

# THE NORTHERN TERRITORY OF AUSTRALIA

No. 71 of 1979

## AN ACT

To amend the Pay-roll Tax Act

[Assented to 26 June 1979]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. This Act may be cited as the Pay-roll Tax Act 1979. Short title
2. This Act shall come into operation on 1 July 1979. Commencement
3. The Pay-roll Tax Act is in this Act referred to as the Principal Act. Principal Act
4. Section 3(1) of the Principal Act is amended - Interpretation
  - (a) by inserting after the definition of "corresponding law" the following definition:

"'designated group employer', in relation to a group, means the member of that group who, under section 17J, is for the time being the designated group employer in respect of that group;"
  - (b) by inserting after the definition of "employer" the following definitions:

"'foreign wages' means wages that are not taxable wages and are not interstate wages;

'group' means a group constituted under Part IVA;

'interstate wages' means wages that are taxable wages within the meaning of a corresponding law;"
  - (c) by inserting after the definition of "person" the following definition:

Pay-roll Tax

"return period', in relation to an employer, means the period relating to which that employer is required to furnish a return under this Act;"; and

(d) by inserting after the definition of "trustee" the following definition:

"voting share' has the same meaning as it has in section 5(1) of the Companies Act";".

Delegation  
by  
Commissioner

5. The Principal Act is amended by inserting after section 4 the following section:

"4A.(1) The Commissioner may, in relation to a matter or a class of matters, delegate to a person all or any of his powers or functions under this Act other than this power of delegation.

"(2) A power or function delegated under sub-section (1) may be exercised or performed by the delegate with respect to the matter or matters included in a class of matters specified in the instrument of delegation.

"(3) Where the exercise of a power or function by the Commissioner is dependent on the opinion, belief or state of mind of the Commissioner in relation to a matter and the power or function has been delegated in pursuance of this Act, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

"(4) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Commissioner.

"(5) A delegation under this section may be made subject to a power of review and alteration by the Commissioner within a period specified in the instrument of delegation of acts done in pursuance of the delegation and a decision given upon such a review or alteration shall be deemed to be the decision of the Commissioner."

General  
exemption

6. Section 8 of the Principal Act is repealed and the following section substituted:

"8.(1) In this section -

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

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'prescribed amount' -

- (a) in relation to a return for a return period of one month, means \$5,500; and
- (b) in relation to a return for a return period of 2 or more months, means the product ascertained by multiplying \$5,500 by the number of months in that return period;

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

"(2) For the purpose of ascertaining the pay-roll tax payable by an employer who pays or is liable to pay taxable wages for the whole of a return period, but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that 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 that return period) the prescribed amount, reduced by \$2 for each \$3 (disregarding any remainder) by which the amount of those taxable wages (in whole dollars) exceeds the prescribed amount.

"(3) For the purpose of ascertaining the pay-roll tax payable by an employer who pays or is liable to pay wages during a return period and pays or is liable to pay taxable wages for part only of that return period, but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that 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 that return period) the amount that bears to the prescribed amount the same proportion as the number of days in that part of that return period bears to the total number of days in that return period, reduced by \$2 for each \$3 (disregarding any remainder) by which the amount of those taxable wages (in whole dollars) exceeds the same proportion of the prescribed amount.

"(4) An employer who during any return period pays or is liable to pay taxable wages and interstate wages may serve on the Commissioner an instrument in accordance with a form, and in a manner, determined by the Commissioner, nominating an amount (being an amount calculated in the manner specified in the form, but not exceeding the prescribed amount) as the deduction that he claims to be entitled to make for that return period and for subsequent return periods.

## Pay-roll Tax

"(5) For the purpose of ascertaining the pay-roll tax payable by an employer who has served on the Commissioner an instrument under sub-section (4), there shall, subject to sub-section (6), be deducted, for a return period (being the return period ending last before the day on which he served that notice on the Commissioner or any subsequent 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) the amount nominated in that instrument.

"(6) The Commissioner may, on an application made to him in writing by an employer who pays or is liable to pay taxable wages and interstate wages during any return period or of his own motion in relation to such an employer, 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, but not before 1 July 1979, 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 there shall 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) the amount so specified.

"(7) The Commissioner may, at any time, by instrument in writing, revoke a determination made under sub-section (6) and any such revocation shall have effect as on and from the first day of the return period specified in the instrument, whether that return period is before, but not before the date of the determination, or after, or the return period in which, the instrument is executed by him.

"(8) The Commissioner shall, as soon as practicable after making a determination under sub-section (6) or a revocation under sub-section (7), serve notice of the determination or revocation on the employer concerned."

