel the registration of a person as an employer if

satisfied that the person has ceased to pay or to have a liability to pay wages as described in subsection (1).

(2A) Where the Chief Commissioner cancels the registration of a person as an employer in any financial year and that person subsequently pays or is liable to pay taxable wages during that financial year that person may, notwithstanding that the person is not required to apply for registration, apply to the Chief Commissioner, in a form and manner approved by the Chief Commissioner, for registration as an employer and thereupon the Chief Commissioner shall register the person as an employer under this Act.

(3) (Repealed)

13 Returns

- (1) Every employer who is registered or required to apply for registration in accordance with the provisions of section 12 shall:
- (a) except as provided by paragraph (b), within 7 days after the close of each month, furnish to the Chief Commissioner a return relating to that month, and
 - (b) within 21 days after the close of the month of June in each year, furnish to the Chief Commissioner a return relating to that month and to the adjustment of pay-roll tax paid or payable by the employer during the financial year ending on the close of that month.
- (1A) Two or more employers who are registered or required to be registered in accordance with the provisions of section 12 may, with the approval of the Chief Commissioner, furnish a joint return for the purposes of this section. If a joint return is furnished and the return would, if furnished by a single employer, comply with subsection (1), then each of the employers concerned is taken to have complied with that subsection.

(2)-(5) (Repealed)

13A Inclusion of fringe benefits in returns etc

- (1) In this Act, a reference to taxable wages that were paid or payable by an employer during a month is, in relation to taxable wages, being fringe benefits:
- (a) a reference to the value of the fringe benefits paid or payable by the employer during the month, or
 - (b) if the employer has made an election under subsection (2) which is in force under this section, a reference to an amount calculated in accordance with that subsection.
- (2) An employer who has paid or is liable to pay fringe benefits tax imposed by the *Fringe*

Benefits Tax Act 1986 of the Commonwealth in respect of a period of not less than 15 months before 30 June in any year may elect to include as the value of the fringe benefits paid or payable by the employer during the month concerned:

- (a) in a return furnished in relation to each of the first 11 months occurring after 30 June in that year—one-twelfth of the amount determined in accordance with subsection (2A) or that part of that amount as, in accordance with section 6, comprises wages liable to pay-roll tax, for the year of tax (within the meaning of that Act) ending on 31 March preceding the commencement of the current financial year, and
- (b) in the return furnished in relation to the twelfth month—the amount determined in accordance with subsection (2A) or that part of that amount as, in accordance with section 6, comprises wages liable to pay-roll tax, for the year of tax (within the meaning of that Act) ending on 31 March preceding that month less the total of the amounts of fringe benefits included in the returns for each of the preceding 11 months.

(2A) The amount determined in accordance with this subsection is to be determined in accordance with the formula:

$$AFBA \times \frac{1}{1 - FBT \text{ rate}}$$

where:

AFBA is the aggregate fringe benefits amount (within the meaning of section 136 of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth), and

FBT rate is the rate of fringe benefits tax imposed by the *Fringe Benefits Tax Act 1986* of the Commonwealth that applies when the liability to pay-roll tax under this Act occurs.

- (3) In this Act, a reference to taxable wages that were paid or payable by an employer during a year is, in relation to taxable wages comprising fringe benefits, a reference to an amount calculated by adding together the amounts under subsection (1) (a) or (b) (or subsection (1) (a) and (b)), as the case requires, for the months of that year.
- (4) An election under subsection (2) takes effect when it is notified to the Chief Commissioner in the form approved by the Chief Commissioner.
- (5) After an employer has made an election under subsection (2), the employer must furnish returns containing amounts calculated in accordance with the election unless the Chief Commissioner approves, by notice in writing given to the employer, the termination of the election and allows the employer to include the value referred to in subsection (1) (a).

- (6) If an employer ceases to be liable to pay-roll tax, the value of taxable wages, comprising fringe benefits, to be included in the employer's final return is (irrespective of whether or not the employer has made an election under subsection (2) which is in force under this section) the value of the fringe benefits paid or payable by the employer for the period on and from the preceding 1 July until the date on which the employer ceases to be liable to pay-roll tax less the value of the fringe benefits paid or payable by the employer during that period on which pay-roll tax has been paid.

14 Exemption from furnishing returns

- (1) If the Chief Commissioner is of the opinion that tax will not be payable by an employer, or, if paid, would be refunded, the Chief Commissioner may issue a certificate to that employer exempting the employer from furnishing monthly returns in accordance with the provisions of section 13 and any employer to whom such a certificate is issued may refrain from furnishing monthly returns but shall, unless the contrary is expressed in the certificate, furnish a return relating to each financial year within twenty-one days after the close of that financial year.
- (1A) In subsection (1), **financial year** includes the period commencing on 1 July 1975 and ending on 31 December 1975 and the period commencing on 1 January 1976 and ending on 30 June 1976, but does not include the period commencing on 1 July 1975 and ending on 30 June 1976.
- (2) A certificate issued under subsection (1) may be either unconditional or subject to such conditions as are prescribed or as the Chief Commissioner thinks fit.
- (2A) The Chief Commissioner may, at any time, by notice in writing, revoke any certificate issued under subsection (1).
- (3) 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.
- (4) A certificate in force, immediately before the commencement of this Act, under the Commonwealth Act exempting an employer from furnishing monthly returns shall be deemed to be a certificate issued by the Chief Commissioner under subsection (1) and any conditions to which such a certificate was subject shall be deemed to be conditions imposed by the Chief Commissioner under subsection (2).

15, 16 (Repealed)

Part 4A Grouping provisions

16A Definition

In this Part, **business** includes:

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

16B Grouping of corporations

For the purposes of this Act, two corporations constitute a group if they are, by reason of section 50 of the *Corporations Act 2001* of the Commonwealth related to each other.

16C Grouping where employees used in another business

For the purposes of this Act, where:

- (a) an employee of an employer, or two 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, one or more of his or her 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.

16D Grouping of commonly controlled businesses

- (1) A reference in this section to two businesses does not include a reference to two 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 under subsection (3) in each of two 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 two businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one 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 one 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, 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, more than 50% 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) more than 50% of the capital of the partnership, or
 - (ii) is, or are together, entitled (whether or not beneficially) to more than 50% 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 more than 50% of the value of the interests in the trust firstmentioned 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 two or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.
- (4) Where a corporation has a controlling interest under subsection (3) in a business, it shall, for the purposes of subsection (3), be deemed to have a controlling interest in any other business in which another corporation that is, by reason of section 50 of the [Corporations Act 2001](#) of the Commonwealth to be taken, for the purposes of that Act, to be related to it has a controlling interest.
- (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, for the purposes of subsection (3), 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) two or more persons together are beneficiaries under a trust,

in respect of more than 50% 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.

16DA Grouping of government departments

(1) For the purposes of this Act, the persons, groups of persons and bodies specified for the time being in Column 1 of Schedule 3 to the *Public Finance and Audit Act 1983* together constitute a group.

(2) (Repealed)

16E 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 two 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.

