

South Australia

Pay-roll Tax Act 1971

An Act to make provision for a tax on employers in respect of certain wages; and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation
- 4 Application of Act to service contracts
- 4A Employment agents
- 4B Third party payments
- 4C Agreement etc to reduce or avoid liability to pay-roll tax
- 5 Taxation Administration Act

Part 3—Liability to taxation

- 8 Wages liable to pay-roll tax
- 9 Imposition of pay-roll tax on taxable wages
- 10 Employer to pay pay-roll tax
- 11 Time for payment of tax
- 11A Deduction from taxable wages
- 12 Exemptions
- 13A Meaning of prescribed amount
- 13B Annual adjustments
- 13C Adjustment of pay-roll tax when employer ceases to be an employer during a financial year

Part 4—Registration and returns

- 14 Registration
- 15 Returns
- 16 Further returns

Part 4A—Grouping provisions

- 18A Interpretation
- 18B Grouping of corporations
- 18C Grouping where employees used in another business
- 18D Grouping of commonly controlled businesses
- 18E Grouping by regulation
- 18F Smaller groups subsumed into larger groups
- 18G Grouping provisions to operate independently
- 18H Beneficiaries under discretionary trusts
- 18I Exclusion of persons from groups

- 18J Designated group employer
- 18K Interpretation
- 18L Annual adjustments
- 18M Payment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year
- 33 Contributions from joint taxpayers

Part 5—Regulations

- 35 Regulations

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Pay-roll Tax Act 1971*.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

Australia means the States of the Commonwealth;

the Commissioner means the person appointed or acting as the Commissioner of State Taxation, and includes a person appointed or acting as a Deputy Commissioner of State Taxation (see Part 9 of the *Taxation Administration Act 1996*);

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

company includes all bodies or associations (corporate or unincorporate) and partnerships;

corporation means a corporation within the meaning of 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 means a council or controlling authority under the *Local Government Act 1934*;

designated group employer, in relation to a group, means the member of that group who, under section 18J, is for the time being the designated group employer in respect of that group;

eligible termination payment has the meaning given by Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936* of the Commonwealth;

employer means a person who pays or is liable to pay any wages and includes the Crown in right of the State of South Australia;

financial year means any 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;

GST means the tax payable under the GST law;

GST law means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999* (Cwth); and
- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods and services;

interstate wages means wages that are taxable wages within the meaning of a corresponding law;

partly funded scheme of superannuation means a scheme of superannuation (including a provident or retirement fund or scheme) under which the employer's liability for superannuation benefits is partly satisfied by a payment within the meaning of paragraph (a) of the definition of **superannuation benefit**;

pay, in relation to any form of wages, includes provide, confer or assign;

pay-roll tax means pay-roll tax chargeable under section 9;

person includes a company;

return period, in relation to an employer, means a period relating to which that employer is required to lodge a return under this Act;

State includes—

- (a) the Australian Capital Territory; and
- (b) the Northern Territory;

superannuation benefit means—

- (a) —
 - (i) a payment of money by an employer on behalf of an employee to, or the setting apart of money by an employer on behalf of an employee as, a superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth; or
 - (ii) a payment by an employer of a superannuation guarantee charge within the meaning of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth; or

- (iii) a payment of money by an employer on behalf of an employee to, or the setting apart of money by an employer on behalf of an employee as, any other form of superannuation, provident or retirement fund or scheme; or
- (iv) —
 - (A) the crediting of an account of an employee, or any other allocation to the benefit of an employee (other than the actual payment of a benefit), so as to increase the entitlement or contingent entitlement of the employee under any form of superannuation, provident or retirement fund or scheme; or
 - (B) the crediting or the debiting of any other account, or any other allocation or deduction, so as to increase the entitlement or contingent entitlement of an employee under any form of superannuation, provident or retirement fund or scheme;
- (b) in the case of a person who is a member of the old or new scheme under the *Superannuation Act 1988* or of any other unfunded or partly funded scheme of superannuation—the Treasurer's estimate of the contingent liability of the person's employer for superannuation benefits under that Act or scheme in respect of that person;

taxable wages means wages that are liable to pay-roll tax under section 8;

unfunded scheme of superannuation means a scheme of superannuation (including a provident or retirement fund or scheme) under which no payment within the meaning of paragraph (a) of the definition of **superannuation benefit** is made by the employer in total or partial satisfaction of his, her or its liability for superannuation benefits;

voting share has the same meaning as in the *Corporations Act 2001* of the Commonwealth;

wages means any wages, remuneration, salary, commission, bonuses or allowances paid or payable to a person in relation to his or her capacity as an employee and, without limiting the generality of the foregoing, 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 South Australia or in the service of the Crown in right of the State of South Australia;
- (b) any amount paid or payable under any contract of a prescribed class to the extent to which that payment is attributable to labour;
- (c) any amount paid or payable by a company by way of remuneration to a director or member of the governing body of that company;
- (d) any amount paid or payable by way of commission to an insurance or time-payment canvasser or collector;
- (e) any fringe benefit;
- (f) the value of any payments made in kind;
- (g) any other amount or benefit determined by or under a provision of this Act to be wages.

- (1a) An allowance of the kind prescribed by the regulations which is paid or payable to an employee is to be regarded as an allowance for the purposes of the definition of wages 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.
- (1ab) On and after 1 July 2002 wages include an eligible termination payment (but until that date wages do not include an eligible termination payment).
- (1b) Wages do not include anything that is prescribed by the regulations not to be wages for the purposes of this Act.
- (1c) For the purposes of this Act, the value of taxable wages comprising a fringe benefit is—
- (a) until 1 July 2002—the value that would be the taxable value of the benefit as a fringe benefit;
 - (b) on and after 1 July 2002—the value that would be the fringe benefits taxable amount,
- for the purposes of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth.
- (1d) If a person to whom taxable wages are paid is liable to GST on the supply of services for which the wages are paid, the amount of the taxable wages is to be reduced, for the purpose of calculating pay-roll tax, by the amount of the GST referable to the services for which the wages are paid.
- (2) Wages include a superannuation benefit.
- (2a) For the purposes of this Act, where a superannuation benefit arises under this Act because of subparagraph (iv) of paragraph (a) of the definition of ***superannuation benefit***—
- (a) subject to paragraphs (b) and (c), the amount of wages attributable to that superannuation benefit will be taken to be the value of the increase of the entitlement or contingent entitlement of the relevant employee;
 - (b) if that superannuation benefit can be directly attributed to a payment or setting apart of money within the ambit of subparagraph (i), (ii), or (iii) of paragraph (a) of the definition of ***superannuation benefit***, the value of the superannuation benefit under subparagraph (iv) (and therefore the relevant amount of wages) will only be the amount (if any) by which the value of that benefit exceeds the amount of the payment or setting apart of money (as the case may be);
 - (c) if that superannuation benefit can be directly attributed to an increase in the capital of the relevant fund or scheme or to the payment of interest, over and above any contribution that the employer is required to make, or would be required to make but for the increase in capital or the payment of interest, the value of the superannuation benefit (to the extent that it exceeds any contribution that the employer is required, or would be required, to make as mentioned above), will be taken to be nil;

- (d) if there is a crediting or a debiting of an account, or any other allocation or deduction, and a corresponding debiting or crediting, or deduction or allocation, then liability for pay-roll tax will only arise with respect to one crediting or debiting, or allocation or deduction, so as to avoid double taxation.
- (3) The Treasurer may estimate the contingent liability of an employer for benefits that will be payable to or in respect of an employee who is a member of the old or new scheme of superannuation under the *Superannuation Act 1988* or of any other unfunded or partly funded scheme of superannuation.
- (3a) For the purposes of this Act, wages that are comprised of the Treasurer's estimate of an employer's contingent liability for superannuation benefits will be taken to be payable as soon as the contingent liability accrues.
- (3b) The Treasurer's estimation—
 - (a) must be based on the following assumptions:
 - (i) that the employee will continue in employment with the same employer until he or she reaches the age of retirement under the superannuation scheme concerned and that the employee will then retire; and
 - (ii) that the employee's rate of salary will remain constant until the age of retirement; and
 - (iii) in the case of a contributory scheme—that the employee will from the time at which the estimation is made be an active contributor at the standard rate until retirement (even though the contributor may not be an active contributor when the estimation is made); and
 - (b) must (where applicable) make allowance for the fact that the liability of the employer will effectively be reduced because part of the benefits paid to or in respect of the employee will be charged against his or her contribution account.
- (4) Where for the purposes of section 13A or 18K it is necessary to calculate an amount in accordance with a formula and, but for this subsection, an amount included in the formula would be an amount of dollars and cents, the cents are disregarded.
- (5) A liability for pay-roll tax is assessed in accordance with the provisions of this Act as in force at the time the liability arises and such a liability, once having arisen, is not affected by a subsequent amendment to this Act (except to the extent that the amendment operates retrospectively).

