

House of Assembly—No 149A

As reported with amendments, report agreed to and passed remaining stages,
7 September 2021

South Australia

**Statutes Amendment (Budget Measures 2021)
Bill 2021**

A BILL FOR

An Act to amend the *Land Tax Act 1936*, the *Mining Act 1971*, the *Motor Vehicles Act 1959*, the *Payroll Tax Act 2009* and the *Road Traffic Act 1961*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Budget Measures 2021) Act 2021*.

5 2—Commencement

- (1) Subject to this section, this Act comes into operation on the day on which it is assented to by the Governor.
- (2) Part 2 comes into operation at midnight on 30 June 2022.
- (3) Part 3 is taken to have come into operation on 1 July 2021.
- 10 (4) Part 5 comes into operation on 1 July 2022.
- (5) Part 4 and Part 6 come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Land Tax Act 1936*

5 4—Insertion of section 7A

After section 7 insert:

7A—Reduction in taxable value for certain build-to-rent properties

- 10 (1) For the purpose of assessing land tax, the taxable value of a parcel of land is to be reduced by 50% if—
- (a) a building is situated on the land; and
 - (b) construction of the building commenced on or after 1 July 2021; and
 - 15 (c) the Commissioner is satisfied that the building is being used for a build-to-rent property in accordance with guidelines approved by the Treasurer for the purposes of this section; and
 - (d) an application for the reduction is made in accordance with this section.
- 20 (2) The guidelines may include provisions with respect to the following:
- (a) the circumstances in which a building is taken to be a build-to-rent property, including in relation to the following:
 - (i) the minimum number of build-to-rent dwellings or units within a property;
 - 25 (ii) the minimum lease conditions that must be offered to tenants of the build-to-rent property;
 - (iii) the nature of the ownership and management of the building and the land on which the building is situated;
 - 30 (b) any undertakings that an owner may be required to give in relation to the building and the land on which the building is situated;
 - (c) the development of affordable housing in build-to-rent properties;
 - 35 (d) other matters relating to build-to-rent properties and the land on which build-to-rent properties are situated.
- (3) A guideline may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors; or

- (b) apply differently according to different factors of a specified kind, or both.
- (4) Without limiting the ways in which this section may cease to apply in relation to land, it will cease to apply if the land no longer satisfies requirements specified in the guidelines or if an undertaking given as referred to in subsection (2)(b) is breached.
- (5) If the Commissioner is satisfied that only part of a parcel of land is being used for a build-to-rent property, the reduction in land value under subsection (1) is to be proportionately decreased in accordance with guidelines approved by the Treasurer for the purposes of this section.
- (6) This section does not apply to an owner of land in respect of a financial year unless—
- (a) the owner applies to the Commissioner for the reduction, in the form approved by the Commissioner, either before, or during, that financial year; and
- (b) the owner furnishes the Commissioner with the evidence that the Commissioner requests for the purpose of enabling the Commissioner to determine whether there is an entitlement to the reduction.
- (7) An owner of land whose liability to pay land tax in respect of a financial year has been assessed in accordance with this section must, if this section ceases to apply to the land during that financial year, within 1 month after that occurs, inform the Commissioner of the date on which this section ceased to apply to the land.
- (8) If this section ceases to apply to land during a financial year—
- (a) the taxable value of the land will not be reduced under this section for that financial year; and
- (b) the Commissioner may reassess the land tax payable in respect of the land accordingly.
- (9) This section will expire immediately before midnight on 30 June 2040.

Part 3—Amendment of *Mining Act 1971*

5—Amendment of section 17—Royalty

- (1) Section 17(5)—delete subsections (5) and (6) and substitute:
- (5) The value of minerals, for the purposes of determining royalty, will be the value that represents the market value (excluding GST) of the minerals on—
- (a) in the case of minerals sold pursuant to a contract with a genuine purchaser at arms length—the day on which ownership of the minerals is transferred to the purchaser; and

(b) in any other case—the day on which—

(i) the minerals—

(A) leave the mineral tenement from which the minerals were recovered; or

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(B) are used on the tenement; or

(ii) if the minerals have been transported to mineral land the subject of a miscellaneous purposes licence—the minerals leave that mineral land or are used on that mineral land,

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whichever occurs later.