(1A) If the members of a group (in subsection (2) referred to as a smaller group) have together a controlling interest in a business, that group and the person or persons who carry on that business will constitute, for the purposes of this Act, one group.

(2) Except for the purpose of determining whether a group is constituted under subsection (1) or (1A), 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) or (1A).

16F 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.

16G 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 more than 50% of the value of the interests in that trust.

16H Exclusion of persons from groups

- (1) Where the Chief Commissioner is satisfied, having regard to the nature and degree of ownership or control of the businesses, the nature of the businesses and any other matters that the Chief Commissioner considers relevant, that businesses carried on by members of a group constituted under section 16C are carried on substantially independently of, and are not substantially connected with, the carrying on of a business or businesses of another member or other members of the group, the Chief Commissioner may, by order in writing served on those firstmentioned members, exclude them from that group.
- (2) (Repealed)
- (3) Notwithstanding any other provision of this Part, an order under subsection (1) 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.

16I Designated group employers

- (1) The members of a group may, with the approval of the Chief Commissioner, designate a qualified member of the group to be the designated group employer for the group for the purposes of this Act.
- (2) A member of a group is a qualified member if the member:
 - (a) has paid during the preceding financial year wages that exceeded \$600,000, or
 - (b) is, in the opinion of the Chief Commissioner, likely to pay during the current financial year wages that are likely to exceed that amount.
- (3) If none of the members of a group is a qualified member but the members together:
 - (a) have paid during the preceding financial year wages that exceeded \$600,000, or
 - (b) are, in the opinion of the Chief Commissioner, likely to pay during the current financial year wages that will exceed that amount,the members may, with the approval of the Chief Commissioner, designate 2 or more

members of the group to be the designated group employer for the group for the purposes of this Act if those 2 or more members would, had they been a single employer, have been a qualified member.

- (4) If the members of a group do not designate a member or members as the designated group employer before 7 July 1993 or, in the case of a group established on or after that date, within 7 days after the end of the month in which the group is established, the Chief Commissioner may (but is not obliged to) designate as the designated group employer:
 - (a) a qualified member of the group, or
 - (b) if none of the members of the group is a qualified member—2 or more members of the group who would, had they been a single employer, have been a qualified member.
- (5) The designated group employer of a group stops being the designated group employer from and including the earlier of the following days:
 - (a) the first day of a return period during which there is a change in the membership of the group,
 - (b) the first day of a return period during which the members of the group revoke the designation.
- (6) The designation of a designated group employer under subsection (2) or (3) must be by notice in writing.
- (7) Such a notice must:
 - (a) be executed by or on behalf of each member of the group, and
 - (b) be served on the Chief Commissioner.

16J (Repealed)

16K Annual adjustments

- (1) This section applies in relation to a group at least one member of which paid or was liable to pay, as such a member, taxable wages or interstate wages for the whole of a financial year.
 - (1A) In this section:

financial year means the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July.
- (2) A reference in this section to the annual amount of pay-roll tax paid or payable by a member of a group is a reference to:

- (a) the amount ascertained in accordance with section 17 and Schedule 1 in respect of that member for the financial year commencing on 1 July 1995, or
 - (b) the amount ascertained in accordance with section 17 and Schedule 2 in respect of that member for the financial year commencing on 1 July 1996, 1 July 1997, 1 July 1998 or 1 July 1999, or
 - (c) the amount ascertained in accordance with section 17 and Schedule 3 in respect of that member for the financial year commencing on 1 July 2000, or
 - (d) the amount ascertained in accordance with section 17 and Schedule 4 in respect of that member for the financial year commencing on 1 July 2001 or any subsequent financial year.
- (3) A reference in this section to the actual amount of pay-roll tax paid or payable in respect of a financial year by a member of a group is a reference to the amount of pay-roll tax paid or payable when returns were made or required to be made under this Act relating to that financial year.
- (4) If the actual amount of pay-roll tax paid or payable in respect of a financial year by a member of a group is greater than the annual amount of pay-roll tax in relation to that member for that financial year, the Chief Commissioner shall, on an application by that member, refund to that member an amount equal to the difference, reduced by the sum of:
- (a) the total of any amounts refunded to that member in respect of the tax paid or payable by that member when returns relating to that year were made or required to be made under this Act by that member, and
 - (b) (Repealed)
- (5) If the actual amount of pay-roll tax paid or payable in respect of a financial year by a member of a group is less than the annual amount of pay-roll tax in relation to that member for that financial year, that member shall pay to the Chief Commissioner as pay-roll tax (within the period during which that member is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year) an amount equal to the difference.
- (6)–(8) (Repealed)

16L Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year

- (1) This section applies in relation to a group at least one member of which paid or was liable to pay, as such a member, taxable wages or interstate wages for part only (being a continuous part) of a financial year and no member of which paid or was liable to pay, as such a member, any such wages during the whole of that year.

(2) In this section, **prescribed period**, in relation to a group, means part only (being a continuous part) of a financial year for which at least one member of the group paid or was liable to pay taxable wages or interstate wages.

(2A) In this section:

financial year means the financial year commencing on 1 July 1989 or any subsequent financial year commencing on 1 July.

(3) A reference in this section to the total amount of pay-roll tax paid or payable for a prescribed period by a member of a group is a reference to:

(a) the amount ascertained in accordance with section 17 and Schedule 1 in respect of that member for a prescribed period that falls within the financial year commencing on 1 July 1995, or

(b) the amount ascertained in accordance with section 17 and Schedule 2 in respect of that member for a prescribed period that falls within the financial year commencing on 1 July 1996, 1 July 1997, 1 July 1998 or 1 July 1999, or

(c) the amount ascertained in accordance with section 17 and Schedule 3 in respect of that member for a prescribed period that falls within the financial year commencing on 1 July 2000, or

(d) the amount ascertained in accordance with section 17 and Schedule 4 in respect of that member for a prescribed period that falls within the financial year commencing on 1 July 2001 or any subsequent financial year.

(4) If, at the expiration of a prescribed period relating to a group, the total amount of pay-roll tax paid or payable by a member of the group when returns were made or required to be made under this Act is less than the total amount of pay-roll tax paid or payable for that prescribed period by that member, that member shall pay to the Chief Commissioner as pay-roll tax (within the period during which that member is required to furnish a return under this Act or the last return under this Act relating to that prescribed period) an amount equal to the difference.

(5), (6) (Repealed)

16LA Joint and several liability

(1) If a member of a group fails to pay an amount that the member is required to pay under this Act in respect of any period, every member of the group is liable jointly and severally to pay that amount to the Chief Commissioner.

(2) Section 45 of the [Taxation Administration Act 1996](#) applies to an amount payable under this section.

