

## **Legislative Council—No 150A**

As reported with amendments, suggested amendments and an amended title, report adopted, Standing Orders suspended and passed remaining stages, 26 October 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*, the *Public Finance and Audit Act 1987* 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*.

## 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.
- 5 (3) Part 3 is taken to have come into operation on 1 July 2021.
- (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

10 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*

### 4—Insertion of section 7A

After section 7 insert:

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

- 15 (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
  - 20 (b) construction of the building commenced on or after 1 July 2021; and
  - (c) the Commissioner is satisfied that the building is being used for a build-to-rent property in accordance with ~~the guidelines approved by the Treasurer for the purposes of this section~~ the regulations; and
  - 25 (d) an application for the reduction is made in accordance with this section.
- (2) ~~The guidelines~~ Regulations made for the purposes of this section may include provisions with respect to the following:
  - 30 (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;
    - (ii) the minimum lease conditions that must be offered to tenants of the build-to-rent property;
    - 35 (iii) the nature of the ownership and management of the building and the land on which the building is situated;

- 5
- (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;
- (d) other matters relating to build-to-rent properties and the land on which build-to-rent properties are situated.
- 10 (3) ~~[A guideline]~~Regulations made for the purposes of this section 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.
- 15 (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]~~regulations or if an undertaking given as referred to in subsection (2)(b) is breached.
- 20 (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]~~the regulations.
- 25 (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.
- 30
- (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.
- 35
- (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.
- 40
- (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                   (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—
- 10                   (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
- 15                   (b) in any other case—the day on which—
- (i) the minerals—
- (A) leave the mineral tenement from which the  
minerals were recovered; or
- (B) are used on the tenement; or
- 20                   (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,
- whichever occurs later.
- 25                   (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;
- 30                   (b) if—
- (i) the Treasurer is not satisfied that the contract price  
for the minerals reflects the market pricing of the  
minerals; or
- (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—
- 35                   (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  
40                   kind; or

(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

(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

(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:

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:

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**

Schedule 2, clause 17—delete clause 17

### **11—Transitional provision**

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 5A—Amendment of *Public Finance and Audit Act 1987***

### **11A—Insertion of Part 3A**

After section 39 insert:

#### **Part 3A—Parliamentary Budget Advisory Service**

##### **39A—Establishment of Parliamentary Budget Advisory Service**

- (1) The Treasurer must, in each relevant election period, establish and maintain a Parliamentary Budget Advisory Service (*PBAS*) in accordance with this section.
- (2) The *PBAS* is to be established under the *Public Sector Act 2009* as an attached office to a government department administered by the Treasurer.

- 5
- (3) The function of the PBAS established in a relevant election period is to provide independent and consistent costings of policies developed by registered political parties and other candidates for the relevant general election in a timely manner and in a form which is useful to the candidates for informing the public in advance of the election.
- (4) The Treasurer must ensure that—
- 10
- (a) the level of funding provided for the PBAS is sufficient to enable it to act with all due speed in relation to requests for costings and to deal with multiple such requests at the same time; and
- (b) the PBAS is managed by an executive employee of a public sector agency (within the meaning of the *Public Sector Act 2009*); and
- 15
- (c) the general staffing and administrative arrangements for the PBAS will allow it to properly carry out its function; and
- (d) the PBAS remains available to deal with requests for costings throughout the whole of the relevant election period.
- 20
- (5) Except as may be necessary for the purpose of providing a costing to a registered political party or candidate, a person carrying out official functions of, or in relation to, the PBAS must not disclose any information obtained in the performance of those functions to any person who isn't carrying out official functions of, or in relation to, the PBAS and, in particular, must not directly or indirectly disclose such information to—
- 25
- (a) any other registered political party or candidate (not being the registered political party or candidate that requested the costing); or
- (b) any Minister or Ministerial staff.
- 30
- Maximum penalty: \$2 500 or imprisonment for 6 months.
- (6) The PBAS established in a relevant election period must provide a report on its operations to the Treasurer by 30 April in the year of the relevant general election.
- 35
- (7) The Treasurer must, within 12 sitting days after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.
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- (8) The copy of the report to be laid before Parliament must set out in a prominent position the date on which it was presented to the Treasurer and if the report is presented to the Treasurer after the end of the period allowed under this section, the report must be accompanied by a written statement of the reasons for the delay and the statement must be laid before each House of Parliament together with the report.

