

Queensland



ANNO TRICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

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No. 4 of 1984

**An Act to amend the Pay-roll Tax Act 1971–1982 in certain  
particulars**

[PASSED THIRD READING 21ST DECEMBER, 1983; ASSENTED TO 6TH  
JANUARY, 1984]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title.** This Act may be cited as the *Pay-roll Tax Act Amendment Act 1984*.

**2. Commencement.** (1) Subject to subsection (2), this Act shall come into operation on the day on which it is assented to for and on behalf of Her Majesty.

(2) Section 17 and the amendments made by sections 6, 7, 9 and 16 shall be deemed to have come into operation on 1 January, 1984.

**3. Principal Act and citation as amended.** (1) In this Act the *Pay-roll Tax Act 1971–1982* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Pay-roll Tax Act 1971–1984*.

**4. Amendment of s. 2. Parts of Act.** Section 2 of the Principal Act is amended by omitting the expression “(ss. 6–11)” and substituting the expression “(ss. 6–11D)”.

**5. Amendment of s. 3. Interpretation.** Section 3 of the Principal Act is amended by—

(a) in subsection (1),

(i) in the definition “employer”, inserting after the word “Queensland” the words “and any person who is an employment agent for the purposes of paragraph (f) of the definition “wages” in this subsection;

(ii) in the definition “wages”,

(A) deleting the word “and” appearing between paragraphs (d) and (e);

(B) inserting at the end of paragraph (e) the following expression and words:—

“; and

(f) any amount paid or payable by way of remuneration by a person (in this paragraph referred to as the employment agent) to a person (in this paragraph referred to as the worker) who was engaged by the employment agent to provide services for a client of the employment agent and as a result of the engagement—

(i) the worker does not become the employee of either the employment agent or the client but does carry out duties of a similar nature to those of an employee;

(ii) remuneration is paid directly or indirectly by the employment agent to the worker or to some other person in respect of the services provided by the worker; and

(iii) the employment agent receives directly or indirectly payment, whether by way of a lump sum or an ongoing fee, during or in respect of the period when the services are provided by the worker to the client”;

(b) in subsection (3), omitting the words “together shall be deemed to be a State” and substituting the words “shall be deemed to be States”.

**6. Amendment of s. 9. Deduction from taxable wages.** Section 9 of the Principal Act is amended by—

(a) in subsection (1), in the definition “prescribed amount”,

(i) omitting the expression “3 000” and substituting the expression “3 250”;

(ii) omitting all words from and including the words “E represents” to and including the words “and thereafter, 17 000;” and substituting the following words:—

“E represents in the period commencing on 1 January 1984 and ending on 30 June 1984 and thereafter, 21 000”;

(b) in subsection (4), omitting the expression “1983” and substituting the expression “1984”.

**7. Amendment of s. 11A. Interpretation.** Section 11A of the Principal Act is amended by, in subsection (2)—

(a) in paragraph (a)—

(i) omitting the expression “1982” and substituting the expression “1983”;

(ii) in the formula in subparagraph (i) omitting the expression “ $\left(\frac{JA + KB - ZC}{XA + YB - JA - KB}\right)$ ” and substituting the expression “1.5”;

(iii) in the formula in subparagraph (ii) omitting the expression “ $\left(\frac{36000C}{365}\right)$ ” and substituting the expression “ $\left(\frac{ZA + VB}{365}\right)$ ”;

(b) in paragraph (b),

(i) omitting the expression “1983” and substituting the expression “1984”;

(ii) omitting the expression “204 000” where firstly and secondly occurring and substituting the expression “252 000” in each case;

(iii) omitting the expression “36 000” where firstly occurring and substituting the expression “39 000”;

(iv) omitting all words from and including the words “J represents” to the end of paragraph (b) and substituting the following words:—

“J represents 204 000 for the financial year commencing on 1 July, 1983;

K represents 252 000 for the financial year commencing on 1 July, 1983;

V represents 39 000 for the financial year commencing on 1 July, 1983;

Z represents 36 000 for the financial year commencing on 1 July, 1983.”