Part 4B

16M (Repealed)

Part 5 Collection and recovery of tax

17 Payment of tax

- (1) Every employer liable to pay pay-roll tax shall pay the pay-roll tax within the time within which he or she is required by this Act to lodge the return of the wages in respect of which the pay-roll tax is payable.
 - (1A) (Repealed)
 - (2) The amount of pay-roll tax that an employer is required to pay in relation to a return of wages in respect of a financial year or a part of a financial year shall be a proportion (equivalent to the ratio of the number of days to which the return relates to the number of days in the financial year) of the pay-roll tax that would be payable by the employer for the whole of that year.
 - (3) For the purposes of subsection (2), a reference to the pay-roll tax that would be payable by an employer for the whole of a financial year is a reference to the amount of pay-roll tax ascertained in accordance with this Act in respect of a multiple (equivalent to the ratio of the number of days in the financial year to the number of days to which the return relates) of the taxable wages paid or payable by the employer for the period to which the return relates.
 - (4) For the purposes of this section:
 - (a) a reference to a part of a financial year includes a reference to a prescribed period referred to in section 11C or 16L, and
 - (b) a reference to the number of days to which the return relates is a reference to the number of days in respect of which wages were paid or payable.

17A (Repealed)

18 Assessments

- (1) Where the Chief Commissioner finds in any case that pay-roll tax or further tax is payable by any employer, the Chief Commissioner may:
 - (a) assess the amount of taxable wages or, where relevant, interstate wages paid or payable by the employer, and
 - (b) calculate the pay-roll tax or further tax payable by the employer.
- (2) Where:

- (a) any employer fails or neglects duly to furnish any return as and when required by this Act or by the Chief Commissioner,
- (b) the Chief Commissioner is not satisfied with the return made by any employer, or
- (c) the Chief Commissioner has reason to believe or suspect that any employer (though he or she may not have furnished any return) is liable to pay pay-roll tax,

the Chief Commissioner may cause an assessment to be made of the amount upon which, in the Chief Commissioner's judgment, pay-roll tax or further tax ought to be levied and that person shall be liable to pay-roll tax or further tax thereon, except in so far as he or she establishes on objection or appeal that the assessment is excessive.

(3) Part 3 of the *Taxation Administration Act 1996* applies to an assessment under this section.

(4)-(8) (Repealed)

18A, 19 (Repealed)

20 Employer leaving Australia

When the Chief Commissioner has reason to believe that an employer may leave Australia before any tax becomes due and payable by the employer, the tax shall be due and payable on such date as the Chief Commissioner fixes and specifies in a notice served on the employer.

21-24 (Repealed)

25 Liquidator to give notice

- (1) Every person who is liquidator of any company which is being wound-up and which is an employer registered or required to be registered under this Act, shall, within fourteen days after becoming liquidator of that company, serve on the Chief Commissioner notice in writing of his or her appointment as liquidator.
- (2) The Chief Commissioner shall, as soon as practicable thereafter, notify to the liquidator the amount which appears to the Chief Commissioner to be sufficient to provide for any tax which then is or will thereafter become payable by the company.
- (3) The liquidator:
 - (a) shall not without leave of the Chief Commissioner part with any of the assets of the company until the liquidator has been so notified,
 - (b) shall set aside out of the assets available for the payment of the tax, assets to the value of the amount so notified, or the whole of the assets so available if they are of less than that value, and

(c) shall, to the extent of the value of the assets which the liquidator is so required to set aside, be liable as trustee to pay the tax.

(4) If the liquidator fails to comply with any provision of this section (or fails as trustee duly to pay the tax for which the liquidator is liable under subsection (3)), the liquidator shall, to the extent of the value of the assets of which the liquidator has taken possession and which are, or were at the time, available to the liquidator for the payment of the tax, be personally liable to pay the tax, and shall be guilty of an offence.

Maximum penalty: 10 penalty units.

(5) Where more persons than one are appointed liquidators or required by law to carry out the winding-up, the obligations and liabilities attaching to a liquidator under this section shall attach to each of those persons and, where any one of those persons has paid the tax due in respect of the company being wound-up, the other person or persons shall each be liable to pay that person his or her equal share of the amount of the tax so paid.

(6) Notwithstanding anything contained in this section, all costs, charges and expenses which, in the opinion of the Chief Commissioner, have been properly incurred by the liquidator in the winding-up of a company, including the remuneration of the liquidator, may be paid out of the assets of the company in priority to any tax payable in respect of the company.

(7) Nothing in this section:

(a) limits the liability of a liquidator under section 42 or his or her liability, as a trustee, under Part 4A, or

(b) is intended to affect any of the provisions of the *Corporations Act 2001* of the Commonwealth.

(8) Any person who has, before the day upon which the assent of Her Majesty to this Act was signified, given notice of his or her appointment as a liquidator in accordance with the Commonwealth Act shall not be guilty of an offence by reason of his or her failure to serve notice of his or her appointment in accordance with subsection (1), but shall be deemed, as on and from that day, to be subject to the provisions of this section, other than subsection (1), applying to liquidators.

26 Agent for absentee principal winding-up business

(1) Where an agent for an absentee principal has been required by the principal to wind-up the business of his or her principal he or she shall, before taking any steps to wind-up the business, serve on the Chief Commissioner notice of his or her intention so to do, and shall set aside such sum out of the assets of the principal as appears to the Chief Commissioner to be sufficient to provide for any tax that becomes payable.

- (2) An agent who fails to give notice to the Chief Commissioner or fails to provide for payment of the tax as required by this section shall be personally liable for any tax that becomes payable in respect of the business of the principal, and shall be guilty of an offence.

Maximum penalty: 10 penalty units.

- (3) Any agent for an absentee principal who has before the day upon which the assent of Her Majesty to this Act was signified, given notice, in accordance with the Commonwealth Act, of his or her intention to take steps to wind-up the business of his or her principal shall not be guilty of an offence by reason of his or her failure to serve notice as provided by subsection (1), but shall be deemed, as on and from that day, to be subject to the provisions of this Act, other than the provisions of subsection (1) requiring him or her to give such a notice to the Chief Commissioner, applying to agents for absentee principals.

27 Where tax not paid during lifetime

- (1) The following provisions of this section apply where, whether intentionally or not, a person escapes full payment of tax in the person's lifetime by reason of the person's not having duly made any, or full, complete and accurate returns.
- (2) The Chief Commissioner has the same powers and remedies against the trustees of the estate of that person in respect of the liability to which that person was subject as he or she would have had against that person if he or she were still living.
- (3) The trustees shall make such returns under this Act as the Chief Commissioner requires.
- (4) The trustees are subject to tax to the same extent as the deceased person would be subject to tax if he or she were still living, but the Chief Commissioner may in a particular case, for reasons that, in his or her discretion, he or she thinks sufficient, remit any tax or a part thereof.
- (5) The amount of any tax payable by the trustees is a charge on all the deceased person's estate in their hands in priority to all other encumbrances.

28 Provision for payment of tax by executors or administrators

- (1) Where, at the time of an employer's death, he or she had not paid the whole of the tax payable up to the date of his or her death, the Chief Commissioner shall have the same powers and remedies for the assessment and recovery of tax from the executors and administrators as he or she would have had against that employer, if he or she were alive.
- (2) The executors or administrators shall furnish such of the returns mentioned in Part 4 as have not been made by the deceased.

