

Regional Development Act 2004 No 58

[2004-58]



New South Wales

Status Information

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Regional Development Act 2004 No 58



New South Wales

An Act with respect to the provision of financial assistance to regions for economic development; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act is the *Regional Development Act 2004*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Object of Act

The object of this Act is to provide a framework for strategic intervention in the economies of regional New South Wales for the following purposes:

- (a) to help fill gaps left by the market system,
- (b) to promote economic and employment growth in regions,
- (c) to assist regional communities to capitalise on their regional strengths, to broaden and reposition the industry base of their regions and to develop new products and new markets,
- (d) to develop regional or local solutions for regional or local business development problems.

4 Definitions

(1) In this Act:

Director-General means the Director-General of the Department of State and Regional Development.

financial year means the year commencing 1 July 2004 and each following year commencing on 1 July.

group means a group within the meaning of the *Payroll Tax Act 2007*.

payroll tax means payroll tax payable under the *Payroll Tax Act 2007*, excluding additional tax and penal tax imposed by or under that Act.

region means any part of New South Wales (whether described in terms of a local government area or areas or in other terms), other than the Sydney metropolitan area.

Sydney metropolitan area means the area constituted by the local government areas prescribed by the regulations for the purposes of this definition.

(2) Notes included in this Act do not form part of this Act.

Part 2 Financial assistance

5 Grants of financial assistance

- (1) The Minister may, on application made to the Minister, grant financial assistance to:
 - (a) a person conducting or proposing to establish an industry or other business in a region, or
 - (b) a person or a group of persons for the purposes of carrying out an undertaking that is likely to assist the economic development of a region or the object of this Act.
- (2) An application for assistance is to be in the form approved by the Director-General and is to be accompanied by any additional documentation or other information that the Director-General may require.
- (3) In determining an application for financial assistance, the Minister may consider the likely economic impact on the region concerned of granting the assistance.
- (4) Subsection (3) does not limit the matters that may be considered by the Minister.
- (5) The Minister may, on application made to the Minister or at the Minister's discretion, at any time withdraw or vary financial assistance granted under this Act.

Note—

The furnishing of false or misleading information in connection with an application or a false or misleading application is an offence under Part 5A of the *Crimes Act 1900*. The maximum penalty for such an offence is 2 years imprisonment or 200 penalty units, or both.

6 Financial assistance that may be granted

Financial assistance granted under this Act may consist of all or any of a grant of money, a subsidy or a payroll tax rebate.

7 Conditions of grants of financial assistance

- (1) The granting of financial assistance under this Act may be subject to such conditions as the Minister thinks fit.
- (2) Without limiting subsection (1), conditions may relate to the following:
 - (a) meeting specified performance targets or outcomes,
 - (b) obtaining specified investment levels,
 - (c) repayment of assistance where specified performance targets or outcomes or investment levels are not met as required under a condition to which the grant is subject,
 - (d) the periods for which, or the intervals at which, assistance is to be provided.

8 Payroll tax rebates

- (1) A grant of financial assistance under this Act may be in the form of a rebate of payroll tax paid by an employer during a specified financial year or years.
- (2) The amount of the rebate is to be the amount calculated on a basis determined by the Minister.
- (3) The Minister may determine that the rebate is or is not payable in respect of specified employees of an employer.
- (4) An employer is not entitled to a rebate of payroll tax under this Act in respect of a financial year unless:
 - (a) all payroll tax payable by the employer in respect of that year has been paid, and
 - (b) if the employer has been a member of a group during the whole or any part of that year, all payroll tax payable by the other members of that group in respect of the period during which the employer was such a member has been paid.
- (5) For the purposes of this section, if payroll tax is paid by the members of a group in respect of a period, each member of that group is taken to have paid (or paid only) that part of the payroll tax that bears to the payroll tax the same proportion as the wages paid by that member in respect of that period bears to the total wages paid by the members of that group in respect of that period.

