

# Regional Development Act 2004 No 58

[2004-58]



New South Wales

## Status Information

### Currency of version

Current version for 30 September 2024 to date (accessed 26 December 2024 at 4:56)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes. Text of the legislation is not affected.

This version has been updated.

### Responsible Minister

- Minister for Regional New South Wales

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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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

- (1) 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 promote economic and employment growth in regions in accordance with the principles of ecologically sustainable development,
  - (b) to support sustainable economies, a healthy environment and resilient communities in regions,
  - (c) to support place-based solutions, targeted to the development problems of particular locations and developed in collaboration with the local community, that promote improved economic, environmental and social outcomes in regions,
  - (d) to assist communities in regions to capitalise on regional strengths by supporting the diversification, adaptation and resilience of regional economies, including in relation to established and emerging primary and other industries,
  - (e) to support the transition of communities affected by economic, environmental and social change,
  - (f) to facilitate the economic and social development of Aboriginal communities and Aboriginal enterprises in regions,

(g) to encourage cooperation in relation to the matters in paragraphs (a)–(f) among all tiers of government, including local government, the private sector and not-for-profit organisations.

(2) In this section—

**principles of ecologically sustainable development** means the principles set out in the [Protection of the Environment Administration Act 1991](#), section 6(2).

#### 4 Definitions

(1) In this Act—

**accountable authority**, for a GSF agency, has the same meaning as in the [Government Sector Finance Act 2018](#).

**Department** means the department in which this Act is administered.

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

**Fund** means the Regional Development Trust Fund established under section 11.

**group** means a group within the meaning of the [Payroll Tax Act 2007](#).

**GSF agency** has the same meaning as in the [Government Sector Finance Act 2018](#).

**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.

**Secretary** means the Secretary of the Department.

**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 or on the Minister's own initiative, grant financial assistance to a person for a purpose that is consistent with one or more of the purposes specified in section 3.

(2) An application for assistance is to be in the form approved by the Secretary and is to

be accompanied by any additional documentation or other information that the Secretary 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 section 5 may include the following—

- (a) grants,
- (b) subsidies,
- (c) loans,
- (d) payroll tax rebates,
- (e) other assistance determined by the Minister.

## **7 Conditions of grants of financial assistance**

- (1) The Minister may, when granting financial assistance under this Act—
  - (a) make the assistance subject to a security, or
  - (b) impose conditions on the assistance.
- (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,
  - (e) the payment of interest on the assistance.

## **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 Secretary 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
  - (d1) the proceeds of the investment of money in the Fund, and
  - (d2) money paid as the repayment of the principal or the payment of interest for loans paid out of the Fund, and
  - (d3) money directed by 1 of the following to be paid into the Fund—
    - (i) a Minister,
    - (ii) a government agency,
    - (iii) a GSF agency,
    - (iv) an accountable authority for a GSF agency, and
  - (d4) money paid into the Fund by another person as a voluntary contribution, and
  - (d5) other money required by the regulations to be paid into the Fund, 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
  - (b1) the amounts necessary for the procurement of goods and services that support one or more of the purposes specified in section 3, and
  - (c) any other money payable by law out of the Fund.
- (3) The Minister may invest money in the Fund in any way the Department is permitted to invest money under the [Government Sector Finance Act 2018](#), Part 6.



### **11A Governance framework and investment strategy**

- (1) The Minister must make the following as soon as practicable after the commencement of this section—
  - (a) a governance framework to guide the effective and transparent administration of this Act,
  - (b) an investment strategy to guide grants of financial assistance from the Fund and other payments out of the Fund (the **investment strategy**).
- (2) The investment strategy must contain information about the following—
  - (a) the key focus areas for investment,
  - (b) the principles that guide investment in the focus areas,
  - (c) the investment pathways relating to processes for delivering funding.
- (3) The Minister—
  - (a) must review the investment strategy at least once every 2 years, and
  - (b) may amend the investment strategy at any time.
- (4) The Minister must publish the governance framework and investment strategy on the Department's website.

### **11B Annual report for Fund**

- (1) The Minister must, by 30 November after the end of each financial year—
  - (a) prepare an annual report on the Fund that includes the following information—
    - (i) details of payments from the Fund during the financial year,
    - (ii) actions taken by the Minister in relation to advice received from the Regional Development Advisory Council, including whether the Minister accepted or rejected the advice,
    - (iii) details of the membership of the Regional Development Advisory Council during the financial year, and
  - (b) publish a copy of the report on the Department's website.
- (2) Despite subsection (1), the annual report must not include information that, in the Minister's opinion, is—
  - (a) commercial in confidence, or
  - (b) inappropriate for publication, including personal information within the meaning of

the *Privacy and Personal Information Protection Act 1998*.

(3) In this section—

**financial year** means a period of 12 months commencing on 1 July.

## **12 Regional Development Advisory Council**

- (1) The Minister must 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.
- (5) In exercising the Minister's functions under this Act, the Minister must consider any advice provided by the Advisory Council under section 12(4).

## **13 Delegation of functions by Minister and Secretary**

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

### **Part 3 Provision consequent on enactment of **Regional Development****

## **Amendment Act 2024**

### **3 Annual report for Fund**

Section 11B does not apply to the financial year ending 30 June 2024.

**Note—**

The effect of this provision is that the first annual report prepared by the Minister under section 11B(1) must be—

- (a) prepared for the financial year ending 30 June 2025, and
- (b) published by 30 November 2025.