- (3) Where the executors or administrators are unable or fail to furnish a return, the Chief Commissioner may estimate and make an assessment of the taxable wages on which, in his or her judgment, pay-roll tax ought to be charged.
- (4) Where, in respect of the estate of any deceased employer, probate has not been granted or letters of administration have not been taken out within six months of his or her death, the Chief Commissioner may cause an assessment to be made of the amount of tax due by the deceased.
- (5) The Chief Commissioner shall cause notice of the assessment to be published twice in a daily newspaper circulating in the State of the Commonwealth in which the deceased resided.
- (6) Any person claiming an interest in the estate of the deceased may, within forty-two days after the first publication of notice of assessment, lodge with the Chief Commissioner an objection in writing against the assessment stating fully and in detail the grounds on which he or she relies.
- (7) Subject to any amendment of the assessment by the Chief Commissioner or by the Supreme Court, the assessment so made shall be conclusive evidence of the indebtedness of the deceased to the Chief Commissioner.
- (8) The Supreme Court may, on application by the Chief Commissioner, order that a sufficient part of the property of the deceased be sold to pay the assessment and the costs of the application and any property sold pursuant to such an order shall vest in the purchaser.
- (9) Notwithstanding anything contained in subsections (7) and (8), if at any time probate of the will of the deceased is, or letters of administration of the estate are, granted to a person, that person may, within forty-two days after the date on which probate was, or letters of administration were, granted, lodge with the Chief Commissioner an objection against the assessment, stating fully and in detail the grounds on which he or she relies.

29-31A (Repealed)

Part 5A Recovery of tax from directors and former directors of corporations

31B Definitions

In this Part:

assessment amount means the amount of pay-roll tax that a corporation has been assessed as being liable to pay, as set out in a notice of assessment, including any interest or penalty tax specified in the notice of assessment as being payable by the corporation.

special arrangement for the payment of an assessment amount means an arrangement for the payment of tax made by the Chief Commissioner under section 47 of the [Taxation Administration Act 1996](#).

31C Liability of directors and former directors of corporation for failure to pay tax

- (1) If a corporation fails to pay an assessment amount in accordance with a notice of assessment issued by the Chief Commissioner, the Chief Commissioner may serve a compliance notice on one or more of the following persons:
 - (a) a person who is a director of the corporation,
 - (b) a person who was a director of the corporation at the time the corporation first became liable to pay the pay-roll tax, or any part of the pay-roll tax, that is included in the assessment amount or at any time afterwards (referred to in this Part as a **former director**).
- (2) A compliance notice is a notice that advises the director or former director on whom it is served that if the failure to pay the assessment amount is not rectified within the period specified in the notice, being a period of not less than 21 days, the director or former director will be liable to pay the assessment amount.
- (3) For the purposes of this Part, a failure to pay an assessment amount is rectified if:
 - (a) the assessment amount is paid, or
 - (b) the Chief Commissioner makes a special arrangement with the corporation for the payment of the assessment amount, or
 - (c) the Board of Review waives or defers payment of some or all of the assessment amount, or
 - (d) an administrator of the corporation is appointed under Part 5.3A of the [Corporations Act 2001](#) of the Commonwealth, or
 - (e) the corporation begins to be wound up within the meaning of the [Corporations Act 2001](#) of the Commonwealth.
- (4) If the failure to pay the assessment amount is not rectified within the period specified in the compliance notice, the director or former director on whom the compliance notice was served is jointly and severally liable with the corporation to pay the assessment amount.
- (5) A person does not cease to be liable to pay an assessment amount because the person ceases to be a director of the corporation.

31D Failure to comply with special arrangements

If:

- (a) a failure by a corporation to pay an assessment amount is rectified because of a special arrangement for the payment of the assessment amount, or because payment of part or all of the assessment amount is deferred by the Board of Review, and
- (b) the corporation fails to pay the assessment amount in accordance with the terms of the special arrangement or deferral,

the Chief Commissioner may serve a further compliance notice in respect of the assessment amount, or so much of the assessment amount as remains unpaid, and this Part applies accordingly.

31E Right of indemnity and contribution

If a director or former director of a corporation is liable to pay an assessment amount under this Part and an amount is paid by the director or former director in discharge of that liability, the director or former director is entitled:

- (a) to be indemnified for payment of that amount by the corporation, and
- (b) to recover a contribution from any other director or former director of the corporation who is liable to pay the assessment amount under this Part, as if the directors and former directors who are liable to pay the assessment amount had jointly guaranteed payment of the assessment amount.

31F Defences

In proceedings for the recovery of an assessment amount from a director or former director of a corporation under this Part, it is a defence to the recovery of that amount if the director or former director establishes that:

- (a) the director or former director took all reasonable steps that were possible in the circumstances to ensure that the corporation rectified the failure to pay the assessment amount, or
- (b) the director or former director was unable, because of illness or for some other similar good reason, to take steps to ensure that the corporation rectified the failure to pay the assessment amount.

Part 6 Hardship Review Board

32 Waiver, deferral and writing off of pay-roll tax in hardship cases

The Hardship Review Board constituted under Division 5 of Part 10 of the [Taxation Administration Act 1996](#) may exercise its functions in relation to pay-roll tax payable under this Act.

32A-34C (Repealed)

Part 7 Penal provisions

35-40 (Repealed)

Part 8 Miscellaneous

41 (Repealed)

42 Agents and trustees

- (1) With respect to every agent and with respect also to every trustee the following provisions shall apply:
 - (a) The agent or trustee shall be answerable as an employer for the doing of all such things as are required to be done by virtue of this Act or the regulations in respect of the payment of any wages which are subject to pay-roll tax under this Act.
 - (b) The agent or trustee shall, in respect of any such wages, make the returns and be chargeable with pay-roll tax thereon, but in his or her representative capacity only, and each return shall, except as otherwise provided by this Act, be separate and distinct from any other.
 - (c) If he or she is an executor or administrator, the returns shall be the same as far as practicable as those the deceased person, if living, would have been liable to make.
 - (d) Where as agent or trustee he or she pays tax, he or she is hereby authorised to recover the amount so paid from the person on whose behalf he or she paid it, or to deduct it from any money in his or her hands belonging to that person.
 - (e) The agent or trustee is hereby authorised and required to retain from time to time out of any money which comes to the agent or trustee in his or her representative capacity so much as is sufficient to pay the tax.
 - (f) The agent or trustee is hereby made personally liable for the tax payable if, after the Chief Commissioner has required the agent or trustee to make a return, or while the tax remains unpaid, he or she, except with the written permission of the Chief Commissioner, disposes of or parts with any fund or money which comes to the agent or trustee from or out of which tax could legally be paid, but he or she shall not be otherwise personally liable for the tax.
 - (g) The agent or trustee is hereby indemnified for all payments which he or she makes in pursuance of this Act or by the requirements of the Chief Commissioner.
 - (h) For the purpose of ensuring the payment of tax the Chief Commissioner shall have the same remedies against attachable property of any kind vested in or under the control or management or in the possession of any agent or trustee, as he or she would have against the property of any other person in respect of tax, and in as

full and ample a manner.

(2) Nothing in subsection (1) affects the operation of Part 4A in relation to trustees.