(9) In this section—

*relevant election period* means the period commencing on 1 July in the year immediately before a general election of members of the House of Assembly is held in accordance with section 28(1) of the *Constitution Act 1934* and ending on the day of that general election (and includes, if this section comes into operation during a relevant election period, the remainder of that relevant election period).

### 11B—Transitional provision

For the avoidance of doubt, Part 3A of the *Public Finance and Audit Act 1987* (as inserted by this Act) applies (on and after the commencement of Part 3A) for the remainder of the relevant election period that commenced on 1 July 2021.

### 11C—Insertion of section 41B

After section 41A insert:

#### 41B—Approval of Auditor-General required for certain government advertising expenditure

- (1) The principal officer of a government agency must ensure that the agency does not expend or incur expenditure of more than \$10 000 on government advertising published or caused to be published by the government agency during a relevant election period, unless the government advertising is approved by the Auditor-General or by resolution passed by both Houses of Parliament.
- (2) The Auditor-General may only grant an approval for the purposes of subsection (1) (a *section 41B approval*) if satisfied that the government advertising is necessary for the proper functions of government.
- (3) For the purposes of subsection (2), government advertising will be taken to be necessary for the proper functions of government if the Auditor-General is satisfied that the primary purpose of the government advertising is to communicate information relating to the following:
  - (a) public health and public safety;
  - (b) road and public transport works or interruptions;
  - (c) emergencies;
  - (d) legal or statutory matters;
  - (e) electoral material published under the authority of the Electoral Commissioner;
  - (f) the engagement or employment of persons in the service of the government;
  - (g) attendance at an event;
  - (h) tourism;
  - (i) auctions and other sales of property, goods and services;

- (j) courses at tertiary educational institutions.

**Note—**

Government advertising for the purposes of generally promoting government programs or achievements, government spending or the future delivery of infrastructure projects or initiatives is not to be regarded as necessary for the proper functions of government.

- (4) The Auditor-General must, within 7 days of the end of each month that falls in a relevant election period, publish a report on the details of each section 41B approval granted during the month to which the report relates.
- (5) Notice of a motion for a resolution under subsection (1) must be given at least 3 sitting days before the motion is passed.
- (6) In this section—

**government advertising** means advertising by a government agency (whether comprised of a single advertisement or a series of advertisements) and includes a promotional campaign;

**government agency** means—

- (a) a Minister; or
- (b) an administrative unit of the Public Service; or
- (c) an agency or instrumentality of the Crown; or
- (d) any other person or body declared under the *Public Sector Act 2009* to be a public sector agency;

**principal officer**, in relation to a government agency, means—

- (a) if the agency consists of a single person (including a corporation sole but not any other body corporate)—that person;
- (b) if the agency consists of an unincorporated board or committee—the presiding officer;
- (c) in any other case—the chief executive officer of the agency or a person determined by the Auditor-General to be the principal officer of the agency;

**relevant election period** means the period commencing on 1 July in the year immediately before a general election of members of the House of Assembly is held in accordance with section 28(1) of the *Constitution Act 1934* and ending on the day of that general election (and includes, if this section comes into operation during a relevant election period, the remainder of that relevant election period).

- (7) For the purposes of this section, a reference to advertising published or caused to be published by a government agency includes a reference to advertising that the government agency pays for or arranges the placement of.

(8) The Auditor-General may exercise the Auditor-General's powers under section 34 of this Act for the purposes of determining whether or not to grant a section 41B approval and section 34 applies as if—

(a) a reference to the conduct of an audit or review, or the making of an examination; and

(b) a reference to an audit, review or examination,

were a reference to the determination whether or not to grant a section 41B approval.

### **11D—Transitional provision**

(1) For the avoidance of doubt, section 41B of the *Public Finance and Audit Act 1987* (as inserted by section 11A of this Act) applies (on and after the commencement of section 11A) for the remainder of the relevant election period that commenced on 1 July 2021 to government advertising published or caused to be published on or after that commencement, including government advertising under a contract or arrangement entered into before the commencement of section 11A.

(2) If government advertising under a contract or arrangement of a kind referred to in subsection (1) is not approved under section 41B of the *Public Finance and Audit Act 1987*, the government agency remains liable for any amounts payable under the contract (as if the government advertising were published in accordance with the contract).

## **Part 6—Amendment of *Road Traffic Act 1961***

### **12—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;

### **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:

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:

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.