(6) For the purposes of subsection (5), the market value of minerals will be determined as follows:

(a) subject to paragraph (b), if the minerals are sold pursuant to a contract with a genuine purchaser at arms length, the market value of the minerals will be the contract price (excluding GST) for the minerals;

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(b) if—

(i) the Treasurer is not satisfied that the contract price for the minerals reflects the market pricing of the minerals; or

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(ii) the minerals are not sold pursuant to a contract with a genuine purchaser at arms length,

the market value of the minerals will be determined according to—

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(iii) any price quoted or obtained on a market recognised by the Treasurer, after consultation with the Minister, by notice in the Gazette as being a relevant industry market for the purposes of determining the market value of minerals of that kind; or

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(iv) if subparagraph (iii) does not apply—

(A) the price (if any) declared by the Treasurer, after consultation with the Minister, by notice in the Gazette as being an indicative price for the minerals; or

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(B) the method (if any) declared by the Treasurer, after consultation with the Minister, by notice in the Gazette that is to be used for determining an indicative price for the minerals; or

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(v) if subparagraphs (iii) and (iv) do not apply—

(A) any price obtained in relation to sales of minerals of the same kind where those sales were to genuine purchasers at arms length within the same period for which a return is required to be furnished under section 17CA; or

(B) if no relevant transactions have occurred in that period—any price obtained by other parties within the industry in relation to sales of minerals of the same kind on the open market within the same period for which a return is required to be furnished under section 17CA; or

(vi) if subparagraphs (iii), (iv) and (v) do not apply—the tenement holder's estimate of the reasonable value of the minerals (to be determined in accordance with any requirements, and accompanied by any information, prescribed by the regulations).

(2) Section 17(7)—delete "subsection (5)" and substitute:

subsection (6)(a)

6—Amendment of section 17B—Assessments by Treasurer

Section 17B(1)(b)—delete "section 17(6)(b)(iv)" and substitute:

section 17(6)(b)(vi)

7—Transitional provision

(1) The amendments made by this Part to section 17 of the *Mining Act 1971* apply in relation to the value of minerals for the purposes of determining royalty on or after the commencement of this Part.

(2) A recognition or declaration of the Treasurer made by notice in the Gazette under section 17(6)(b) of the *Mining Act 1971* before the commencement of this Part will, on that commencement, be taken to have been made under section 17(6)(b) of the *Mining Act 1971* as in force after that commencement.

Part 4—Amendment of *Motor Vehicles Act 1959*

8—Amendment of section 5—Interpretation

Section 5(1)—after the definition of *semi-trailer* insert:

series of photographs includes a film, video or other continuous visual recording;

9—Amendment of Schedule 1—Evidence obtained by photographic detection device

- (1) Schedule 1, clause 4(a)(i)—delete "each of the photographs was produced from an exposure taken, or electronic record" and substitute:

5 series of photographs was produced from exposures taken, or electronic records

- (2) Schedule 1, clause 4(a)—delete "will be accepted as proof, in the absence of proof to the contrary, of the date, time and location at which the exposure was taken or the electronic record" and substitute:

10 or series of photographs will be accepted as proof, in the absence of proof to the contrary, of the date, time and location at which the exposures were taken or the electronic records were

Part 5—Amendment of *Payroll Tax Act 2009*

10—Amendment of Schedule 2—South Australia specific provisions

15 Schedule 2, clause 17—delete clause 17

11—Transitional provision

20 Despite section 10, Schedule 2 clause 17 of the *Payroll Tax Act 2009* (as in force immediately before the commencement of section 10) continues to apply to payroll tax on taxable wages (within the meaning of the *Payroll Tax Act 2009*) paid or payable before the commencement of section 10.

Part 6—Amendment of *Road Traffic Act 1961*

12—Amendment of section 5—Interpretation

Section 5(1)—after the definition of *semi-trailer* insert:

25 *series of photographs* includes a film, video or other continuous visual recording;

13—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices

- (1) Section 79B(10)(a)(i)—delete "each of the photographs was produced from an exposure taken, or electronic record" and substitute:

30 series of photographs was produced from exposures taken, or electronic records

- (2) Section 79B(10)(a)—delete "will be accepted as proof, in the absence of proof to the contrary, of the date, time and location at which the exposure was taken or the electronic record" and substitute:

35 or series of photographs will be accepted as proof, in the absence of proof to the contrary, of the date, time and location at which the exposures were taken or the electronic records were

14—Insertion of section 175B

After section 175A insert:

175B—Evidence relating to use of devices in or on vehicles

- (1) This section applies to the following:
- (a) a device use offence;
 - (b) an offence against section 79B constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a prescribed photographic detection device to have been involved in the commission of a device use offence.

- (2) Evidentiary provisions—
- (a) relating to evidence obtained through the operation of a prescribed photographic detection device; and
 - (b) facilitating proof of the commission of an offence to which this section applies,
- (including presumptions that may be rebutted by the defendant on the balance of probabilities), may be prescribed by regulation or rule under this section.

- (3) Nothing in this section derogates from any other power under this Act to prescribe evidentiary provisions to facilitate proof of offences.

- (4) Despite any other Act or law, evidence obtained through the operation of a prescribed photographic detection device may only be used for purposes connected with the detection and enforcement of—
- (a) a road law offence; or
 - (b) an offence arising out of the use of a motor vehicle.

- (5) In this section—
- device use offence*** means a prescribed offence under section 79B relating to the use of a device in or on a vehicle that is defined by the regulations as a device use offence;
- prescribed photographic detection device*** means a photographic detection device prescribed by the regulations for the purposes of this section.