43 (Repealed)

44 Records to be kept

(1) (Repealed)

(1A) An employer who is registered or required to be registered under this Act must keep records, for the purposes of this Act, containing the following details:

- (a) details of the name and address of each person to whom wages are paid or are payable by the employer,
- (b) details of the wages paid or payable to a person by the employer,
- (c) details of any accommodation or other allowance (not being a motor vehicle allowance) paid or payable to a person by the employer (whether or not by way of reimbursement for expenses incurred on behalf of the employer),
- (d) details of any motor vehicle allowance paid or payable to a person by the employer (whether or not by way of reimbursement for expenses incurred on behalf of the employer).

Maximum penalty: 10 penalty units.

(1B) The details required to be kept by subsection (1A) (d) include:

- (a) the name and address of the person, and
- (b) the amount of the allowance paid or payable, and
- (c) such other details as may be prescribed by the regulations.

(2) (Repealed)

45-48 (Repealed)

48A Limitation Act not to apply to recovery of further tax, additional tax and penal tax

The reference to tax in section 10 (3) of the *Limitation Act 1969* includes, and is taken always to have included, a reference to further tax, additional tax and penal tax imposed by or under this Act.

49, 50 (Repealed)

50A Savings, transitional and other provisions

Schedule 6 has effect.

51 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to:
 - (a) the forms to be used for the purposes of this Act,
 - (b) the manner of making any application to the Chief Commissioner under this Act,
 - (c) the evidence that the Chief Commissioner may require for the purpose of determining whether or not an employer was an employer for part only of a financial year, whether or not a person was a member of a group at any time or during any period or whether or not a notice under subsection (2) of section 13, or a certificate under subsection (1) of section 14, should be given,
 - (d)-(f) (Repealed)
 - (g) prescribing any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations:
 - (a) may be so made as to have a different application according to such factors as may be specified in the regulations, and
 - (b) may impose a penalty not exceeding 5 penalty units for any offence against the regulations.

Schedule 1 Calculation of pay-roll tax liability for the financial year commencing on 1 July 1995

(Sections 7, 11B, 11C, 16K, 16L)

Part 1 Employers who are not members of a group

1 Application of Part

This Part applies only to an employer who is not a member of a group.

2 Definitions

In this Part:

financial year means the financial year commencing on 1 July 1995.

IW represents the total interstate wages paid or payable by the employer concerned during the financial year.

TW represents the total taxable wages paid or payable by the employer concerned during

the financial year.

3 Pay-roll of employer under \$575,000

An employer is not liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the employer during that year is less than \$575,000.

4 Pay-roll of employer \$575,000 or more

If the total taxable wages and interstate wages paid or payable by an employer during the financial year is \$575,000 or more, the employer is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left\{ \frac{TW}{TW + IW} \times 575,000 \right\} \right] \times \frac{7}{100}$$

Part 2 Groups with a designated group employer

5 Application of Part

This Part applies only to an employer who is a member of a group for which there is a designated group employer.

6 Definitions

In this Part:

designated group employer means a member designated as the designated group employer for a group in accordance with section 16I.

financial year means the financial year commencing on 1 July 1995.

group means a group for which there is a designated group employer.

GIW represents the total interstate wages paid or payable by the group concerned during the financial year.

GTW represents the total taxable wages paid or payable by the group concerned during the financial year.

TW represents the total taxable wages paid or payable by the employer concerned during the financial year.

7 Pay-roll of group under \$575,000

None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is

less than \$575,000.

8 Pay-roll of group \$575,000 or more

- (1) If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$575,000 or more, pay-roll tax is payable as provided by subclauses (2) and (3).
- (2) The designated group employer for the group is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left\{ \frac{GTW}{GTW + GIW} \times 575,000 \right\} \right] \times \frac{7}{100}$$

- (3) Each member of the group (other than that designated group employer) is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$TW \times \frac{7}{100}$$

Part 3 Groups with no designated group employer

9 Application of Part

This Part applies only to an employer who is a member of a group for which there is no designated group employer.

10 Definitions

In this Part:

designated group employer means a member designated as the designated group employer for a group in accordance with section 16I.

financial year means the financial year commencing on 1 July 1995.

GIW represents the total interstate wages paid or payable by the group concerned during the financial year.

group means a group for which there is no designated group employer.

GTW represents the total taxable wages paid or payable by the group concerned during the financial year.

TW represents the total taxable wages paid or payable by the employer concerned during

the financial year.

11 Pay-roll of group under \$575,000

None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$575,000.

12 Pay-roll of group \$575,000 or more

If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$575,000 or more, each member of the group is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left\{ \frac{TW}{GTW + GIW} \times 575,000 \right\} \right] \times \frac{7}{100}$$

Schedule 2 Calculation of pay-roll tax liability for the financial years commencing 1 July 1996, 1 July 1997, 1 July 1998 and 1 July 1999

(Sections 7, 11B, 11C, 16K, 16L)

Part 1 Employers who are not members of a group

1 Application of Part

This Part applies only to an employer who is not a member of a group.

2 Definitions

In this Part:

financial year means the financial year commencing on 1 July 1996, 1 July 1997, 1 July 1998 or 1 July 1999.

IW represents the total interstate wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

TW represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

3 Pay-roll of employer under \$600,000

An employer is not liable to pay pay-roll tax for a financial year if the total taxable wages and interstate wages paid or payable by the employer during that year is less than \$600,000.

4 Pay-roll of employer \$600,000 or more

If the total taxable wages and interstate wages paid or payable by an employer during a financial year is \$600,000 or more, the employer is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left\{ \frac{TW}{TW + IW} \times 600,000 \right\} \right] \times \frac{R}{100}$$

Part 2 Groups with a designated group employer

5 Application of Part

This Part applies only to an employer who is a member of a group for which there is a designated group employer.

6 Definitions

In this Part:

designated group employer means a member designated for a group in accordance with section 16l.

financial year means the financial year commencing on 1 July 1996, 1 July 1997, 1 July 1998 or 1 July 1999.

group means a group for which there is a designated group employer.

GIW represents the total interstate wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

GTW represents the total taxable wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

TW represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

7 Pay-roll of group under \$600,000

None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$600,000.

8 Pay-roll of group \$600,000 or more

- (1) If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$600,000 or more, pay-roll tax is payable as provided by subclauses (2) and (3).

- (2) The designated group employer for the group is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left\{ \frac{GTW}{GTW + GIW} \times 600,000 \right\} \right] \times \frac{R}{100}$$

- (3) Each member of the group (other than that designated group employer) is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$TW \times \frac{R}{100}$$

Part 3 Groups with no designated group employer

9 Application of Part

This Part applies only to an employer who is a member of a group for which there is no designated group employer.

10 Definitions

In this Part:

designated group employer means a member designated as the designated group employer for a group in accordance with section 16I.

financial year means the financial year commencing on 1 July 1996, 1 July 1997, 1 July 1998 or 1 July 1999.

GIW represents the total interstate wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

group means a group for which there is no designated group employer.

GTW represents the total taxable wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

TW represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

11 Pay-roll of group under \$600,000

None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$600,000.