7. Section 10 of the Principal Act is repealed and the following sections substituted:

## Pay-roll Tax

"10.(1) In this section -

Seasonal  
fluctuation  
in payment  
of wages

'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) 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 his trade or business, the taxable wages and interstate wages, if any, paid or payable by him fluctuate with different periods of the financial year, the Commissioner may treat him -

(a) if he has conducted that trade or business in Australia during the whole of the financial year - as having been an employer throughout the financial year; or

(b) if he has conducted that trade or business in Australia during part only of the financial year - as having been an employer during that part of the financial year.

"10A.(1) In this section -

Annual  
adjustments

'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 6 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;

'financial year' means the financial year commencing on 1 July 1979 and each financial year thereafter;

'interstate wages' has the same meaning as it has in section 10(1);

'prescribed amount' means, in relation to an employer, the amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[ \frac{66000C}{D} - \frac{2}{3} \left\{ (TW + IW) - \frac{66000C}{D} \right\} \right]$$

## Pay-roll Tax

where -

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

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

C is the number of days in the financial year in respect of which wages (disregarding foreign wages) were paid or payable by the employer; and

D is the number of days in the financial year;

'taxable wages' has the same meaning as it has in section 10(1).

"(2) Where taxable wages are paid or payable by an employer during a financial year -

(a) the Commissioner shall, on an application made by that employer in accordance with sub-section (3), where the amount of pay-roll tax paid or payable by that employer when he made 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 or rebate to that employer an amount equal to the difference, reduced by any amount refunded to him under section 20 in respect of that financial year; or

(b) that employer shall, where the amount of pay-roll tax paid or payable by that employer when he made 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 he is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year, an amount equal to the difference.

"(3) An application under sub-section (2)(a) shall be made within the financial year next following the financial year in respect of which the refund or rebate is applied for.

## Pay-roll Tax

8. Section 11 of the Principal Act is repealed and the following section substituted:

"11.(1) In this section -

'financial year' has the same meaning as it has in section 10A(1);

'interstate wages' has the same meaning as it has in section 10(1);

'prescribed amount' has the same meaning as it has in section 10A(1);

'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;

'taxable wages' has the same meaning as it has in section 10(1);

'total 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 6 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, he shall, where the amount of pay-roll tax paid or payable by him when he made 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 he is required to furnish a 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 sub-section (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 10A applies to and in respect of him as if the reference in section

Adjustment of  
tax when  
employer  
ceases to be  
an employer,  
&c.

## Pay-roll Tax

10A(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 sub-section (2).".

### Registration

9.(1) Section 12(1) of the Principal Act is amended by inserting after "are taxable wages" the words "or who, being a member of a group, during a month pays or is liable to pay any taxable wages".

(2) Section 12 of the Principal Act is amended by inserting after sub-section (1) the following sub-sections:

"(1A) The Commissioner may cancel the registration of a person as an employer if -

(a) that person, not being a member of a group, has ceased to be an employer paying wages as referred to in sub-section (1);

(b) that 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 sub-section (1);  
or

(c) that person, although remaining a member of a group, does not pay and is not liable to pay wages as referred to in sub-section (1).

"(1B) 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, notwithstanding that during any month he pays or is liable to pay wages at a rate not in excess of \$1,150 per week, apply to the Commissioner, in accordance with a form, and in a manner determined by the Commissioner, for registration as an employer and thereupon the Commissioner shall register him as an employer under this Act."

### Exemption from furnish- ing returns

10. Section 14 of the Principal Act is amended by inserting after sub-section (2) the following sub-section:

"(2A) The Commissioner may, at any time, by notice in writing, revoke a certificate issued under sub-section (1)."



Pay-roll Tax

11. The Principal Act is amended by inserting after section 17 the following Part:

"PART IVA - GROUPING PROVISIONS

"17A. In this Part, 'business' includes -

Interpretation

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

"17B. For the purposes of this Act, 2 corporations constitute a group if they are, by reason of section 6(5) of the Companies Act, to be deemed, for the purposes of that Act, to be related to each other.

Grouping of corporations

"17C. For the purposes of this Act, where -

Grouping where employees used in another business

- (a) an employee of an employer, or 2 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 of his 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.

## Pay-roll Tax

Grouping of  
commonly  
controlled  
businesses

"17D.(1) A reference in this section to 2 businesses does not include a reference to 2 businesses both of which are owned by the same person, not being a trustee, 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 under sub-section (3) in each of 2 businesses, the persons who carry on those businesses constitute a group.

"(3) For the purposes of sub-section (2), the same person has, or the same persons have together, a controlling interest in each of 2 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 the following 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 or not beneficially) 50 per cent or more of the capital of the partnership; or

## Pay-roll Tax

(ii) is, or are together, entitled (whether 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 the beneficiary, or those persons (whether or not as the trustees of another trust) are together the 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 a controlling interest in a business if (whether or not he is a trustee of a trust) he is the sole owner of the business, or if persons, being 2 or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.