4—Application of Act to service contracts

- (1) Subject to subsection (2), a service contract is a contract (not being a contract of employment) under which a person (in this section referred to as a ***designated person***), in the course of a business carried on by the person—
 - (a) supplies services to another person for or in relation to the performance of work; or
 - (b) is supplied with the services of another person for or in relation to the performance of work; or

- (c) gives out goods to a person for work to be performed by the person in respect of the goods and for resupply of the goods to the designated person or, where the designated person is a member of a group, to another member of that group.
- (2) A service contract for the purposes of this section does not include a contract—
- (a) where the services are ancillary—
 - (i) to the supply of goods by the person supplying the services; or
 - (ii) to the use of goods that are the property of the person supplying the services; or
 - (b) where the services are provided—
 - (i) for a period that does not exceed 90 days; or
 - (ii) for periods that in aggregate do not exceed 90 days in a financial year,and the services are not services—
 - (iii) provided by a person who provides similar services to the designated person; or
 - (iv) for or in relation to the performance of work where any person who performs the work also performs similar work for the designated person; or
 - (c) where the services are of a kind ordinarily required by the designated person for less than 180 days in a financial year; or
 - (d) where—
 - (i) the services are of a kind not ordinarily required by the designated person; and
 - (ii) the services are supplied by a person who, in the financial year in which the services are supplied, renders (or can be reasonably expected to render) services of that kind to the public generally; or
 - (e) where the Commissioner is satisfied that the services are supplied by a person who ordinarily renders services of that kind to the public generally; or
 - (f) where the services are supplied by a person (the *contractor*) and the work to which the services relate is performed—
 - (i) by two or more persons employed by, or who provide services for, the contractor in the course of business carried on by the contractor; or
 - (ii) where the contractor is a partnership, by one or more members of the partnership and one 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 one 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 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; or

- (g) where—
- (i) the services are ancillary to the conveyance of goods by means of a vehicle provided by the person conveying the goods; or
 - (ii) the services are supplied to a person for or in relation to the procurement of persons to take out insurance with the person; or
 - (iii) the services are supplied to a person for or in relation to the door-to-door sale of goods to consumers on the person's behalf,

unless the 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; or

- (h) where the services are supplied by an employment agent, or a contract worker procured by an employment agent, under an employment agency contract within the meaning of section 4A; or
- (i) where the service contract is of a class excluded from the operation of this section by the regulations.

(3) For the purposes of this Act—

- (a) a person—
- (i) who is supplied with services for or in relation to the performance of work under a service contract; or
 - (ii) who gives out goods to another person under a service contract,
- will be taken to be an employer; and
- (b) a person—
- (i) who performs work for or in relation to which services are supplied to another person under a service contract; or
 - (ii) who is a person who resupplies goods to a person under a service contract,

will be taken to be an employee of the person who is taken to be an employer under the contract; and

- (c) subject to this section, any amount paid or payable for or in relation to the performance of work under a service contract or the resupply of goods under a service contract will be taken to be wages paid or payable by the person who is taken to be an employer under the contract.

(4) Where an amount referred to in subsection (3)(c) is included in a larger amount paid or payable, or provided, by an employer under a service contract, that proportion of the larger amount that is not to be attributable to the performance of work under a service contract or the resupply of goods under a service contract may be determined by the Commissioner.

- (5) Where—
- (a) the supplier of the service under a service contract employs or engages a person to carry out some or all of the work to be performed by the supplier under the contract; and
 - (b) pay-roll tax is paid by the employer under the service contract in respect of the amounts paid or payable under the service contract for or in relation to the performance of that work,

pay-roll tax is not payable on any amount paid or payable by the supplier of the service to the person employed or engaged by the supplier to carry out the work to the extent that the amount can be related to the performance of that particular work.

- (5a) For the purposes of this section, an amount paid or payable for or in relation to the performance of work under a service contract will be taken to include—
- (a) the value of any benefits provided for or in relation to the performance of work under a service contract that would be a fringe benefit if provided to a person in the capacity of an employee; and
 - (b) any payment made by a person who is taken to be an employer under a service contract in relation to a person who is taken to be an employee under the service contract that would be a superannuation benefit if made in relation to a person in the capacity of an employee.

- (6) A reference in this section to a contract includes a reference to an agreement, arrangement or undertaking whether formal or informal and whether express or implied.

- (7) In this section—

resupply, in relation to goods acquired from a person, includes the supply to the person—

- (a) of goods in an altered form or condition; or
- (b) of goods that incorporate the goods acquired from the person; or
- (c) of an article manufactured or produced from any such goods;

services includes the results (whether goods or services) of work performed;

supply includes—

- (a) the supply of goods by way of sale, exchange, lease, hire or hire-purchase; and
- (b) in relation to services, the providing, granting or conferring of services.

4A—Employment agents

- (1) An employment agency contract is a contract (not being a contract of employment) 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 his or hers and as a result receives directly or indirectly payment, whether by way of a lump sum or ongoing fee, during or in respect of the period when the services are provided by the contract worker to the client.

- (1a) For the purposes of this section, where an employment agent under an employment agency contract engages a third party to procure the services of a contract worker for the client of the employment agent (whether or not a further party or parties are in turn engaged to procure those services)—
- (a) the services of the contract worker will be taken to have been procured for the client by the employment agent; and
 - (b) any amount received directly or indirectly by the third party as a result of being so engaged, whether by way of a lump sum or ongoing fee, during or in respect of the period when the services are provided by the contract worker to the employment agent's client, will be taken to be remuneration paid or payable to the contract worker in respect of the provision of those services.
- (2) For the purposes of this Act—
- (a) the employment agent under an employment agency contract will be taken to be an employer; and
 - (b) the contract worker under an employment agency contract will be taken to be an employee of the employment agent; and
 - (c) —
 - (i) any amount paid or payable by way of remuneration to the contract worker in respect of the provision of services in connection with an employment agency contract; and
 - (ii) the value of any benefits 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,
other than to the extent that such an amount, benefit or payment would be exempt from pay-roll tax had the contract worker been paid by the client as an employee, will be 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 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) Where an employment agent under an employment agency contract—
- (a) by arrangement procures the services of a contract worker for a client of the employment agent; and
 - (b) pays pay-roll tax in respect of an amount, benefit or payment that is, under subsection (2)(c), taken to constitute wages paid or payable by the employment agent in respect of the provision of those services in connection with the contract,

no other person (including any other person engaged to procure the services of the contract worker for the employment agent's client as part of the arrangement) is liable to pay pay-roll tax in respect of wages paid or payable for the procurement or performance of those services by the contract worker for the client.

4B—Third party payments

- (1) If—
- (a) an amount or benefit is paid or payable, or provided, to, on behalf of or in relation to a person other than the employee in relation to the performance of work by an employee or otherwise on account of the existence of the relationship of employee and employer; and
 - (b) the payment of the amount or the provision of the benefit is or will be made by the employer or a person acting for or in concert, or under or pursuant to a contract with, the employer; and
 - (c) the amount or benefit, if it were paid or payable, or provided, to, on behalf of or in relation to the employee, would constitute wages paid or payable by the employer for the purposes of this Act,

the amount or value of the benefit will be taken to be wages paid or payable by the employer to the employee.

- (2) If—
- (a) an amount or benefit is paid or payable, or provided, to, on behalf of or in relation to an employee by a person other than the employer in relation to the performance or work by the employee or otherwise on account of the existence of the relationship of employer and employee; and
 - (b) the amount or benefit, if it were paid or payable, or provided, by the employer, would constitute wages paid or payable by the employer for the purposes of this Act,

the amount or value of the benefit will be taken to be wages paid or payable by the employer to the employee (and the person by whom the amount or benefit is paid or payable, or provided, is not liable to pay-roll tax to the extent to which the employer pays pay-roll tax in respect of that amount or benefit).

- (3) A reference in subsection (1) to a contract includes a reference to an agreement, arrangement or undertaking whether formal or informal and whether express or implied.

4C—Agreement etc to reduce or avoid liability to pay-roll tax

- (1) Without derogating from the operation of a preceding provision of this Part, where—
- (a) a person enters into any agreement, arrangement or transaction, 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 or benefit provided to some other person related or connected to the natural person performing or rendering the services; and
 - (b) the Commissioner has reason to believe or suspect that the purpose of the agreement, arrangement or transaction is to reduce or avoid the liability of any person to the assessment, imposition or payment of pay-roll tax,

the Commissioner may—

- (c) disregard the agreement, arrangement or transaction; and
 - (d) determine that any party to the agreement, arrangement or transaction will be taken to be an employer for the purposes of this Act; and
 - (e) determine that any payment made or benefit provided in respect of the agreement, arrangement or transaction will be taken to be wages for the purposes of this Act.
- (2) Where the Commissioner makes a determination under subsection (1), the Commissioner must serve a notice to that effect on the person taken to be an employer for the purposes of this Act and set out in the notice the facts on which the Commissioner relies and the reasons for making the determination.

5—Taxation Administration Act

This Act should be read together with the *Taxation Administration Act 1996* which provides for the administration and enforcement of this Act and other taxation laws.

Part 3—Liability to taxation

8—Wages liable to pay-roll tax

- (1) Subject to subsection (1a), all wages are liable to pay-roll tax under this Act.
- (1a) Wages paid or payable by an employer to a particular employee in a particular month are, however, not liable to pay-roll tax under this Act if—
- (a) the wages are paid or payable in the State and—
 - (i) the wages relate, in their entirety, to services performed or rendered (or to be performed or rendered) wholly in one other State; or
 - (ii) the wages relate, in their entirety, to services performed or rendered (or to be performed or rendered) outside Australia and the employee has not, during the period of 6 months immediately preceding the month in which the wages are paid or become payable, performed or rendered services for the employer in the State; or
 - (b) the wages are paid or payable outside the State (or outside Australia) and relate, in their entirety, to services performed or rendered (or to be performed or rendered) wholly outside the State or mainly outside Australia; or
 - (c) the wages are exempt from pay-roll tax under section 12.
- (2) Wages that are payable to a person by an employer, but have not been paid (not being wages that, under the terms of employment, are payable in this State or in another State) are to be taken—
- (a) where those wages are payable in respect of services performed or rendered wholly in this State—to be wages payable to that person in this State; or
 - (b) where those wages are not payable in respect of services performed or rendered wholly in this State or wholly in one other State and the wages that were 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 this State; or

- (c) where those wages are not to be taken under paragraph (a) or (b) or under any provision of a corresponding law that corresponds with either of those paragraphs, to be wages payable to that person in this State or in another State—to be wages payable to that person by that employer at the place where that person last performed or rendered any service for that employer before those wages became payable.
- (3) For the purposes of this section—
- (a) wages paid by way of a cheque, bill of exchange, promissory note, money order or postal order issued by a post office or any other instrument, and sent or given by an employer to a person or his or her agent at a place in Australia, are to be taken to have been paid at that place and to have been paid when the instrument was sent or given; and
 - (b) wages paid by way of the electronic transfer of funds by an employer to an ADI account maintained by a person or his or her agent at a place in Australia are to be taken to have been paid at that place and to have been paid when the funds were transferred.