12 Pay-roll of group \$600,000 or more

If the total of the taxable wages and interstate wages paid or payable by a group during the financial year is \$600,000 or more, each member of the group is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[\text{TW} - \left\{ \frac{\text{TW}}{\text{GTW} + \text{GIW}} \times 600,000 \right\} \right] \times \frac{\text{R}}{100}$$

Part 4 Rates

13 Definitions

(1) In this Schedule:

R means (subject to clause 15):

- (a) for a financial year occurring during the interim period—6.85, and
- (b) for the financial year commencing on 1 July 1999—6.4.

(2) In this Part:

amending Act means the Act that inserted this Part into this Schedule.

financial year means the financial year commencing on 1 July 1996, 1 July 1997, 1 July 1998 or 1 July 1999.

interim period means the interim period referred to in clause 14.

quarter means a period of 3 months ending with the last day of March, June, September or December.

14 Interim period

For the purposes of this Schedule, the interim period is the period commencing on 1 July 1996 and ending on the earliest of the following:

- (a) 30 June 1999,
- (b) 30 June of a financial year to be appointed by proclamation for the purposes of this paragraph (being the financial year ending 30 June 1997 or 30 June 1998),
- (c) 30 June of the financial year during which a report is tabled in a House of Parliament under section 6 of the amending Act stating that the sum of \$902 million has been received by the State as a result of the amendments made by the amending Act.

15 Arrangements where reduction is to occur from 1 January

(1) This clause applies if:

- (a) a proclamation under clause 14 (b) provides that this clause is to apply from 1 January of the last financial year of the interim period, or
- (b) a report referred to in clause 14 (c) is tabled during the first two quarters of the last financial year of the interim period.

(2) Where this clause applies:

- (a) **R** is, for the purposes of this Schedule, taken to be 6.775 for the last financial year of the interim period, and
- (b) the pay-roll tax rate at which pay-roll tax is to be calculated and paid for the first two quarters of that last financial year is taken to be 6.85%, and
- (c) the pay-roll tax rate at which pay-roll tax is to be calculated and paid for the last two quarters of that last financial year is taken to be 6.7%.

Schedule 3 Calculation of pay-roll tax liability for financial year commencing 1 July 2000

(Sections 7, 11B, 11C, 16K and 16L)

Part 1 Employers who are not members of a group

1 Application of Part

This Part applies only to an employer who is not a member of a group.

2 Definitions

In this Part:

financial year means the financial year commencing on 1 July 2000.

IW1 represents the total interstate wages paid or payable by the employer concerned during the first 2 quarters of the financial year.

IW2 represents the total interstate wages paid or payable by the employer concerned during the last 2 quarters of the financial year.

TW1 represents the total taxable wages paid or payable by the employer during the first 2 quarters of the financial year.

TW2 represents the total taxable wages paid or payable by the employer during the last 2 quarters of the financial year.

3 Pay-roll of employer under \$600,000

An employer is not liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the employer during that year is less than \$600,000.

4 Pay-roll of employer \$600,000 or more

(1) If the total taxable wages and interstate wages paid or payable by an employer during the financial year is \$600,000 or more, the employer is liable to pay as pay-roll tax for that year the amount of dollars calculated by adding together:

- (a) the pay-roll tax liability of the employer for the first 2 quarters of the financial year, and
- (b) the pay-roll tax liability of the employer for the last 2 quarters of the financial year.

(2) The pay-roll tax liability of the employer for the first 2 quarters of the financial year is the amount of dollars calculated in accordance with the following formula:

$$\left[TW1 - \left[\frac{TW1}{TW1 + IW1} \times 302,466 \right] \right] \times \frac{6.4}{100}$$

(3) The pay-roll tax liability of the employer for the last 2 quarters of the financial year is the amount of dollars calculated in accordance with the following formula:

$$\left[TW2 - \left[\frac{TW2}{TW2 + IW2} \times 297,534 \right] \right] \times \frac{6.2}{100}$$

Part 2 Groups with a designated group employer

5 Application of Part

This Part applies only to an employer who is a member of a group for which there is a designated group employer.

6 Definitions

In this Part:

designated group employer means a member designated for a group in accordance with section 16I.

financial year means the financial year commencing on 1 July 2000.

GIW1 represents the total interstate wages paid or payable by the group concerned during the first 2 quarters of the financial year.

GIW2 represents the total interstate wages paid or payable by the group concerned during the last 2 quarters of the financial year.

group means a group for which there is a designated group employer.

GTW1 represents the total taxable wages paid or payable by the group concerned during the first 2 quarters of the financial year.

GTW2 represents the total taxable wages paid or payable by the group concerned during the last 2 quarters of the financial year.

TW1 represents the total taxable wages paid or payable by the employer concerned during the first 2 quarters of the financial year.

TW2 represents the total taxable wages paid or payable by the employer concerned during the last 2 quarters of the financial year.

7 Pay-roll of group under \$600,000

None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$600,000.

8 Pay-roll of group \$600,000 or more

- (1) If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$600,000 or more, pay-roll tax is payable as provided by this clause.
- (2) The designated group employer for the group is liable to pay as pay-roll tax for the financial year the amount of dollars calculated by adding together:
 - (a) the pay-roll tax liability of the designated group employer for the first 2 quarters of the financial year, and
 - (b) the pay-roll tax liability of the designated group employer for the last 2 quarters of the financial year.
- (3) The pay-roll tax liability of the designated group employer for the first 2 quarters of the financial year is the amount of dollars calculated in accordance with the following formula:

$$\left[TW1 - \left[\frac{GTW1}{GTW1 + GIW1} \times 302,466 \right] \right] \times \frac{6.4}{100}$$

- (4) The pay-roll tax liability of the designated group employer for the last 2 quarters of the financial year is the amount of dollars calculated in accordance with the following formula:

$$\left[TW2 - \left[\frac{GTW2}{GTW2 + GIW2} \times 297,534 \right] \right] \times \frac{6.2}{100}$$

- (5) Each member of the group (other than the designated group employer) is liable to pay as pay-roll tax for the financial year the amount of dollars calculated by adding together:
- (a) the pay-roll tax liability of the member for the first 2 quarters of the financial year, and
 - (b) the pay-roll tax liability of the member for the last 2 quarters of the financial year.
- (6) The pay-roll tax liability of a member referred to in subclause (5) for the first 2 quarters of the financial year is the amount of dollars calculated in accordance with the following formula:

$$TW1 \times \frac{6.4}{100}$$

- (7) The pay-roll tax liability of a member referred to in subclause (5) for the last 2 quarters of the financial year is the amount of dollars calculated in accordance with the following formula:

$$TW2 \times \frac{6.2}{100}$$

Part 3 Groups with no designated group employer

9 Application of Part

This Part applies only to an employer who is a member of a group for which there is no designated group employer.

10 Definitions

In this Part:

designated group employer means a member designated as the designated group employer for a group in accordance with section 16I.

financial year means the financial year commencing on 1 July 2000.

GIW1 represents the total interstate wages paid or payable by the group concerned during the first 2 quarters of the financial year.

GIW2 represents the total interstate wages paid or payable by the group concerned during the last 2 quarters of the financial year.

group means a group for which there is no designated group employer.