**8. New s. 11D. Arrangements for avoidance of tax may be disregarded.** The Principal Act is amended by inserting after section 11C the following section:—

“ **11D. Arrangements for avoidance of tax may be disregarded.**

(1) Where any person enters into any agreement, transaction, or arrangement, whether in writing or otherwise, whereby a natural person performs or renders, for or on behalf of another person, services in respect of which any payment is made to some other person related or connected to the natural person performing or rendering the services and the effect of such agreement, transaction or arrangement is to reduce or avoid the liability of any person to the assessment, imposition or payment of pay-roll tax, the Commissioner may—

- (a) disregard such agreement, transaction, or arrangement;
- (b) determine that any party to such agreement, transaction or arrangement shall be deemed to be an employer for the purposes of this Act; and
- (c) determine that any payment made in respect of such agreement, transaction or arrangement shall be deemed to be wages for the purposes of this Act.

(2) Where the Commissioner makes a determination under subsection (1), he shall serve a notice to that effect on the person deemed to be an employer for the purposes of this Act and shall set out in the notice the facts on which the Commissioner relies and his reasons for making the determination.”

**9. Amendment of s. 12. Registration.** Section 12 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the expression “ \$3 923 ” and substituting the expression “ \$4 846 ”;

(ii) omitting the expression “ 1983 ” where twice occurring and substituting the expression “ 1984 ” in each case;

(b) in subsection (2A)—

(i) omitting the expression “ \$3 923 ” and substituting the expression “ \$4 846 ”;

(ii) omitting the expression “ 1983 ” where twice occurring and substituting the expression “ 1984 ” in each case.

**10. Amendment of s. 16C. Grouping where employees used in another business.** Section 16C of the Principal Act is amended by—

(a) numbering the existing section as subsection (1);

(b) inserting after subsection (1) as so numbered the following subsection:—

“(2) Where the Commissioner is satisfied, having regard to the nature and degree of the duties referred to in subsection (1) and to any other matters that he considers relevant, that it would not be just and reasonable to include as a member of a group a person or persons carrying on a business, the Commissioner may, by order in writing served on that person or those persons, exclude him or them from the group.”.

**11. Amendment of s. 16D. Grouping of commonly controlled businesses.** Section 16D of the Principal Act is amended by inserting after subsection (6) the following subsection:—

“(7) Where the Commissioner is satisfied, having regard to the nature and degree of ownership or control of businesses that constitute a group and to any other matters that he considers relevant, that—

(a) a business carried on by a member of that 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; and

(b) that it is just and reasonable that the firstmentioned member be excluded from that group,

the Commissioner may, by order in writing served on the firstmentioned member, exclude him from that group.”.

**12. New s. 16DA. Grouping of head and branch businesses.** The Principal Act is amended by inserting after section 16D the following section:—

“**16DA. Grouping of head and branch businesses.** (1) For the purposes of this Act, two businesses constitute a group if—

(a) one of the businesses is a branch, agency or subsidiary of a head or parent business; and

(b) the head or parent business exercises managerial control, whether administrative, financial or procedural over the branch, agency or subsidiary.

(2) Where the Commissioner is satisfied, having regard to the nature and degree of managerial control exercised by the head or parent business and to any other matters that he considers relevant, that it would not be just and reasonable to include as a member of a group a person or persons carrying on a business, the Commissioner may, by order in writing served on that person or those persons, exclude him or them from the group.”.

**13. Amendment of s. 16E. Smaller groups subsumed into larger groups.** Section 16E of the Principal Act is amended by inserting after subsection (2) the following subsection:—

“(3) Where the Commissioner is satisfied, having regard to any matters that he considers relevant, that it would not be just and reasonable to include as members of one group the members

of two or more groups, the Commissioner may, by order in writing served on the person or persons who are members of those groups, exclude them from that one group.”.

**14. Repeal of and new s. 16H. Exclusion of persons from groups.** The Principal Act is amended by repealing section 16H and substituting the following section:—

“ **16H. Designated group employer.** (1) The Commissioner shall not under section 16C, 16D, 16DA or 16E 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 7 (5) of the *Companies (Queensland) Code*, is to be deemed for the purposes of that Code to be related to another corporation which is a member of that group.