9—Imposition of pay-roll tax on taxable wages

- (1) Subject to, and in accordance with, the provisions of this Act, pay-roll tax is imposed and chargeable on all taxable wages at the rate of—
- (a) in relation to wages paid or payable before 1 December 1994—6.1 per cent of those wages;
 - (b) in relation to wages paid or payable on or after 1 December 1994 and before 1 July 2001—6 per cent of those wages;
 - (c) in relation to wages paid or payable on or after 1 July 2001 and before 1 July 2002—5.75 per cent of those wages;
 - (d) in relation to wages paid or payable on or after 1 July 2002 and before 1 July 2004—5.67 per cent of those wages;
 - (e) in relation to wages paid or payable on or after 1 July 2004 and before 1 July 2007—5.5 per cent of those wages;
 - (f) in relation to wages paid or payable on or after 1 July 2007 and before 1 July 2008—5.25 per cent of those wages;
 - (g) in relation to wages paid or payable on or after 1 July 2008—5 per cent of those wages.
- (2) Pay-roll tax is levied and collected for the credit of the Consolidated Account at the Treasury.

10—Employer to pay pay-roll tax

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

11—Time for payment of tax

Every employer liable to pay pay-roll tax must pay the pay-roll tax within the time within which the employer is required by this Act to lodge the return of the wages in respect of which the pay-roll tax is payable.

11A—Deduction from taxable wages

- (1) In this section—

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

prescribed amount in relation to a return for a return period—

- (a) where the return period is a period of one month—
 - (i) ending before 1 January 1992, means \$36 000;
 - (ii) commencing on or after 1 January 1992 and ending before 1 July 1992, means \$37 000;
 - (iii) commencing on or after 1 July 1992 and ending before 1 July 2002, means \$38 000;
 - (iv) commencing on or after 1 July 2002, means \$42 000;
- (b) where the return period is a period of more than one month, means for each month of the return period the amount referred to in paragraph (a) of this definition in relation to that month;

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

- (3) For the purposes of ascertaining the pay-roll tax payable in respect of a return period commencing on or after 1 October, 1990, by an employer who does not pay and is not liable to pay interstate wages during that return period, a deduction is made from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer as follows:
- (a) where the employer pays or is liable to pay taxable wages for the whole of the return period—the deduction is the prescribed amount;
 - (b) where the employer pays or is liable to pay taxable wages for part only of the return period—the deduction is an amount that bears to the prescribed amount the same proportion as the number of days in that part of the return period bears to the number of days in the whole of the return period.
- (5) An employer who during any return period pays or is liable to pay taxable wages and interstate wages may, by notice in the form approved by the Commissioner, served on the Commissioner, nominate an amount, calculated in the prescribed manner, not exceeding the prescribed amount, as the deduction that the employer claims to be entitled to make for that return period and for subsequent return periods.
- (6) For the purpose of ascertaining the pay-roll tax payable by an employer who has served on the Commissioner a notice under subsection (5), the amount nominated in that notice is, subject to subsection (7), deducted from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to the return period that last ended before service of the notice or any subsequent return period).

- (7) The Commissioner may, on an application made in writing by, or on the Commissioner's own initiative in relation to, an employer who pays or is liable to pay taxable wages and interstate wages during any return period, at any time, make a determination specifying an amount, not exceeding the prescribed amount, that may be deducted for any return period specified or referred to in the determination (being a return period commencing before or after, or the return period in which, the determination is made) from the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) and the amount so specified will be deducted, for any such return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period).
- (8) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (7) and such a revocation has effect on and from the first day of the return period specified in the instrument, whether that return period is the one in which the instrument of revocation is executed or a return period falling before or after that return period (but the revocation cannot take effect before the date of the determination).
- (9) The Commissioner must, as soon as practicable after making a determination under subsection (7), serve notice of the determination on the employer concerned.

12—Exemptions

- (1) The wages liable to pay-roll tax under this Act do not include wages paid or payable—
 - (a) by the Governor of a State; or
 - (b) by—
 - (i) a religious institution to a person during a period in respect of which the institution satisfies the Commissioner that the person is engaged exclusively in religious work of the religious institution; or
 - (ii) a public benevolent institution to a person during a period in respect of which the institution satisfies the Commissioner that the person is engaged exclusively in work of the institution of a public benevolent nature; or
 - (iii) a public hospital to a person during a period in respect of which the hospital satisfies the Commissioner that the person is engaged exclusively in work of the hospital of a kind ordinarily performed in connection with the conduct of public hospitals; or
 - (c) by a hospital that 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, being wages paid or payable to a person during a period in respect of which the hospital satisfies the Commissioner that the person is engaged exclusively in work of the hospital of a kind ordinarily performed in connection with the conduct of hospitals; or

- (ca) by an employer who provides health services otherwise than for the purpose of profit or gain, being wages paid or payable to an employee during a period in respect of which the employer satisfies the Commissioner that the employee is engaged exclusively in the provision of those health services or is engaged exclusively in work that is incidental to the provision of those health services; or
- (cb) by the Family Planning Association of South Australia Incorporated; or
- (d) by a school or college that—
 - (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; and
 - (ii) provides education at or below, but not above, the secondary level, being wages paid or payable to a person during a period in respect of which the school or college satisfies the Commissioner that the person is engaged exclusively in work of the school or college of a kind ordinarily performed in connection with the conduct of schools or colleges providing education of that kind; or
- (daa) by a university or a college of advanced education to a person in relation to employment by the university or college pursuant to the Work Experience Training in Commonwealth Establishments scheme established by the Government of the Commonwealth; or
- (dab) by, or on behalf of, an association or other body the principal function of which is to represent and serve the interests of employers in a particular industry, being wages paid or payable to an apprentice pursuant to an agreement entered into between the association or other body and the apprentice for the purpose of training the apprentice in a trade or other vocation; or
- (dad) by an employer who conducts a kindergarten otherwise than for the purpose of profit or gain, being wages paid or payable to an employee during a period in respect of which the employer satisfies the Commissioner that the employee is engaged exclusively in work of the kindergarten of a kind ordinarily performed in connection with the conduct of a kindergarten; or
- (da) by a child care centre that is an eligible organisation within the meaning of the *Child Care Act 1972* of the Commonwealth, being wages paid or payable to a person during a period in respect of which the child care centre satisfies the Commissioner that the person is engaged exclusively in work of the centre of a kind ordinarily performed in connection with the conduct of child care centres; or
- (db) before 1 July 1995, by, or on behalf of, an employer to a person employed, in accordance with the agreement between the Commonwealth and the State for the implementation of the Australian Traineeship System, under a contract of training registered with the Industrial and Commercial Training Commission; or
- (e) by a council, except to the extent that those wages are paid or payable—

- (i) for or in connection with; or
 - (ii) for or in connection with the construction of any buildings or the construction of any works or the installation of plant, machinery or equipment for use in or in connection with,
the generation or supply of electricity or gas, water supply, sewerage, the conduct of abattoirs, of public markets, of parking stations, of cemeteries, of crematoria or of hostels or any prescribed activity; or
 - (g) to a person who is a member of the Defence Force of the Commonwealth or of the armed forces 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; or
 - (h) to a member 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; or
 - (i) by the Commonwealth War Graves Commission; or
 - (j) by the Australian-American Educational Foundation; or
 - (k) by a University College affiliated with the University of Adelaide or the Flinders University of South Australia; or
 - (l) by a motion picture production company, being wages paid or payable to a person who is involved in the production of a feature film in respect of which the motion picture production company satisfies the Treasurer—
 - (i) that the film will be produced wholly or substantially within the State; and
 - (ii) that the production of the film will involve or result in the employment of South Australian residents; and
 - (iii) that economic benefits will accrue to the State of South Australia on account of the production of the film.
- (6) In this section—
- health service** means—
- (a) a service designed to promote health; or
 - (b) a therapeutic or other service designed to cure, alleviate, or afford protection against, any mental or physical illness, abnormality or disability; or
 - (c) a paramedical or ambulance service; or
 - (d) the care of, or assistance to, sick or disabled persons at their place of residence; or
 - (e) a prescribed service.

13A—Meaning of prescribed amount

- (1) In this section and sections 13B and 13C, unless the contrary intention appears—

financial year means—

- (a) the period commencing on 1 July 1994 and ending on 30 November 1994;
- (b) the period commencing on 1 December 1994 and ending on 30 June 1995;
- (c) any financial year commencing on or after 1 July 1995;

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.