GTW1 represents the total taxable wages paid or payable by the group concerned during the first 2 quarters of the financial year.

GTW2 represents the total taxable wages paid or payable by the group concerned during the last 2 quarters of the financial year.

TW1 represents the total taxable wages paid or payable by the employer concerned during the first 2 quarters of the financial year.

TW2 represents the total taxable wages paid or payable by the employer concerned during the last 2 quarters of the financial year.

11 Pay-roll of group under \$600,000

None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$600,000.

12 Pay-roll of group \$600,000 or more

(1) If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$600,000 or more, each member of the group is liable to pay as pay-roll tax for that year the amount of dollars calculated by adding together:

(a) the pay-roll tax liability of the member for the first 2 quarters of the financial year, and

(b) the pay-roll tax liability of the member for the last 2 quarters of the financial year.

(2) The pay-roll tax liability of a member for the first 2 quarters of the financial year is the amount of dollars calculated in accordance with the following formula:

$$\left[TW1 - \left[\frac{TW1}{GTW1 + GIW1} \times 302,466 \right] \right] \times \frac{6.4}{100}$$

(3) The pay-roll tax liability of a member for the last 2 quarters of the financial year is the amount of dollars calculated in accordance with the following formula:

$$\left[TW2 - \left[\frac{TW2}{GTW2 + GIW2} \times 297,534 \right] \right] \times \frac{6.2}{100}$$

Part 4 Definition

13 Definition

In this Schedule:

quarter means a period of 3 months ending with the last day of March, June, September or December.

Schedule 4 Calculation of pay-roll tax liability for financial year commencing 1 July 2001 and subsequent financial years

(Sections 7, 11B, 11C, 16K and 16L)

Part 1 Employers who are not members of a group

1 Application of Part

This Part applies only to an employer who is not a member of a group.

2 Definitions

In this Part:

financial year means the financial year commencing on 1 July 2001 or on 1 July in any subsequent financial year.

IW represents the total interstate wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

TW represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

3 Pay-roll of employer under \$600,000

An employer is not liable to pay pay-roll tax for a financial year if the total taxable wages and interstate wages paid or payable by the employer during that year is less than \$600,000.

4 Pay-roll of employer \$600,000 or more

If the total taxable wages and interstate wages paid or payable by an employer during a financial year is \$600,000 or more, the employer is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left[\frac{TW}{TW + IW} \times 600,000 \right] \right] \times \frac{R}{100}$$

Part 2 Groups with a designated group employer

5 Application of Part

This Part applies only to an employer who is a member of a group for which there is a designated group employer.

6 Definitions

In this Part:

designated group employer means a member designated for a group in accordance with section 16I.

financial year means the financial year commencing on 1 July 2001 or on 1 July in any subsequent financial year.

group means a group for which there is a designated group employer.

GIW represents the total interstate wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

GTW represents the total taxable wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

TW represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

7 Pay-roll of group under \$600,000

None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$600,000.

8 Pay-roll of group \$600,000 or more

- (1) If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$600,000 or more, pay-roll tax is payable as provided by subclauses (2) and (3).
- (2) The designated group employer for the group is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left[\frac{GTW}{GTW + GIW} \times 600,000 \right] \right] \times \frac{R}{100}$$

- (3) Each member of the group (other than that designated group employer) is liable to pay as pay-roll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$TW \times \frac{R}{100}$$

Part 3 Groups with no designated group employer

9 Application of Part

This Part applies only to an employer who is a member of a group for which there is no designated group employer.

10 Definitions

In this Part:

designated group employer means a member designated as the designated group employer for a group in accordance with section 16I.

financial year means the financial year commencing on 1 July 2001 or on 1 July in any subsequent financial year.

GIW represents the total interstate wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

group means a group for which there is no designated group employer.

GTW represents the total taxable wages paid or payable by the group concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

TW represents the total taxable wages paid or payable by the employer concerned during the financial year to which the calculation of the relevant pay-roll tax relates.

11 Pay-roll of group under \$600,000

None of the members of a group is liable to pay pay-roll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is less than \$600,000.

12 Pay-roll of group \$600,000 or more

If the total taxable wages and interstate wages paid or payable by a group during the financial year is \$600,000 or more, each member of the group is liable to pay as pay-roll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left[\frac{TW}{GTW + GIW} \times 600,000 \right] \right] \times \frac{R}{100}$$

Part 4 Rates

13 Rates

In this Schedule:

R means:

- (a) for the financial year commencing on 1 July 2001—6.2, or
- (b) for a financial year commencing on 1 July 2002 or 1 July in any subsequent year—6.0.

Schedule 5 (Repealed)

Schedule 6 Savings, transitional and other provisions

(Section 50A)

Part 1 Preliminary

1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

State Revenue Legislation (Amendment) Act 1994

State Revenue Legislation Further Amendment Act 1995

State Revenue Legislation Further Amendment Act 1996

State Revenue Legislation (Miscellaneous Amendments) Act 1996

State Revenue Legislation (Miscellaneous Amendments) Act 1998

State Revenue Legislation Further Amendment Act 1999

State Revenue Legislation Amendment Act 2000

State Revenue Legislation Further Amendment Act 2000

State Revenue Legislation Amendment Act 2001

State Revenue Legislation Amendment (Budget) Act 2002

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its

publication.

Part 1A Provision consequent on the enactment of the [Pay-roll Tax \(Amendment\) Act 1988](#)

1A Application of certain amendments to adjustment of pay-roll tax

- (1) Sections 11B, 11C, 16K and 16L, and clauses 5 and 6 of Schedule 1, as in force immediately before 1 July 1989, continue to have effect in relation to the adjustment of pay-roll tax for the financial year commencing on 1 July 1988, and earlier financial years, as if the amendments made by Schedule 3 to the amending Act had not been enacted.
- (2) This clause is taken to have commenced on 1 July 1989.
- (3) Subclause (1) re-enacts (with minor modifications) section 4 (2) of the amending Act. Subclause (1) is a transferred provision to which section 30A of the [Interpretation Act 1987](#) applies.
- (4) In this clause, **amending Act** means the [Pay-roll Tax \(Amendment\) Act 1988](#).

Part 1B Provision consequent on the enactment of the [Pay-roll Tax \(Amendment\) Act 1989](#)

1B Application of certain amendments to taxable wages comprising fringe benefits

- (1) Without affecting the liability of an employer to pay-roll tax, an employer is not required to specify taxable wages, comprising fringe benefits, in a return relating to the month of January, February or March 1990.
- (2) The taxable wages, comprising fringe benefits, to be specified in a return relating to the month of April, May or June 1990 are to be determined in accordance with this clause.
- (3) The amount of taxable wages, comprising fringe benefits, required to be specified in the return relating to the month of April 1990 is:
 - (a) the value of the fringe benefits paid or payable by the employer during the months of January, February, March and April 1990, or
 - (b) if the employer has made an election under subclause (4), the amount calculated in accordance with that subclause.
- (4) An employer who has paid or is liable to pay fringe benefits tax imposed by the [Fringe Benefits Tax Act 1986](#) of the Commonwealth in relation to each quarter during the year of tax (within the meaning of the [Fringe Benefits Tax Assessment Act 1986](#) of the Commonwealth) ending on 31 March 1990 may elect to include in the return relating

to the month of April 1990 as the value of the fringe benefits paid or payable by the employer during that month one-third of the fringe benefits taxable amount, or that part of that amount as, in accordance with section 6 (as in force on 1 January 1990), comprises wages liable to pay-roll tax, for that year of tax ending on 31 March 1990.