9 Repayment of financial assistance

- (1) A person who receives financial assistance under this Act may be required by the Minister by notice in writing to repay the financial assistance if:
 - (a) it was a condition of that assistance that it be repaid, or

- (b) a condition to which the assistance was subject has not been complied with, or
 - (c) the Minister is of the opinion that the assistance was improperly obtained.
- (2) An amount of financial assistance required to be repaid under this section may be recovered by the Director-General in a court of competent jurisdiction as a debt due to the Crown.
- (3) In any proceedings instituted for the recovery of a debt due to the Crown under this section, a certificate of the Minister that a specified amount is the amount of the debt is evidence of that fact.

10 Effect of Act

Nothing in this Act prevents the Minister from granting, or limits the granting of, other assistance for or with respect to regional development, whether or not such assistance could be granted under this Act.

Part 3 Miscellaneous

11 Regional Development Trust Fund

- (1) There is to be established in the Special Deposits Account a Regional Development Trust Fund into which is to be paid:
- (a) all money appropriated by Parliament for the purposes of this Act, and
 - (b) any gift or bequest of money for the purposes of the Fund, and
 - (c) any fees or charges paid under the regulations, and
 - (d) any financial assistance repaid under this Act, and
 - (e) any other money required by law to be paid into the Fund.
- (2) There may be paid out of the Fund:
- (a) amounts of financial assistance under this Act, and
 - (b) the costs of administering this Act, and
 - (c) any other money payable by law out of the Fund.

12 Regional Development Advisory Council

- (1) The Minister may, subject to and in accordance with the regulations, establish a Regional Development Advisory Council.
- (2) The members of the Advisory Council are to be appointed by the Minister in accordance with the regulations.

- (3) The regulations may make provision for or with respect to the membership and procedure of the Advisory Council.
- (4) The Advisory Council has the following functions:
 - (a) to advise the Minister on any matter that is referred to it by the Minister,
 - (b) to advise the Minister on any other matter it considers relevant to the object of this Act.

13 Delegation of functions by Minister and Director-General

- (1) The Minister may, by instrument in writing, delegate to the Director-General any function conferred or imposed on the Minister by or under this Act (other than this power of delegation).
- (2) The Director-General may, by instrument in writing, subdelegate to any authorised person any function delegated to the Director-General by the Minister if the Director-General is authorised to do so by the Minister.
- (3) The Director-General may, by instrument in writing, delegate to an authorised officer any function conferred or imposed on the Director-General by or under this Act (other than this power of delegation).
- (4) In this section:

authorised person means:

 - (a) a member of staff of the Department of State and Regional Development, or
 - (b) any other person prescribed by the regulations.

14 Disclosure of information

A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the administration or execution of this Act (or any other Act), or
- (c) for the purposes of any legal proceedings arising out of this Act (or any other Act) or of a report of any such proceedings, or
- (d) in accordance with a requirement imposed under the [Government Information \(Public Access\) Act 2009](#), or
- (e) in accordance with a requirement imposed under the [Ombudsman Act 1974](#), or
- (f) with the consent of the Minister, or

(g) for the purposes of or to a person in connection with the administration or execution of the *Payroll Tax Act 2007*, or

(h) with other lawful excuse.

Maximum penalty: 100 penalty units.

15 Nature of proceedings for offences

Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.

16 Regulations

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

17 Repeal

The *Country Industries (Pay-roll Tax Rebates) Act 1977* is repealed.

18 (Repealed)

19 Savings and transitional provisions

Schedule 1 has effect.

20 Review of Act

(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings and transitional provisions

(Section 19)

Part 1 General

1 Regulations

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

 this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (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 2 Provisions consequent on enactment of this Act

2 Existing pay-roll tax rebates

- (1) A pay-roll tax rebate of a kind granted to a person under the *Country Industries (Pay-roll Tax Rebates) Act 1977* and in force immediately before the repeal of that Act may continue to be granted under this Act.
- (2) Nothing in this clause requires any such rebate to be continued under this Act.