- (2) A reference in section 13B or 13C to the prescribed amount—

- (a) in relation to the financial year commencing on 1 July 1994, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \times \frac{CU}{153}$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year*IW* is the amount of interstate wages paid or payable by the employer during the financial year*C* is \$190 000*U* is the number of days in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages); and

- (b) in relation to the financial year commencing on 1 December 1994, is an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \times \frac{DX}{213}$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year*IW* is the amount of interstate wages paid or payable by the employer during the financial year*D* is \$266 000*X* is the number of days in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages); and

- (c) in relation to a financial year commencing on or after 1 July 1995, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \times \frac{AY}{Z}$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year

IW is the amount of interstate wages paid or payable by the employer during the financial year

A is—

- in relation to a financial year commencing before 1 July 2002—
\$456 000
- in relation to a financial year commencing on or after 1 July 2002—
\$504 000

Y is the number of days in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages)

Z is the number of days in that financial year.

- (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 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 fluctuate with different periods of the financial year, the 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.

13B—Annual adjustments

- (1) In this section—

annual amount of pay-roll tax, in relation to an employer, means the amount ascertained by applying the appropriate rate of pay-roll tax prescribed by section 9 to the difference between—

- (a) the total of the taxable wages paid or payable by that employer during a financial year; and
 - (b) the prescribed amount, if any.
- (2) Where taxable wages are paid or payable by an employer during a financial year—
- (a) the Commissioner must, on application made by that employer in accordance with subsection (3), where the amount of pay-roll tax paid or payable by that employer when making 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, refund to that employer an amount equal to the difference, reduced by the amount, if any, refunded to the employer in respect of the tax paid or payable by that employer when returns relating to that year were made or required to be made under this Act by that employer; or

- (b) that employer must, where the amount of pay-roll tax paid or payable by that employer when making 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 Commissioner as pay-roll tax, within the period during which the employer is required to lodge a return under this Act in respect of the return period that is the last return period to be included in that financial year, an amount equal to the difference.
- (3) An application under subsection (2)(a) must be made within the financial year next following the financial year in respect of which the refund is applied for.
- (4) Where the Commissioner is satisfied that an employer has not received the full benefit of the deductions prescribed by section 11A by virtue of the prescription under section 13A(1) of two or more periods as financial years for a full financial year (being the period commencing on 1 July in any year and ending on 30 June in the next year), the Commissioner may, in such manner as the Commissioner thinks fit, apply any unused deduction from one period to any other period or periods in that same full financial year and refund to the employer the amount of tax that has, on the basis of that adjustment, been overpaid.

13C—Adjustment of pay-roll tax when employer ceases to be an employer 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 the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by section 9 to the difference between—
 - (a) the total of the taxable wages paid or payable by the employer during a prescribed period; and
 - (b) the prescribed amount, if any;

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 must, where the amount of pay-roll tax paid or payable by the employer when making 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 Commissioner as pay-roll tax, within the period during which the employer is required to lodge 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 13B applies to and in respect of the employer as if the reference in section 13B(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) of this section.

Part 4—Registration and returns

14—Registration

- (1) An employer (not being an employer who is registered as an employer) who, during a month, pays or is liable to pay anywhere wages at a rate in excess of the prescribed amount per week, the whole or any part of which is taxable wages or who, being a member of a group, during a month pays or is liable to pay any taxable wages must apply, within 7 days after the close of that month, to the Commissioner, in duplicate in the form and manner approved by the Commissioner for registration as an employer, and the Commissioner must then register the applicant as an employer under this Act.
- (2) The Commissioner may cancel the registration of a person as an employer if—
 - (a) the person, not being a member of a group, is not an employer paying wages as referred to in subsection (1); or
 - (b) the person—
 - (i) ceases to be a member of a group; and
 - (ii) does not pay and is not liable to pay wages as referred to in subsection (1).
- (2b) Where the Commissioner cancels the registration of a person as an employer in any financial year and that person subsequently pays or is liable to pay (otherwise than as a member of a group) taxable wages during that financial year that person may, despite the fact that during any month the person pays or is liable to pay wages at a rate not in excess of the prescribed amount per week, apply to the Commissioner, in duplicate in the form and manner approved by the Commissioner, for registration as an employer and the Commissioner must then register the applicant as an employer under this Act.
- (3) A person who fails to make an application to the Commissioner as required under subsection (1) is guilty of an offence.
Maximum penalty: \$10 000.
- (4) For the purposes of this section, the *prescribed amount* is \$8 000.

15—Returns

- (1) Every employer who is registered or required to apply for registration in accordance with section 14 must, within 7 days after the close of each month, lodge with the Commissioner, in accordance with a form approved by the Commissioner, a return, relating to that month and must specify in that return any taxable wages that were paid or payable by the employer during that month.
- (2) The Commissioner may vary—
 - (a) the time within which a specified employer is required to furnish returns;
 - (b) the period in relation to which a specified employer, or employers of a specified class, are required to furnish returns generally, or returns relating to wages of a specified kind.

- (3) A variation under subsection (2)—
 - (a) may be made subject to conditions or limitations;
 - (b) may be made, varied or revoked by notice in writing to an employer or by notice in the Gazette.
- (4) Where an employer considers that it is not reasonably practicable to calculate the value of any fringe benefits for the purposes of a return under this section, the employer may request the Commissioner to agree to accept a return in which that value is an estimate of the value of those fringe benefits.
- (5) A request under subsection (4) may be granted by the Commissioner on such conditions as the Commissioner thinks fit.
- (6) The Commissioner may, at any time, by notice in writing, vary or revoke a condition under subsection (5).

16—Further returns

The Commissioner may, by notice in writing, require an employer or person to lodge with the Commissioner a return or further or fuller return as required by the Commissioner.

Part 4A—Grouping provisions

18A—Interpretation

In this Part—

business includes—

- (a) a trade or profession; and
- (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.

18B—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, to be taken, for the purposes of that Act, to be related to each other.

18C—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 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.

18D—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 or persons, not being a trustee or trustees, 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, as referred to in 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 those 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, 50 per cent or more 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 beneficially or not beneficially) 50 per cent or more of the capital of the partnership; or
- (ii) is, or are together entitled (whether beneficially or not beneficially) to 50 per cent or more 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 a beneficiary or those persons (whether or not as the trustees of another trust) are together beneficiaries, in respect of 50 per cent or more of the value of the interests in the trust first mentioned in this paragraph;
 - (e) a person has, or persons have together, a controlling interest in a business, if that person (whether or not as a trustee of a trust) is the sole owner of the business, or those persons (whether or not as trustees of a trust) are the owners of the business.
- (4) Where a corporation has a controlling interest under subsection (3) in a business, it also has 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 is a beneficiary under a trust; or
 - (b) two or more persons together are beneficiaries under a trust,
- in respect of 50 per cent or more 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 will for the purposes of that subsection be taken to have a controlling interest in that business.
- (6) 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 a controlling interest under subsection (3) in another business,
- the person or persons referred to in paragraph (a) also have a controlling interest for the purposes of that subsection in the business referred to in paragraph (b).

18E—Grouping by regulation

- (1) The Governor may make regulations—
- (a) specifying circumstances in which two or more persons constitute a group; or
 - (b) declaring that two or more persons constitute a group in relation to such wages (excluding foreign wages) paid or payable by those persons as are specified or described in the regulation,
- and, for the purposes of this Act, any such regulation has effect so as to constitute a group according to its terms.
- (2) The power to make a regulation for the purposes of subsection (1) is not limited by any other provision of this Part.
- (3) A regulation made for the purposes of subsection (1) takes effect, if it so provides, from a date antecedent to the date of its publication in the Gazette (but not from a date earlier than 1 January 1976).

18F—Smaller groups subsumed into larger groups

- (1) Notwithstanding any other provision of this Part (except subsection (2) of this section), 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.
- (2) Except for the purpose of determining whether a group is constituted under subsection (1), 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).

18G—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.

18H—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 is to be taken, for the purposes of this Part, to be a beneficiary in respect of 50 per cent or more of the value of the interests in that trust.

18I—Exclusion of persons from groups

- (1) Where the 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 Commissioner considers relevant, that a business carried on by a member of a group is carried on substantially independently of, and is not substantially connected with the carrying on of, a business carried on by any other member of that group, the Commissioner may, by notice in writing served on that first mentioned member, exclude that member from that group.
- (2) The Commissioner cannot exercise the power conferred by subsection (1) so as to exclude a person from a group on and from a date if that person is or was on that date a corporation which, 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 another corporation which is a member of that group.
- (3) Despite any other provision of this Part, a notice under subsection (1) has effect according to its terms on and from the date specified in the notice (being a date that is the date of the notice or before the date of the notice) as the date on and from which the person referred to in the notice is or is to be taken to have been excluded from the group referred to in the notice.

18J—Designated group employer

- (1) The members of a group may, by an instrument in writing in the form approved by the Commissioner, executed by or on behalf of each member of the group and served on the Commissioner, designate one of the members of the group to be the designated group employer in respect of the group for the purposes of this Act and nominate an amount, calculated in the prescribed manner, not exceeding the prescribed amount as defined in section 11A(1), as the deduction to be made for any return period in relation to which that designated group employer is required to lodge returns under this Act.