- (5) The amount of taxable wages, comprising fringe benefits, required to be specified in a return relating to the month of May or June 1990 is:
- (a) the value of the fringe benefits paid or payable by the employer during the relevant month, or
 - (b) if the employer has made an election under subclause (4), one-twelfth of the fringe benefits taxable amount, or that part of that amount as, in accordance with section 6 (as in force on 1 January 1990), comprises wages liable to pay-roll tax, for the year of tax ending on 31 March 1990, unless the employer is able to satisfy the Chief Commissioner that the employer did not pay any fringe benefits during the month concerned.
- (6) An employer may not include in a return relating to the month of July 1990, or any subsequent month, as the value of fringe benefits paid or payable by the employer during that month an amount calculated in accordance with section 13A (2), as amended by the amending Act, unless the employer has made an election under that subsection which is in force under section 13A of the Act, as so amended.
- (7) This clause is taken to have commenced on 1 January 1990.
- (8) Subclauses (1)-(6) re-enact (with minor modifications) section 4 of the amending Act. Subclauses (1)-(6) are transferred provisions to which section 30A of the [Interpretation Act 1987](#) applies.
- (9) In this clause:

amending Act means the [Pay-roll Tax \(Amendment\) Act 1989](#).

fringe benefits taxable amount has the same meaning as in the [Fringe Benefits Tax Assessment Act 1986](#) of the Commonwealth.

return means a return required to be furnished under section 13.

Part 2 Provisions consequent on the enactment of the [State Revenue Legislation \(Amendment\) Act 1994](#)

2 Application of amendments to certain wages

The amendments made by Schedule 6 (3) (a)-(e) and (g) to the [State Revenue Legislation \(Amendment\) Act 1994](#) extend to wages paid or payable before 1 July 1994 but not so as to affect exemptions already granted in respect of wages paid or payable before that date.

Part 3 Provisions consequent on the enactment of the [State Revenue Legislation \(Miscellaneous Amendments\) Act 1996](#)

3 Definitions

In this Part, **defined benefit superannuation scheme** has the same meaning as in the [Superannuation Guarantee \(Administration\) Act 1992](#) of the Commonwealth.

4 Manner of determining liability of certain superannuation benefits to taxation

- (1) Money paid by an employer, after 30 June 1996, in respect of a defined benefit superannuation scheme or an unfunded scheme, that is alleged by the employer to be paid in order to make up a deficiency in the scheme, as at 30 June 1996, relating to a benefit payable in respect of services rendered by an employee or employees on or before that date, must be evidenced to the satisfaction of the Chief Commissioner in the employer's records for pay-roll tax purposes.
- (2) In particular, the employer's records must show the manner of calculation of the deficiency and any actuarial basis for it.
- (3) For the purposes of subclause (2) and of any assessment under section 18 to which that subclause is material, the certificate of a fellow or accredited member of the Institute of Actuaries of Australia to the effect that the actuarial basis on which an amount is calculated as a deficiency is justified is prima facie evidence of that fact.
- (4) Without limiting the generality of any of the provisions of section 18, the Chief Commissioner, on an assessment under that section, is entitled to assume that an appropriation of money after 30 June 1996 as a superannuation benefit is an amount paid or payable in respect of the services of an employee or employees after that date, if records are not kept as this clause requires.
- (5) (Repealed)

5 Superannuation payments not readily related to particular employees or their periods of service

Regulations under clause 1 may make provision for or with respect to:

- (a) determining whether, and the extent to which, any money paid or payable by an employer to a superannuation, provident or retirement fund or scheme that is not identified by the employer as paid or payable in respect of a particular employee (and whether or not purporting to be so paid or payable on any actuarial basis) is to be regarded for the purposes of this Act as money paid or payable in respect of a particular employee, and
- (b) determining what portion of an amount paid on or after 1 July 1996 by an employer to a fund or scheme that is wholly or partly unfunded, being an amount paid in respect of

an employee (or that is taken, by virtue of regulations made for the purposes of paragraph (a), to have been so paid) who rendered services to the employer on or after, as well as before, 1 July 1996 is to be regarded, for the purposes of this Act, as having been paid in respect of services rendered by the employee before that date.

Part 4 Provisions consequent on the enactment of the [State Revenue Legislation \(Miscellaneous Amendments\) Act 1998](#)

6 Payment of pay-roll tax on employment agency contracts

An amount, benefit or payment paid or payable, or provided, on or after 1 July 1999 under an employment agency contract within the meaning of section 3C that was entered into before the date of commencement of that section is liable to pay-roll tax under this Act, subject to section 3C (4).

7 Grouping of commonly controlled businesses

An order made under section 16H that is in force immediately before the commencement of the amendments made to that section by the [State Revenue Legislation \(Miscellaneous Amendments\) Act 1998](#) and that could not have been made if those amendments had been in force at the time the order was made ceases to have effect on 1 July 1999 if it does not cease to have effect on an earlier date.

Part 5 Provisions consequent on enactment of [State Revenue Legislation Further Amendment Act 1999](#)

8 Liability of directors of corporation

- (1) Part 5A extends to an assessment amount that includes pay-roll tax that a corporation first became liable to pay before the commencement of that Part.
- (2) A compliance notice may be served in respect of a failure to pay such an assessment amount, whether the notice of assessment was issued by the Chief Commissioner before or after the commencement of Part 5A.
- (3) However, Part 5A does not make a person who was a director of a corporation before the commencement of Part 5A but is not a director of the corporation at that commencement liable for the payment of an assessment amount owed by the corporation, unless the person again becomes a director of the corporation at any time after the commencement of Part 5A.

Part 6 Provisions consequent on enactment of [State Revenue Legislation Amendment Act 2001](#)

9 Imposition of pay-roll tax on taxable wages

The amendment made to section 7 (1) (b) by Schedule 3 [2] to the [State Revenue](#)

Legislation Amendment Act 2001, insofar as it replaces the reference to July 1996 with a reference to June 1996, is taken to have taken effect on 1 July 1996.

Part 7 Provisions consequent on enactment of *State Revenue Legislation Amendment (Budget) Act 2002*

10 Eligible termination payments

The amendment made to section 3AA by the *State Revenue Legislation Amendment (Budget) Act 2002* applies to and in respect of eligible termination payments paid or payable on or after 1 July 2002.

11 Fringe benefits

The amendments made to sections 9 and 13A by the *State Revenue Legislation Amendment (Budget) Act 2002* apply to a fringe benefit the value of which was paid or payable on or after 1 July 2002.

12 Apprentices

Section 10 (1) (l) applies to wages that are paid or payable for services performed or rendered on or after 1 July 2002.