

TASMANIA

TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2020

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Repeal of Act

PART 2 – FIRST HOME OWNER GRANT ACT 2000 AMENDED

4. Principal Act
5. Section 18 amended (Amount of grant)
6. Section 18H inserted
18H. Conditions on increase in grant

PART 3 – PAYROLL TAX ACT 2008 AMENDED

7. Principal Act
8. Schedule 2 amended (Tasmania-Specific Provisions)

PART 4 – PAYROLL TAX REBATE (APPRENTICES, TRAINEES AND YOUTH EMPLOYEES) ACT 2017 AMENDED

9. Principal Act
10. Section 3 amended (Interpretation)
11. Section 5 amended (Eligible employee for rebate)
12. Section 6 amended (Duration of rebate)
13. Section 26A inserted

26A. Extension of certain periods

**TAXATION AND RELATED LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 2020**

*(Brought in by the Minister for Finance, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

**An Act to amend the *First Home Owner Grant Act 2000*, the
Payroll Tax Act 2008 and the *Payroll Tax Rebate
(Apprentices, Trainees and Youth Employees) Act 2017***

Be it enacted by Her Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Taxation and
Related Legislation (Miscellaneous
Amendments) Act 2020*.

2. Commencement

This Act commences on the day on which this
Act receives the Royal Assent, but if it does not
receive the Royal Assent by 1 April 2020 this
Act is taken to have commenced on
1 April 2020.

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

s. 3

Part 1 – Preliminary

3. Repeal of Act

This Act is repealed on the first anniversary of the day on which this Act received the Royal Assent.

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

Part 2 – First Home Owner Grant Act 2000 Amended

s. 4

**PART 2 – FIRST HOME OWNER GRANT ACT 2000
AMENDED**

4. Principal Act

In this Part, the *First Home Owner Grant Act 2000** is referred to as the Principal Act.

5. Section 18 amended (Amount of grant)

Section 18(2) of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (ag):
 - (ah) if the first home owner grant relates to an eligible transaction that satisfies section 18H, the amount is \$20 000; or
- (b) by omitting from paragraph (b) “section 18A, 18B, 18C, 18D, 18E, 18F or 18G” and substituting “section 18A, 18B, 18C, 18D, 18E, 18F, 18G or 18H”.

6. Section 18H inserted

After section 18G of the Principal Act, the following section is inserted in Division 5:

*No. 19 of 2000

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

s. 6

Part 2 – First Home Owner Grant Act 2000 Amended

18H. Conditions on increase in grant

- (1) An eligible transaction satisfies this section if –
 - (a) the commencement date of the eligible transaction is on or after 1 July 2020 but before 1 July 2022; and
 - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement date of the eligible transaction.
- (2) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (1) for the eligible transaction to be completed, even though the period has expired.
- (3) Despite subsection (1), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2020, that is for the same property and that is between substantially, or that benefits substantially, the same parties.

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

Part 2 – First Home Owner Grant Act 2000 Amended

s. 6

(4) For the avoidance of doubt, a payment of \$20 000 that –

(a) was made in anticipation of the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2020* receiving the Royal Assent; and

(b) was made on or after 1 July 2020 but before the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2020* received the Royal Assent –

is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as inserted by that Act, applies.

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

s. 7

Part 3 – Payroll Tax Act 2008 Amended

PART 3 – PAYROLL TAX ACT 2008 AMENDED

7. Principal Act

In this Part, the *Payroll Tax Act 2008** is referred to as the Principal Act.

8. Schedule 2 amended (Tasmania-Specific Provisions)

Schedule 2 to the Principal Act is amended by inserting after clause 10 in Part 4 the following Part:

PART 4A – SPECIAL PANDEMIC PROVISIONS

10A. Interpretation

In this Part –

Director of Public Health means the
Director of Public Health
appointed under section 6 of the
Public Health Act 1997.

10B. Minister may make order

- (1) The Minister, by order and on one or more occasions, may do one or more of the following:
 - (a) waive the payment of payroll tax under this Act in respect of the

*No. 16 of 2008

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

Part 3 – Payroll Tax Act 2008 Amended

s. 8

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- taxable wages paid to an employee, or a specified class of employee, by an employer;
- (b) waive the requirement to lodge a specified document or return, or a specified class of documents or returns, under this Act;
- (c) waive a process of an administrative nature, or a class of processes of an administrative nature, required under this Act.
- (2) A waiver specified in an order under subclause (1) may be made unconditionally or on such conditions, limitations, restrictions, exceptions or circumstances as the Minister specifies in the order.
- (3) The Minister may only make an order under subclause (1) before the first anniversary of being notified by the Director of Public Health in accordance with clause 10E.
- (4) An order under subclause (1) –
- (a) must specify a period for which each waiver specified in the order is in force; and
- (b) if the order specifies a waiver in respect of the requirement to lodge a return for a specified

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

s. 8

Part 3 – Payroll Tax Act 2008 Amended

period, may specify a return period even if the return period has already commenced, or commenced and ended, before the order takes effect.