- (2) The designated group employer in respect of a group ceases to be the designated group employer in respect of that group on and from the first day of the return period relating to the employer during which—
- (a) the composition of the group alters; or
 - (b) the members of the group, by an instrument in the form approved by the Commissioner, executed by or on behalf of each of them who is known to the Commissioner to be a member of the group and served on the Commissioner, revoke the designation,
- whichever occurs the earlier.
- (3) For the purpose of ascertaining the pay-roll tax payable by a designated group employer, the amount nominated in the instrument under subsection (1) is, subject to subsection (4), deducted from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to the return period that last commenced before service of the instrument on the Commissioner or a subsequent return period).
- (4) The Commissioner may, on an application made in writing executed by or on behalf of each person known to the Commissioner to be a member of a group or on the Commissioner's own initiative in relation to a group, at any time, make a determination specifying an amount, not exceeding the prescribed amount as defined in section 11A(1), that may be deducted for any return period specified or referred to in the determination (being a return period commencing before or after the determination is made) from the taxable wages included in a return made by, or an assessment relating to, an employer specified in the determination who was, during any such return period, a member of that group and the amount so specified will be deducted, for any such return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period).
- (5) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (4) and such a revocation has effect on and from the first day of the return period specified in the instrument, whether that return period is the one in which the instrument of revocation is executed or a return period falling before or after that return period (but the revocation cannot take effect before the date of the determination).
- (6) An employer specified in a determination made under subsection (4) will, on the first day of the first return period specified or referred to in the determination, be taken to have been designated under subsection (1) as the designated group employer in respect of the group of which the employer was then a member and will, subject to subsection (2), thereafter be the designated group employer in respect of that group.
- (7) The Commissioner must, as soon as practicable after making a determination under subsection (4), serve notice of the determination on the designated group employer in respect of the group concerned.

18K—Interpretation

- (1) In this section and sections 18L and 18M, unless the contrary intention appears—
- financial year* means—
- (a) the period commencing on 1 July 1994 and ending on 30 November 1994;

- (b) the period commencing on 1 December 1994 and ending on 30 June 1995;
 - (c) any financial year commencing on or after 1 July 1995.
- (2) A reference in section 18L or 18M to the prescribed amount—
- (a) in relation to the financial year commencing on 1 July 1994, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \times \frac{CU}{153}$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by the members of the group during the period referred to above

C is \$190 000

U is the number of days in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages); and

- (b) in relation to the financial year commencing on 1 December 1994, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \times \frac{DX}{213}$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by members of the group during the period referred to above

D is 266 000

X is the number of days in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages); and

- (c) in relation to a financial year commencing on or after 1 July 1995, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \times \frac{AY}{Z}$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by the members of the group during the period referred to above

A is—

- in relation to a financial year commencing before 1 July 2002—
\$456 000
- in relation to a financial year commencing on or after 1 July 2002—
\$504 000

Y is the number of days in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages)

Z is the number of days in that financial year.

18L—Annual adjustments

- (1) This section applies in relation to a group at least one member of which, as such a member, paid or was liable to pay taxable wages or interstate wages for the whole of a financial year.
- (2) A reference in this section to the annual amount of pay-roll tax paid or payable by the members of a group is a reference to the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by section 9 to the amount by which—
 - (a) the total of the taxable wages paid or payable by the members of that group during a financial year,
exceeds—
 - (b) where—
 - (i) during that year there was only one designated group employer in respect of that group—the prescribed amount applicable to that designated group employer; or
 - (ii) during that year there were two or more designated group employers in respect of that group—the prescribed amount that, if there had been only one designated group employer in respect of that group during that year, would have been applicable to that designated group employer.
- (3) A reference in this section to the actual amount of pay-roll tax paid or payable in respect of a financial year by the members 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, being returns in which the taxable wages referred to in subsection (2)(a) were included or required to be included.

- (4) Where the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of a group is greater than the annual amount of pay-roll tax in relation to those members for that financial year, the Commissioner must, on application made in accordance with subsection (7) by the person who is the designated group employer in respect of that group on the last day of that financial year, refund to that employer an amount equal to the difference, reduced by the total of the amounts, if any, refunded to any member of that group in respect of the tax paid or payable by any such member when returns relating to that year were made or required to be made under this Act by that member.
- (5) Where the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of a group is less than the annual amount of pay-roll tax in relation to those members for that financial year, the person who is the designated group employer in respect of that group on the last day of that financial year must pay to the Commissioner as pay-roll tax, within the period during which that person is required to lodge a return under this Act in respect of the return period that is the last return period to be included in that financial year, an amount equal to the difference.
- (6) If a designated group employer in respect of a group fails to pay any amount required under subsection (5) in respect of a financial year, every member of the group who paid or was liable to pay taxable wages during that financial year is liable jointly and severally to pay that amount to the Commissioner.
- (7) An application under subsection (4) must be made within the financial year next following the financial year in respect of which the refund is applied for.
- (8) Where the Commissioner is satisfied that the members of a group have not received the full benefit of the deductions prescribed by section 11A by virtue of the prescription under section 18K(1) of two or more periods as financial years for a full financial year (being the period commencing on 1 July in any year and ending on 30 June in the next year), the Commissioner may, in such manner as the Commissioner thinks fit, apply any unused deduction from one period to any other period or periods in that same financial year and refund to the designated group employer the amount of tax that has, on the basis of that adjustment, been overpaid.

18M—Payment 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 that part only (being a continuous part) of a financial year for which at least one member of that group paid or was liable to pay, as such a member, taxable wages or interstate wages.

- (3) A reference in this section to the total amount of pay-roll tax paid or payable for a prescribed period by the members of a group is a reference to the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by section 9 to the amount by which—
- (a) the total of the taxable wages paid or payable by the employers in that group during that prescribed period,
exceeds—
 - (b) where—
 - (i) during that prescribed period there was only one designated group employer in respect of that group—the prescribed amount applicable to that designated group employer; or
 - (ii) during that prescribed period there were two or more designated group employers in respect of that group—the prescribed amount that, if there had been only one designated group employer in respect of that group during that prescribed period, would have been applicable to that designated group employer.
- (4) Where, at the expiration of a prescribed period relating to a group, the total amount of pay-roll tax paid or payable when returns were made or required to be made under this Act, being returns in which the taxable wages referred to in subsection (3)(a) were included or required to be included, is less than the total amount of pay-roll tax paid or payable for that prescribed period by the members of that group, the person who is the designated group employer in respect of that group on the last day of that prescribed period must pay to the Commissioner as pay-roll tax, within the period during which that person is required to lodge a return under this Act or the last return under this Act relating to that prescribed period, an amount equal to the difference.
- (5) Section 18L(4) and (5) apply in relation to a group to which this section applies, as if—
- (a) at least one member of the group paid or was liable to pay, as such a member, taxable wages or interstate wages for the whole of that financial year; and
 - (b) the reference in section 18L(3) to the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of that group included a reference to any pay-roll tax paid or payable under subsection (4) by a designated group employer in respect of that financial year; and
 - (c) the person, if any, who was the designated group employer in respect of that group at the time when the group last ceased in that financial year to have a member who was paying or was liable to pay, as such a member, taxable wages or interstate wages was the designated group employer in respect of that group on the last day of that financial year.
- (6) If a designated group employer in respect of a group fails to pay any amount required under subsection (4) in respect of a period, every member of the group who paid or was liable to pay taxable wages during the financial year that includes that period is liable jointly and severally to pay that amount to the Commissioner.

33—Contributions from joint taxpayers

- (1) Any tax payable by a member or members of a group is a debt due jointly and severally by every person who was a member of the group during the period in respect of which the tax became due.
- (2) Subsection (1) does not apply to an amount that is payable by the designated group employer under section 18L(5) or 18M(4).
- (3) Where two or more persons are jointly or jointly and severally liable to pay tax they are each liable for the whole tax, but any of them who have paid the tax may recover contributions as follows:
 - (a) a person who has paid the tax in respect of any wages may recover by way of contribution from any other person jointly liable to that tax a sum which bears the same proportion to the tax as the share of the taxable wages which that other person was liable to pay bears to the total amount of the taxable wages which the persons jointly liable to tax were liable to pay; and
 - (b) every person entitled to a contribution under this section may sue for it in any court of competent jurisdiction as money paid to the use of the person liable to contribute at his or her request, or may retain or deduct the amount of the contribution out of any money in his or her hands belonging or payable to the person liable to contribute.
- (4) In this section—

tax means pay-roll tax, and includes penalty tax and interest payable under Part 5 of the *Taxation Administration Act 1996* in relation to pay-roll tax.

Part 5—Regulations

35—Regulations

- (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.
- (2) The regulations may prescribe a fine not exceeding \$2 500 for the contravention of, or failure to comply with, a regulation.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1971	52	<i>Pay-roll Tax Act 1971</i>	9.9.1971	9.9.1971
1973	26	<i>Pay-roll Tax Act Amendment Act 1973</i>	20.9.1973	20.9.1973
1974	52	<i>Pay-roll Tax Act Amendment Act 1974</i>	30.8.1974	30.8.1974
1975	94	<i>Pay-roll Tax Act Amendment Act 1975</i>	20.11.1975	1.1.1976: s 2
1976	6	<i>Pay-roll Tax Act Amendment Act 1976</i>	19.2.1976	1.1.1976: s 2
1976	80	<i>Pay-roll Tax Act Amendment Act (No. 2) 1976</i>	9.12.1976	1.1.1977: s 2
1977	37	<i>Pay-roll Tax Act Amendment Act 1977</i>	8.12.1977	1.1.1978: s 2
1978	76	<i>Pay-roll Tax Act Amendment Act 1978</i>	16.11.1978	1.1.1979: s 2
1979	64	<i>Pay-roll Tax Act Amendment Act 1979</i>	15.11.1979	1.10.1979: s 2
1980	113	<i>Pay-roll Tax Act Amendment Act 1980</i>	18.12.1980	1.1.1981 (<i>Gazette 23.12.1980 p2368</i>)
1982	33	<i>Pay-roll Tax Act Amendment Act 1982</i>	15.4.1982	1.7.1982: s 2
1982	101	<i>Pay-roll Tax Act Amendment Act (No. 2) 1982</i>	23.12.1982	1.1.1983: s 2
1983	26	<i>Pay-roll Tax Act Amendment Act 1983</i>	16.6.1983	1.7.1983 (<i>Gazette 30.6.1983 p1754</i>) except ss 4(a) & (e)—1.7.1982: s 2(3)
1985	82	<i>Pay-roll Tax Act Amendment Act 1985</i>	22.8.1985	1.7.1985: s 2
1986	6	<i>Pay-roll Tax Act Amendment Act 1986</i>	13.3.1986	13.3.1986