"(4) Where a corporation has a controlling interest under sub-section (3) in a business, it shall, for the purposes of that sub-section, be deemed to have a controlling interest in any other business in which another corporation that is, by reason of section 6(5) of the Companies Act, to be deemed, for the purposes of that Act, to be related to it has a controlling interest.

"(5) Where -

(a) a person has, or persons have together, a controlling interest under sub-section (3) in a business; and

(b) the person or persons who carries or carry on that business has or have such a controlling interest in another business,

the person or persons referred to in paragraph (a) shall, for the purposes of sub-section (3), be deemed to have a controlling interest in the business referred to in paragraph (b).

"(6) Where -

(a) a person is a beneficiary under a trust; or

(b) 2 or more persons together are beneficiaries under a trust,

Pay-roll Tax

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 sub-section (3) a controlling interest in a business, that beneficiary or those beneficiaries shall, for the purposes of sub-section (3), be deemed to have a controlling interest in that business.

Smaller groups  
subsumed into  
larger groups

"17E.(1) Notwithstanding any other provision of this Part, other than sub-section (2), where a person is, whether or not by virtue of this sub-section, a member of 2 or more groups (each of which is in sub-section (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 sub-section (1), a group which, but for this sub-section, would be a smaller group ceases to be a group if its members are members of a group constituted under sub-section (1).

Grouping  
provisions  
operate  
independently

"17F. 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.

Beneficiaries  
under dis-  
cretionary  
trusts

"17G. 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 shall be deemed, 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.

Exclusion of  
persons from  
groups

"17H.(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 he 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 order in writing served on that first-mentioned member, exclude him from that group.

"(2) The Commissioner shall not, under sub-section (1), make an order 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 6(5) of the Companies Act, is to be deemed, for the purposes of that Act, to be related to another corporation which is a member of that group.

## Pay-roll Tax

"(3) Notwithstanding any other provision of this Part, an order under sub-section (1) shall have effect according to its tenor on and from the date specified in the order (being a date that is the date of the order or before the date of the order) as the date on and from which the person referred to in the order is or shall be deemed to have been excluded from the group so referred to.

"17J.(1) The members of a group may, by an instrument in writing in a form approved by the Commissioner, executed by or on behalf of each member of the group and served on the Commissioner, designate one of its members to be the designated group employer in respect of the group for the purposes of this Act and nominate an amount (being an amount calculated in the manner specified in the form, but not exceeding the prescribed amount as defined in section 8(1)) as the deduction that the members of the group claim to be entitled to make for any return period in relation to which that designated group employer is required to furnish returns under this Act.

Designated  
group  
employer

"(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 him during which -

- (a) the composition of the group alters; or
- (b) the members of the group, by an instrument in writing in a 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 first occurs.

"(3) For the purpose of ascertaining the pay-roll tax payable by a designated group employer, there shall, subject to sub-section (4), be deducted, for a return period (being the return period commencing last before the day on which the instrument under sub-section (1) designating him as the designated group employer in respect of the group is served on the Commissioner or any subsequent 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) the amount nominated in that instrument.

## Pay-roll Tax

"(4) The Commissioner may, on an application made to him in writing executed by or on behalf of each person known to the Commissioner to be a member of a group or of his own motion in relation to a group, at any time, make a determination specifying an amount, not exceeding the prescribed amount as defined in section 8(1), 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, an employer specified in the determination who was, during any such return period, a member of that group and there shall 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) the amount so specified.

"(5) The Commissioner may, at any time, by instrument in writing, revoke a determination made under sub-section (4) and any such revocation shall have effect on and from the first day of the return period specified in the instrument, whether that return period is before, but not before the date of the determination, or after, or the return period in which, the instrument is executed by him.

"(6) An employer specified in a determination made under sub-section (4) shall, on the first day of the first return period specified or referred to in the determination, be deemed to have been designated under sub-section (1) to be the designated group employer in respect of the group of which he was then a member and shall, subject to sub-section (2), thereafter be the designated group employer in respect of that group.

"(7) The Commissioner shall, as soon as practicable after making a determination under sub-section (4) or a revocation under sub-section (5), serve notice of the determination or revocation on the designated group employer in respect of the group concerned.

Annual  
adjustments

"17K.(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 the whole of a financial year.