- (5) An order under subclause (1) must not take effect for a period of at least 14 days, after the day on which the making of the order is notified in the *Gazette*, if –
 - (a) the order revokes another order under subclause (1); or
 - (b) the order amends another order under subclause (1) by reducing the period for which the other order has effect.
- (6) Section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* applies to an order under subclause (1) as if the order were regulations within the meaning of that Act.
- (7) An order under subclause (1) ceases to have effect at the first of the following:
 - (a) if the order specifies a period for which the order is in force, the expiry of that period;
 - (b) the Minister revokes the order;
 - (c) on the first anniversary of the Minister being notified by the

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

Part 3 – Payroll Tax Act 2008 Amended

s. 8

Director of Public Health in
accordance with clause 10E.

- (8) An order under subclause (1) –
- (a) is a statutory rule for the purposes of the *Rules Publication Act 1953*; and
 - (b) is not an instrument of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.

10C. Effect of order

For the avoidance of doubt –

- (a) if an order under clause 10B(1) waives the payment of payroll tax under this Act in respect of taxable wages, those wages remain taxable wages for all other purposes under this Act; and
- (b) a waiver granted under an order under clause 10B(1) does not remove any other obligation under this Act or any other taxation law.

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

s. 8

Part 3 – Payroll Tax Act 2008 Amended

10D. Power of Commissioner to make determination

- (1) If an order is made under clause 10B(1), the Commissioner may do anything necessary or convenient to give effect to the order, including making a determination as to whether, or how, the order applies in specified circumstances, or a specified class of circumstances.
- (2) A determination, or decision, of the Commissioner under subclause (1) is a non-reviewable decision for the purposes of the *Taxation Administration Act 1997*.

10E. Power of Director of Public Health to notify Minister

If the Director of Public Health is of the opinion that there is no longer a public health emergency, within the meaning of the *Public Health Act 1997*, in respect of the disease known as COVID-19, including any disease that is recognised as a mutated form of that disease, the Director of Public Health is to notify the Minister of that fact as soon as is practicable.

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

Part 4 – Payroll Tax Rebate (Apprentices, Trainees and Youth Employees)
Act 2017 Amended

s. 9

**PART 4 – PAYROLL TAX REBATE (APPRENTICES,
TRAINEES AND YOUTH EMPLOYEES) ACT 2017
AMENDED**

9. Principal Act

In this Part, the *Payroll Tax Rebate (Apprentices, Trainees and Youth Employees) Act 2017** is referred to as the Principal Act.

10. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by inserting after paragraph (a) in the definition of *eligible period* the following paragraph:

- (ab) in relation to a youth employee who is an eligible employee –
 - (i) the period commencing on 1 July 2017 and ending on 30 June 2019 inclusive; or
 - (ii) the period commencing on 1 April 2020 and ending on 31 December 2020 inclusive; or

11. Section 5 amended (Eligible employee for rebate)

Section 5(3) of the Principal Act is amended as follows:

*No. 23 of 2017

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

s. 12 Part 4 – Payroll Tax Rebate (Apprentices, Trainees and Youth Employees)
 Act 2017 Amended

(a) by omitting paragraph (a) and substituting the following paragraph:

(a) was not employed or engaged by that employer –

(i) in relation to the period specified in paragraph (ab)(i) of the definition of *eligible period* in section 3, on 25 May 2017; or

(ii) in relation to the period specified in paragraph (ab)(ii) of the definition of *eligible period* in section 3, on 31 March 2020; and

(b) by omitting from paragraph (b) “eligible period” and substituting “relevant eligible period”.

12. Section 6 amended (Duration of rebate)

Section 6 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

(2) A rebate under this Act is only payable in respect of a youth employee –

(a) if the youth employee is an eligible employee under section 5(1)(b) by virtue of being

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

Part 4 – Payroll Tax Rebate (Apprentices, Trainees and Youth Employees)
Act 2017 Amended

s. 13

employed or engaged within the period specified in paragraph (ab)(i) of the definition of *eligible period* in section 3, for a period of one year from the date that the youth employee commenced the employment or engagement within that eligible period; or

- (b) if the youth employee is an eligible employee under section 5(1)(b) by virtue of being employed or engaged within the period specified in paragraph (ab)(ii) of the definition of *eligible period* in section 3, for a period of one year from the date that the youth employee commenced the employment or engagement within that eligible period.

13. Section 26A inserted

After section 26 of the Principal Act, the following section is inserted in Division 2:

26A. Extension of certain periods

- (1) If the Minister considers it appropriate, in response to the impact of the disease known as COVID-19 (including any disease that is recognised as a mutated form of that disease) in the State, the

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

s. 13 Part 4 – Payroll Tax Rebate (Apprentices, Trainees and Youth Employees)
Act 2017 Amended

Minister, by order and on one or more occasions, may do one or more of the following:

- (a) amend the period specified in paragraph (ab)(ii) of the definition of *eligible period* in section 3 by omitting the date on which the period ends and substituting a new date;
 - (b) extend a period specified in section 6(2)(b) for which a rebate under this Act is payable.
- (2) If the Minister makes an order under subsection (1)(a) that results in the shortening of a period, the order must not take effect for a period of at least 14 days after the day on which the making of the order is notified in the *Gazette*.
- (3) Section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under subsection (1) as if the order were regulations within the meaning of that Act.
- (4) An order under subsection (1) –
 - (a) is a statutory rule for the purposes of the *Rules Publication Act 1953*; and

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2020
Act No. of 2020

Part 4 – Payroll Tax Rebate (Apprentices, Trainees and Youth Employees) **s. 13**
Act 2017 Amended

(b) is not an instrument of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.