1986	61	<i>Pay-roll Tax Act Amendment Act (No. 2) 1986</i>	6.11.1986	1.9.1986: s 2
1987	2	<i>Statutes Amendment (Taxation) Act 1987</i>	5.3.1987	5.3.1987
1988	64	<i>Pay-roll Tax Act Amendment Act 1988</i>	27.10.1988	1.7.1988: s 2 except s 8 & Sch— 1.12.1988 (<i>Gazette 10.11.1988 p1702</i>)
1989	46	<i>Pay-roll Tax Act Amendment Act 1989</i>	31.8.1989	1.7.1989: s 2
1990	45	<i>Pay-roll Tax Act Amendment Act 1990</i>	25.10.1990	1.10.1990: s 2
1991	55	<i>Pay-roll Tax (Miscellaneous) Amendment Act 1991</i>	28.11.1991	1.4.1992 (<i>Gazette 5.12.1991 p1668</i>) except ss 5—11—1.12.1991: s 2
1992	51	<i>Pay-roll Tax (Exemptions) Amendment Act 1992</i>	29.10.1992	1.7.1992: s 2
1992	71	<i>Statutes Amendment (Expiation of Offences) Act 1992</i>	19.11.1992	1.3.1993 (<i>Gazette 18.2.1993 p600</i>)
1994	5	<i>Pay-roll Tax (Miscellaneous) Amendment Act 1994</i>	14.4.1994	1.5.1994 (<i>Gazette 28.4.1994 p1098</i>)
1994	68	<i>Pay-roll Tax (Superannuation Benefits and Rates) Amendment Act 1994</i>	10.11.1994	1.12.1994: s 2
1995	71	<i>Pay-roll Tax (Exemption) Amendment Act 1995</i>	2.11.1995	2.11.1995
1996	79	<i>Pay-roll Tax (Superannuation Benefits) Amendment Act 1996</i>	5.12.1996	1.7.1996: s 2
1996	82	<i>Statutes Amendment (Taxation Administration) Act 1996</i>	5.12.1996	Pt 5 (ss 63—76) & Sch cl 4—1.7.1997 (<i>Gazette 19.12.1996 p1924</i>)
1997	30	<i>Statutes Amendment (References to Banks) Act 1997</i>	12.6.1997	Pt 11 (s 17)—3.7.1997 (<i>Gazette 3.7.1997 p4</i>)
1997	34	<i>Statutes Amendment (Pay-roll Tax and Taxation Administration) Act 1997</i>	19.6.1997	Pt 2 (ss 4 & 5)—1.7.1997 (<i>Gazette 26.6.1997 p3052</i>)
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 38)—1.7.1999 being the date specified under s 3(16) of the <i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i> of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
2000	21	<i>National Tax Reform (State Provisions) Act 2000</i>	8.6.2000	8.6.2000
2001	23	<i>Statutes Amendment (Corporations) Act 2001</i>	14.6.2001	Pt 26 (ss 93—96)—15.7.2001 being the day on which the <i>Corporations Act 2001</i> of the Commonwealth came into operation: <i>Commonwealth of Australia Gazette</i> No. S 285, 13 July 2001 (<i>Gazette 21.6.2001 p2270</i>)
2001	27	<i>Statutes Amendment (Taxation Measures) Act 2001</i>	26.7.2001	Pt 3 (ss 5—9)—26.7.2001: s 2(1)
2002	35	<i>Statutes Amendment (Stamp Duties and Other Measures) Act 2002</i>	28.11.2002	Pt 4 (s 12)—1.4.1992; Pt 4 (ss 11 & 13)—28.11.2002: s 2

2004	21	<i>Statutes Amendment (Budget 2004) Act 2004</i>	1.7.2004	Pt 3 (s 8)—1.7.2004: s 2(2)
2007	33	<i>Statutes Amendment (Budget 2007) Act 2007</i>	9.8.2007	Pt 2 (s 4)—1.7.2007: s 2(2)
2008	20	<i>Pay-roll Tax (Harmonisation Project) Amendment Act 2008</i>	26.6.2008	1.7.2008: s 2

Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 8 of The Public General Acts of South Australia 1837-1975 at page 81.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 64/1988 s 8 (Sch) substituted by 82/1996 s 63	1.12.1988 1.7.1997
Pt 1		
s 2	<i>deleted by 64/1988 s 8 (Sch)</i>	<i>1.12.1988</i>
s 3		
s 3(1)		
agent	<i>deleted by 82/1996 s 64(a)</i>	<i>1.7.1997</i>
the Commissioner	amended by 64/1988 s 8 (Sch) substituted by 82/1996 s 64(b)	1.12.1988 1.7.1997
<i>the Commissioner of Stamps</i>	<i>deleted by 82/1996 s 64(b)</i>	<i>1.7.1997</i>
corporation	amended by 64/1988 s 8 (Sch) substituted by 5/1994 s 3(a) substituted by 23/2001 s 93(a)	1.12.1988 1.5.1994 15.7.2001
council	amended by 64/1988 s 8 (Sch) amended by 82/1996 Sch cl 4	1.12.1988 1.7.1997
<i>the Deputy Commissioner of Stamps</i>	<i>deleted by 82/1996 s 64(c)</i>	<i>1.7.1997</i>
designated group employer	amended by 64/1988 s 8 (Sch)	1.12.1988
eligible termination payment	inserted by 27/2001 s 5(a)	26.7.2001
employer	amended by 64/1988 s 8 (Sch)	1.12.1988
financial year	amended by 64/1988 s 8 (Sch)	1.12.1988
fringe benefit	inserted by 45/1990 s 3(a)	1.10.1990
group	amended by 64/1988 s 8 (Sch)	1.12.1988
GST	inserted by 21/2000 s 13(a)	8.6.2000
GST law	inserted by 21/2000 s 13(a)	8.6.2000

<i>liquidator</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 64(d)</i>	1.7.1997
partly funded scheme of superannuation	inserted by 79/1996 s 3(a)	1.7.1996
pay	inserted by 45/1990 s 3(b)	1.10.1990
pay-roll tax	amended by 64/1988 s 8 (Sch)	1.12.1988
<i>record</i>	<i>inserted by 5/1994 s 3(b)</i>	1.5.1994
	<i>deleted by 82/1996 s 64(e)</i>	1.7.1997
return period	amended by 82/1996 Sch cl 4	1.7.1997
State	inserted by 5/1994 s 3(b)	1.5.1994
superannuation benefit	inserted by 68/1994 s 3(a)	1.12.1994
	substituted by 79/1996 s 3(b)	1.7.1996
	amended by 35/2002 s 11(a)	28.11.2002
<i>tax</i>	<i>deleted by 82/1996 s 64(f)</i>	1.7.1997
taxable wages	amended by 64/1988 s 8 (Sch)	1.12.1988
<i>the Tribunal</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 64(g)</i>	1.7.1997
<i>trustee</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 64(g)</i>	1.7.1997
unfunded scheme of superannuation	inserted by 79/1996 s 3(c)	1.7.1996
voting share	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 5/1994 s 3(c)	1.5.1994
	substituted by 23/2001 s 93(b)	15.7.2001
wages	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 3(c)	1.10.1990
	substituted by 55/1991 s 3(a)	1.4.1992
	amended by 35/2002 s 11(b)	28.11.2002
s 3(1a)	inserted by 82/1985 s 3	1.7.1985
	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 45/1990 s 3(d)	1.10.1990
s 3(1ab)	inserted by 27/2001 s 5(b)	26.7.2001
s 3(1b)	inserted by 82/1985 s 3	1.7.1985
	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 45/1990 s 3(d)	1.10.1990
s 3(1c)	inserted by 45/1990 s 3(d)	1.10.1990
	substituted by 27/2001 s 5(c)	26.7.2001
s 3(1d)	inserted by 21/2000 s 13(b)	8.6.2000
s 3(2)	substituted by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 45/1990 s 3(d)	1.10.1990
	inserted by 55/1991 s 3(b)	1.4.1992
	substituted by 68/1994 s 3(b)	1.12.1994