## Pay-roll Tax

"(2) In this section -

'financial year' means the financial year commencing on 1 July 1979 and each financial year thereafter;

'prescribed amount' in relation to a designated group employer, means the amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[ \frac{66000C}{D} - \frac{2}{3} \left\{ (TW + IW) - \frac{66000C}{D} \right\} \right]$$

where -

TW is the total of the taxable wages paid or payable by the members of the group, in respect of which that designated group employer is the designated group employer, during the financial year;

IW is the total of the interstate wages paid or payable by the members of that group during the financial year;

C is the number of days in that part of the financial year for which that designated group employer was the designated group employer in respect of that group, reduced by the number of days, if any, during that part in respect of which no wages (disregarding foreign wages) were paid or payable by any member of that group; and

D is the number of days in the financial year.

"(3) 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 of pay-roll tax prescribed by section 6 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

## Pay-roll Tax

- (ii) during that year there were 2 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 had he paid all of the taxable wages referred to in paragraph (a) paid or payable during that year.

"(4) 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 sub-section (3)(a) were included or required to be included.

"(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 greater than the annual amount of pay-roll tax in relation to those members for that financial year, the Commissioner shall, on an application made in accordance with sub-section (8) by the person who is the designated group employer in respect of that group on 30 June in that financial year, refund or rebate to that employer an amount equal to the difference, reduced by the total of any amounts refunded to any member of that group under section 20 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.

"(6) 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 30 June in that financial year shall pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act in respect of the return period that is or includes the months of June in that financial year, an amount equal to the difference.

"(7) If a designated group employer in respect of a group fails to pay any amount that he is required to pay under sub-section (6) 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.



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"(8) An application under sub-section (5) shall be made within the financial year next following the financial year in respect of which the refund or rebate is applied for.

"17L.(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.

Adjustment  
when members  
of group cease  
to pay taxable  
wages or inter-  
state wages

"(2) In this section -

'financial year' has the same meaning as it has in section 17K;

'prescribed amount' has the same meaning as it has in section 17K;

'prescribed period', in relation to a group, means part only (being a continuous part) of a financial year for which at least one member of the group paid or was liable to pay 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 of pay-roll tax prescribed by section 6 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 2 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

## Pay-roll Tax

that group during that prescribed period, would have been applicable to that designated group employer had he paid all of the wages referred to in paragraph (a) paid or payable during that prescribed period.

"(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 sub-section (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 shall pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish 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 17K(5) and (6) applies 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;
- (b) the reference in section 17K(4) 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 sub-section (4) by a designated group employer in respect of that group 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 30 June in that financial year.

"(6) If a designated group employer in respect of a group fails to pay any amount that he is required to pay under sub-section (4) in respect of a prescribed period, every member of the group who paid or was

## Pay-roll Tax

liable to pay taxable wages during the financial year that includes that prescribed period is liable jointly and severally to pay that amount to the Commissioner."

12.(1) Section 19(1) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

Assessments

"(a) assess the amount of wages or, where relevant, interstate wages paid or payable by the employer; and".

(2) Section 19 of the Principal Act is amended by inserting after sub-section (2) the following sub-sections:

"(2A) Sub-section (2) does not operate so as to authorize the Commissioner to cause an assessment to be made as referred to in that sub-section by reason that any deduction made from the wages included in any return is not correctly made if the deduction is made in accordance with this Act.

"(2B) Where the Commissioner makes a determination in respect of a return period ending before the determination is made as to the deduction that may be made from the taxable wages included or required to be included in returns made or required to be made under this Act, the Commissioner may cause an assessment to be made of the further tax that would have been payable by the employer concerned had the deduction been made from the wages included in the return for that month or period at the rate specified in the determination, and that employer shall be liable to pay that further tax, except insofar as he establishes an objection that the amount determined by the Commissioner is too little.

13. Section 26 of the Principal Act is amended by omitting sub-section (7) and substituting the following sub-section:

Liquidator  
to give  
notice

"(7) Nothing in this section -

(a) limits the liability of a liquidator under section 27 or his liability, as a trustee, under section 59 or Part IVA; or

(b) affects any of the provisions of the Companies Act."

Pay-roll Tax

Agents and  
trustees

14. Section 59 of the Principal Act is amended by adding at the end thereof the following sub-section:

"(2) Nothing in sub-section (1) affects the operation of Part IVA in relation to trustees."

Transitional

15.(1) The power conferred on the Commissioner by section 12(1A) of the Principal Act as in force immediately after the commencement of this Act, extends to authorizing the Commissioner to cancel the registration of a person as an employer where that person was not, immediately before 1 July 1979, an employer paying wages as referred to in section 12(1) of the Principal Act as in force immediately after the commencement of this Act.

(2) The Principal Act as amended by this Act applies to and in relation to all matters relating to wages paid or payable on or after 1 July 1979.

(3) The Principal Act as in force immediately before the commencement of this Act continues to apply to and in relation to wages paid or payable before 1 July 1979.

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