(2) A person who is excluded from a group by order of the Commissioner under section 16C, 16D, 16DA or 16E shall inform the Commissioner in writing immediately if the circumstances which were prevailing at the time of the exclusion order, as made known to the Commissioner prior to the making of the order, change in a material respect.

(3) The Commissioner may at any time, by order in writing served on the person or persons excluded from a group, revoke an order made under section 16C, 16D, 16DA or 16E.

(4) Notwithstanding any other provision of this Part, an order under section 16C (2), 16D (7), 16DA (2) or 16E (3) 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.”.

**15. Amendment of s. 16I. Designated group employer.** Section 16I of the Principal Act is amended by—

(a) inserting after subsection (1), the following subsection:—

“ (1A) If the members of a group do not in accordance with subsection (1) 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, the Commissioner may exercise in respect of the group the powers of designation and nomination conferred on members of the group by that subsection and for the purposes of this Act such a designation and nomination by the Commissioner shall be by instrument in writing served on the member of the group designated as the designated group employer and shall have the same effect and give rise to the same consequences as if validly made by the members of the group.”;

(b) in subsection (2), omitting the words “The designated” and substituting the words “Subject to subsection (2A), the designated”;

(c) inserting after subsection (2) the following subsections:—

“(2A) The members of a group may exercise the power of revoking a designation conferred by subsection (2) only with the prior written consent of the Commissioner or, if at the same time as revoking the designation, the members make a further designation of one of their members to be the designated group member in substitution for the member whose designation is revoked.

(2B) Where the Commissioner has exercised the powers conferred on him by subsection (1A), he may, by instrument in writing served on the member of the group designated as the designated group employer, revoke his designation of that member as the designated group employer and thereafter may further exercise the powers conferred on him by that subsection.”;

(d) in subsection (3),

(i) inserting after the expression “subsection (1)” the expression “or (1A)”;

(ii) inserting after the word “Commissioner” the words “or by the Commissioner, as the case may be,”;

(e) in subsection (6),

(i) inserting after the expression “subsection (1)” the expression “or (1A)”;

(ii) inserting after the expression “subsection (2)” the expression “or (2A)”.

**16. Amendment of s. 16J. Interpretation.** Section 16j of the Principal Act is amended by in subsection (1)—

(a) in paragraph (a)—

(i) omitting the expression “1982” and substituting the expression “1983”;

(ii) in the formula in subparagraph (i) omitting the expression “ $\left(\frac{JA + KB - ZC}{XA + YB - JA - KB}\right)$ ” and substituting the expression “1.5”;

(iii) in the formula in subparagraph (ii) omitting the expression “ $\left(\frac{36000C}{365}\right)$ ”, and substituting the expression “ $\left(\frac{ZA + VB}{365}\right)$ ”;

(b) in paragraph (b),

(i) omitting the expression “1983” and substituting the expression “1984”;

(ii) omitting the expression “204 000” where firstly and secondly occurring and substituting the expression “252 000” in each case;

(iii) omitting the expression “36 000” where firstly occurring and substituting the expression “39 000”;

(iv) omitting all words from and including the words “ J represents ” to the end of paragraph (b) and substituting the following words:—

“ J represents 204 000 for the financial year commencing 1 July, 1983;

K represents 252 000 for the financial year commencing 1 July, 1983;

V represents 39 000 for the financial year commencing 1 July, 1983;

Z represents 36 000 for the financial year commencing 1 July, 1983.”.

**17. Continued operation of amended provisions.** The amendment by this Act of any provision of section 9, 11A, 12 or 16J of the Principal Act shall not affect the application of that provision according to its terms as in force immediately before 1 January 1984 in relation to any right, obligation or matter that has arisen or is hereafter discovered to have arisen before 1 January 1984, save where such application is inconsistent with a provision of section 9, 11A, 12 or 16J of the Principal Act as amended by this Act, and to that extent such firstmentioned provision shall be deemed to continue in force.