Pay-roll Tax Act 1971—1.7.2007 to 30.6.2008Legislative history

s 3(2a)	inserted by 35/2002 s 11(c)	28.11.2002
s 3(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 5/1994 s 3(d)	1.5.1994
	inserted by 79/1996 s 3(d)	1.7.1996
s 3(3a) and (3b)	inserted by 79/1996 s 3(d)	1.7.1996
s 3(4)	substituted by 80/1976 s 3	1.1.1977
	amended by 64/1988 s 8 (Sch)	1.12.1988
s 3(5)	inserted by 61/1986 s 3	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
s 4	deleted by 64/1988 s 8 (Sch)	1.12.1988
	inserted by 55/1991 s 4	1.4.1992
s 4(3)	amended by 68/1994 s 4(a)	1.12.1994
s 4(5a)	inserted by 68/1994 s 4(b)	1.12.1994
s 4A	inserted by 55/1991 s 4	1.4.1992
s 4A(1a)	inserted by 35/2002 s 12(a)	1.4.1992
s 4A(2)	amended by 68/1994 s 5(a)	1.12.1994
s 4A(3)	substituted by 68/1994 s 5(b)	1.12.1994
s 4A(4)	inserted by 35/2002 s 12(b)	1.4.1992
s 4B	inserted by 55/1991 s 4	1.4.1992
s 4B(1)	substituted by 68/1994 s 6(a)	1.12.1994
s 4B(2)	substituted by 68/1994 s 6(b)	1.12.1994
s 4C	inserted by 55/1991 s 4	1.4.1992
s 4C(1)	amended by 68/1994 s 7	1.12.1994
s 5	inserted by 82/1996 s 65	1.7.1997
Pt 2	<i>amended by 2/1987 s 5</i>	<i>5.3.1987</i>
	<i>amended by 64/1988 s 8 (Sch)</i>	<i>1.12.1988</i>
	<i>amended by 5/1994 s 4, Sch</i>	<i>1.5.1994</i>
	<i>deleted by 82/1996 s 65</i>	<i>1.7.1997</i>
Pt 3		
s 8		
s 8(1)	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 5/1994 s 5(a)	1.5.1994
s 8(1a)	inserted by 5/1994 s 5(a)	1.5.1994
s 8(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 5/1994 s 5(b)	1.5.1994
s 8(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 5/1994 s 5(c)	1.5.1994
	amended by 33/1999 Sch (item 38(a))	1.7.1999
s 8(4)	<i>inserted by 30/1997 s 17</i>	<i>3.7.1997</i>
	<i>deleted by 33/1999 Sch (item 38(b))</i>	<i>1.7.1999</i>
s 9	substituted by 64/1988 s 8 (Sch)	1.12.1988
s 9(1)	substituted by 45/1990 s 4	1.10.1990
	substituted by 55/1991 s 5	1.12.1991

	amended by 68/1994 s 8	1.12.1994
	amended by 27/2001 s 6	26.7.2001
	amended by 21/2004 s 8	1.7.2004
	amended by 33/2007 s 4	1.7.2007
s 10	amended by 64/1988 s 8 (Sch)	1.12.1988
s 11	deleted by 64/1988 s 8 (Sch)	1.12.1988
	inserted by 82/1996 s 66	1.7.1997
s 11A		
s 11A(1)		
<i>minimum amount</i>	<i>inserted by 6/1976 s 3(a)</i>	<i>1.1.1976</i>
	<i>substituted by 80/1976 s 4</i>	<i>1.1.1977</i>
	<i>substituted by 37/1977 s 3</i>	<i>1.1.1978</i>
	<i>amended by 76/1978 s 3(a)</i>	<i>1.1.1979</i>
	<i>amended by 64/1979 s 3(a)</i>	<i>1.10.1979</i>
	<i>amended by 113/1980 s 3(a)</i>	<i>1.1.1981</i>
	<i>amended by 26/1983 s 3(a)</i>	<i>1.7.1983</i>
	<i>deleted by 61/1986 s 4(a)</i>	<i>1.9.1986</i>
<i>prescribed amount</i>	substituted by 80/1976 s 4	1.1.1977
	substituted by 37/1977 s 3	1.1.1978
	amended by 76/1978 s 3(b)	1.1.1979
	amended by 64/1979 s 3(b)	1.10.1979
	amended by 113/1980 s 3(b)	1.1.1981
	amended by 33/1982 s 3	1.7.1982
	amended by 101/1982 s 3	1.1.1983
	amended by 26/1983 s 3(b)	1.7.1983
	substituted by 61/1986 s 4(b)	1.9.1986
	substituted by 64/1988 s 3	1.7.1988
	substituted by 46/1989 s 3	1.7.1989
	amended by 45/1990 s 5(a)	1.10.1990
	amended by 55/1991 s 6	1.12.1991
	amended by 27/2001 s 7	26.7.2001
s 11A(2)	<i>deleted by 61/1986 s 4(c)</i>	<i>1.9.1986</i>
s 11A(3)	substituted by 6/1976 s 3(b)	1.1.1976
	amended by 82/1985 s 4(a)	1.7.1985
	substituted by 61/1986 s 4(d)	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 45/1990 s 5(b)	1.10.1990
s 11A(4)	<i>substituted by 6/1976 s 3(b)</i>	<i>1.1.1976</i>
	<i>amended by 82/1985 s 4(b)</i>	<i>1.7.1985</i>
	<i>deleted by 61/1986 s 4(d)</i>	<i>1.9.1986</i>
s 11A(5) and (6)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 11A(7)	amended by 61/1986 s 4(e)	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988

Pay-roll Tax Act 1971—1.7.2007 to 30.6.2008Legislative history

s 11A(8) and (9)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 12		
s 12(1)	s 12 redesignated as s 12(1) by 64/1979 s 4	1.10.1979
	amended by 113/1980 s 4	1.1.1981
	amended by 26/1983 s 4(a)	1.7.1982
	amended by 26/1983 s 4(b), (c)	1.7.1983
	amended by 6/1986 s 2	13.3.1986
	amended by 61/1986 s 5	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	(dac) deleted by 64/1988 s 8 (Sch)	1.12.1988
	(f) deleted by 64/1988 s 8 (Sch)	1.12.1988
	amended by 46/1989 s 4	1.7.1989
	amended by 51/1992 s 3	1.7.1992
	amended by 71/1995 s 2	2.11.1995
s 12(2)—(4)	<i>inserted by 64/1979 s 4</i>	<i>1.10.1979</i>
	<i>deleted by 64/1988 s 8 (Sch)</i>	<i>1.12.1988</i>
s 12(5)	<i>inserted by 26/1983 s 4(d)</i>	<i>1.7.1983</i>
	<i>deleted by 64/1988 s 8 (Sch)</i>	<i>1.12.1988</i>
s 12(6)	inserted by 26/1983 s 4(e)	1.7.1982
health service	amended by 64/1988 s 8 (Sch)	1.12.1988
s 13	<i>deleted by 64/1988 s 8 (Sch)</i>	<i>1.12.1988</i>
s 13A		
s 13A(1)	amended by 61/1986 s 6(a)	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 6(a)	1.10.1990
	substituted by 55/1991 s 7	1.12.1991
financial year	substituted by 68/1994 s 9(a)	1.12.1994
s 13A(2)	substituted by 6/1976 s 4(a)	1.1.1976
	amended by 80/1976 s 5(a)—(c)	1.1.1977
	substituted by 37/1977 s 4	1.1.1978
	amended by 76/1978 s 4	1.1.1979
	amended by 64/1979 s 5	1.10.1979
	amended by 113/1980 s 5	1.1.1981
	amended by 33/1982 s 4	1.7.1982
	amended by 101/1982 s 4	1.1.1983
	amended by 26/1983 s 5	1.7.1983
	amended by 82/1985 s 5	1.7.1985
	substituted by 61/1986 s 6(b)	1.9.1986
	substituted by 64/1988 s 4	1.7.1988
	substituted by 46/1989 s 5	1.7.1989
	substituted by 45/1990 s 6(b)	1.10.1990
	substituted by 55/1991 s 7	1.12.1991
	amended by 68/1994 s 9(b)—(f)	1.12.1994

	amended by 27/2001 s 8	26.7.2001
<i>s 13A(2a) and (2b)</i>	<i>inserted by 80/1976 s 5(d)</i>	<i>1.1.1977</i>
	<i>deleted by 37/1977 s 4</i>	<i>1.1.1978</i>
s 13A(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
<i>s 13A(4)</i>	<i>substituted by 6/1976 s 4(b)</i>	<i>1.1.1976</i>
	<i>deleted by 80/1976 s 5(e)</i>	<i>1.1.1977</i>
s 13B		
s 13B(1)		
annual amount of pay-roll tax	amended by 64/1988 s 8 (Sch)	1.12.1988
s 13B(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 7	1.10.1990
	amended by 82/1996 s 67(a), (b), Sch cl 4	1.7.1997
s 13B(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 s 67(c), (d)	1.7.1997
s 13B(4)	inserted by 55/1991 s 8	1.12.1991
	amended by 82/1996 s 67(e)	1.7.1997
s 13C		
s 13C(1)		
total amount of pay-roll tax	amended by 64/1988 s 8 (Sch)	1.12.1988
s 13C(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 13C(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
Pt 4		
s 14		
s 14(1)	amended by 80/1976 s 6(a)	1.1.1977
	amended by 37/1977 s 5(a)	1.1.1978
	amended by 76/1978 s 5(a)	1.1.1979
	amended by 64/1979 s 6(a)	1.10.1979
	amended by 113/1980 s 6(a)	1.1.1981
	amended by 33/1982 s 5(a)	1.7.1982
	amended by 101/1982 s 5(a)	1.1.1983
	amended by 26/1983 s 6(a)	1.7.1983
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 14(2)	amended by 80/1976 s 6(b)	1.1.1977
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
<i>s 14(2a)</i>	<i>deleted by 64/1988 s 8 (Sch)</i>	<i>1.12.1988</i>
s 14(2b)	amended by 80/1976 s 6(c)	1.1.1977
	amended by 37/1977 s 5(b)	1.1.1978
	amended by 76/1978 s 5(b)	1.1.1979

Pay-roll Tax Act 1971—1.7.2007 to 30.6.2008Legislative history

	amended by 64/1979 s 6(b)	1.10.1979
	amended by 113/1980 s 6(b)	1.1.1981
	amended by 33/1982 s 5(b)	1.7.1982
	amended by 101/1982 s 5(b)	1.1.1983
	amended by 26/1983 s 6(b)	1.7.1983
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 14(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 82/1996 s 68	1.7.1997
s 14(4)	inserted by 26/1983 s 6(c)	1.7.1983
	substituted by 61/1986 s 7	1.9.1986
	amended by 64/1988 s 5	1.7.1988
	amended by 46/1989 s 6	1.7.1989
	amended by 45/1990 s 8	1.10.1990
	amended by 55/1991 s 9	1.12.1991
s 15		
s 15(1)	amended by 37/1977 s 6	1.1.1978
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 15(2) and (3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 82/1996 s 69(a)	1.7.1997
	inserted by 34/1997 s 4	1.7.1997
s 15(4) and (5)	deleted by 64/1988 s 8 (Sch)	1.12.1988
	inserted by 45/1990 s 9	1.10.1990
s 15(6)	inserted by 45/1990 s 9	1.10.1990
	substituted by 82/1996 s 69(b)	1.7.1997
s 16	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 82/1996 s 70	1.7.1997
s 17	<i>amended by 64/1988 s 8 (Sch)</i>	<i>1.12.1988</i>
	<i>deleted by 82/1996 s 70</i>	<i>1.7.1997</i>
s 18	<i>amended by 64/1988 s 8 (Sch)</i>	<i>1.12.1988</i>
	<i>amended by 5/1994 s 6</i>	<i>1.5.1994</i>
	<i>deleted by 82/1996 s 70</i>	<i>1.7.1997</i>
Pt 4A		
s 18B	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 5/1994 s 7	1.5.1994
	amended by 23/2001 s 94	15.7.2001
s 18C	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18D		
s 18D(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18D(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 18D(4)	amended by 64/1988 s 8 (Sch)	1.12.1988

	amended by 5/1994 s 8	1.5.1994
	amended by 23/2001 s 95	15.7.2001
s 18D(5) and (6)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18E		
s 18E(1) and (2)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18E(3)	substituted by 64/1988 s 8 (Sch)	1.12.1988
ss 18F and 18H	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18I		
s 18I(1)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18I(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 5/1994 s 9	1.5.1994
	amended by 23/2001 s 96	15.7.2001
s 18I(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 18J		
s 18J(1)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 18J(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18J(3)	substituted by 64/1988 s 8 (Sch)	1.12.1988
s 18J(4)—(7)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18K		
	amended by 6/1976 s 5	1.1.1976
	amended by 80/1976 s 7(a)—(c)	1.1.1977
	amended by 37/1977 s 7	1.1.1978
	amended by 76/1978 s 6	1.1.1979
	amended by 64/1979 s 7	1.10.1979
	amended by 113/1980 s 7	1.1.1981
	amended by 33/1982 s 6	1.7.1982
	amended by 101/1982 s 6	1.1.1983
	amended by 26/1983 s 7	1.7.1983
	amended by 82/1985 s 6	1.7.1985
	amended by 61/1986 s 8	1.9.1986
	amended by 64/1988 s 6	1.7.1988
	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 46/1989 s 7	1.7.1989
	substituted by 45/1990 s 10	1.10.1990
	substituted by 55/1991 s 10	1.12.1991
s 18K(1)		
financial year	substituted by 68/1994 s 10(a)	1.12.1994
s 18K(2)	amended by 68/1994 s 10(b)—(f)	1.12.1994
	amended by 27/2001 s 9	26.7.2001
s 18L		
s 18L(2) and (3)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18L(4)	amended by 61/1986 s 9	1.9.1986

Pay-roll Tax Act 1971—1.7.2007 to 30.6.2008Legislative history

	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 11(a)	1.10.1990
	amended by 82/1996 s 71(a), (b)	1.7.1997
s 18L(5)	amended by 61/1986 s 9	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 11(b), (c)	1.10.1990
	amended by 82/1996 Sch cl 4	1.7.1997
s 18L(6)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18L(7)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 s 71(c)	1.7.1997
s 18L(8)	inserted by 55/1991 s 11	1.12.1991
	amended by 82/1996 s 71(d)	1.7.1997
s 18M		
s 18M(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18M(4)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 18M(5)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 12	1.10.1990
s 18M(6)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 33		
s 33(1)	inserted by 5/1994 s 11(b)	1.5.1994
	amended by 82/1996 s 73(a)	1.7.1997
s 33(2)	inserted by 5/1994 s 11(b)	1.5.1994
s 33(3)	s 33 amended by 64/1988 s 8 (Sch)	1.12.1988
	s 33 amended and redesignated as s 33(3) by 5/1994 s 11	1.5.1994
s 33(4)	inserted by 82/1996 s 73(b)	1.7.1997
<i>Pt 5 before deletion by 82/1996</i>		
<i>heading</i>	<i>deleted by 82/1996 s 72</i>	<i>1.7.1997</i>
s 19	amended by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 82/1996 s 72	1.7.1997
s 20	amended by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 82/1996 s 72	1.7.1997
s 20A	inserted by 82/1985 s 7	1.7.1985
	deleted by 61/1986 s 10	1.9.1986
s 21	amended by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 82/1996 s 72	1.7.1997
s 21A	inserted by 6/1976 s 6	1.1.1976
	amended by 82/1985 s 8	1.7.1985
	substituted by 64/1988 s 7	1.7.1988
	deleted by 82/1996 s 72	1.7.1997
ss 22—25	amended by 64/1988 s 8 (Sch)	1.12.1988

	<i>deleted by 82/1996 s 72</i>	1.7.1997
<i>s 26</i>	<i>amended by 76/1978 s 7</i>	1.1.1979
	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 72</i>	1.7.1997
<i>s 27</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 72</i>	1.7.1997
<i>s 28</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>amended by 71/1992 s 3(1) (Sch)</i>	1.3.1993
	<i>amended by 5/1994 s 10, Sch</i>	1.5.1994
	<i>deleted by 82/1996 s 72</i>	1.7.1997
<i>s 29</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>amended by 71/1992 s 3(1) (Sch)</i>	1.3.1993
	<i>amended by 5/1994 Sch</i>	1.5.1994
	<i>deleted by 82/1996 s 72</i>	1.7.1997
<i>s 30</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 72</i>	1.7.1997
<i>s 31</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 72</i>	1.7.1997
<i>s 32</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 72</i>	1.7.1997
<i>s 34</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>amended by 5/1994 Sch</i>	1.5.1994
	<i>deleted by 82/1996 s 74</i>	1.7.1997
<i>Pt 5</i>	<i>inserted by 82/1996 s 76</i>	1.7.1997
<i>Pt 6</i>	<i>amended by 113/1980 s 8</i>	1.1.1981
	<i>amended by 61/1986 s 11</i>	1.9.1986
	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>deleted by 82/1996 s 75</i>	1.7.1997
<i>Pt 7</i>	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>amended by 71/1992 s 3(1) (Sch)</i>	1.3.1993
	<i>amended by 5/1994 s 12, Sch</i>	1.5.1994
	<i>deleted by 82/1996 s 75</i>	1.7.1997
<i>Pt 8</i>	<i>amended by 64/1979 s 8</i>	1.10.1979
	<i>amended by 26/1983 s 8</i>	1.7.1983
	<i>amended by 64/1988 s 8 (Sch)</i>	1.12.1988
	<i>amended by 5/1994 ss 13—15, Sch</i>	1.5.1994
	<i>deleted by 82/1996 s 76</i>	1.7.1997

Transitional etc provisions associated with Act or amendments

Pay-roll Tax (Miscellaneous) Amendment Act 1991

12—Application of amendments

The amendments effected by sections 3 and 4 of this Act to the principal Act apply in relation to agreements, arrangements, undertakings or transactions made before, on or after the commencement of those sections but pay-roll tax is only payable in respect of any wages paid or payable on or after the commencement of those sections.

Statutes Amendment (Pay-roll Tax and Taxation Administration) Act 1997

5—Transitional provision

A notice given under section 15(2) of the principal Act and in force immediately before the commencement of this Act continues in force, subject to section 15 of that Act, as if it were a notice under that section as amended by this Act.

Commonwealth Places (Mirror Taxes Administration) (Modification of State Taxing Laws) Regulations 2000 (No. 8 of 2000)

4—Prescribed modification of State taxing laws (s 7(1))

Each State taxing law is modified under section 7(1) of the Act by the addition of a provision to the following effect:

- (1) "This State taxing law is to be read together with its corresponding applied law as a single body of law."
- (2) The principle in subregulation (1) is subject to any express exceptions and qualifications prescribed under the Act and the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth.

Statutes Amendment (Stamp Duties and Other Measures) Act 2002

13—Application of amendments

Section 3 of the principal Act, as amended by section 11 of this Act, will be taken to have applied with respect to superannuation benefits from 1 December 1994 (subject to any necessary modifications to any cross-references to any other Act (whether of the State or the Commonwealth)), but not so as—

- (a) to impose tax under paragraph (b) of the amended definition of "superannuation benefit" before 1 July 1996; or
- (b) to validate the assessment of pay-roll tax made in relation to a payment or setting apart that were the subject of the Supreme Court's judgment in *Hills Industries Ltd & Anor v Commissioner of State Taxation & Anor* (Judgment No. [2002] SASC 67), or to authorise a reassessment of pay-roll tax in that case.

Historical versions

Reprint —1.12.1988

Reprint No 1—1.10.1990

Reprint No 2—1.12.1991
Reprint No 3—1.4.1992
Reprint No 4—29.10.1992
Reprint No 5—1.3.1993
Reprint No 6—1.5.1994
Reprint No 7—1.12.1994
Reprint No 8—2.11.1995
Reprint No 9—5.12.1996
Reprint No 10—1.7.1997
Reprint No 11—3.7.1997
Reprint No 12—1.7.1999
Reprint No 13—8.6.2000
Reprint No 14—15.7.2001
Reprint No 15—26.7.2001
Reprint No 16—28.11.2002
1.7.2004