

CLAUSE NOTES

Taxation and Related Legislation (Miscellaneous Amendments) Bill 2020

Part 1 - Preliminary

- Clause 1** This Act may be cited as the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2020*.
- Clause 2** This Act commences on the day on which this Act receives the Royal Assent, but if it does not receive Royal Assent by 1 April 2020 this Act is taken to have commenced on 1 April 2020.
- Clause 3** This Act is repealed on the first anniversary of the day on which this Act received the Royal Assent.

Part 2 - First Home Owner Grant Act 2000 Amended

- Clause 4** In this Part, the *First Home Owner Grant Act 2000* is referred to as the Principal Act.
- Clause 5** Amends section 18(2) of the Principal Act (Amount of grant) by inserting subsection (ah) to provide for a grant of \$20 000 for an eligible transaction that satisfies section 18H.
- Clause 6** Inserts section 18H to provide for the conditions of the \$20 000 grant under clause 5, including specifying that the grant applies to eligible transactions that are entered into from 1 July 2020 to 30 June 2022 inclusive.

The amendment also clarifies that, where a payment of \$20 000 is made to an eligible recipient in anticipation of this Bill receiving Royal Assent, that payment is taken to be a first home owner grant payment for the purposes of the Principal Act.

Part 3 - Payroll Tax Act 2008 Amended

- Clause 7** In this Part, the *Payroll Tax Act 2008* is referred to as the Principal Act.
- Clause 8** Amends Schedule 2 (Tasmania-Specific Provisions) of the Principal Act by inserting Part 4A (Special Pandemic Provisions) after clause 10 of Part 4 (Government entities – special provisions).

Clause 10A defines that the Director of Public Health means the Director of Public Health appointed under section 6 of the *Public Health Act 1997*.

Clause 10B(1) provides that the Minister may make an order to waive the payment of payroll tax under the Principal Act for a specified period on the taxable wages paid to an employee or class of employees by an employer. The Minister may also make an order to waive the requirement to lodge a specified document or return or other administrative processes required under the Principal Act.

Clause 10B(2) provides that any waiver specified under subclause (1) may be made unconditionally or subject to conditions, limitations, restrictions, exceptions or circumstances as the Minister specifies in the order.

Clause 10B(3) provides that the Minister may only make an order under subclause (1) before the first anniversary of the Minister being notified by the Director of Public Health that there is no longer a public health emergency as per clause 10E.

Clause 10B(4) provides that an order made under subclause (1) must specify the period for which each waiver specified in the order is in force. If an order made under subclause (1) specifies a waiver in respect of the requirement to lodge a return for a specified period, this clause provides that the order may specify a return period even if the return period has already commenced, or commenced and ended, before the order takes effect.

Clause 10B(5) provides that if the Minister makes an order under subclause (1) that either revokes another order made under subclause (1) or results in a shortening of the period for which another order made under subclause (1) has effect, the order must not take effect until at least 14 days after the day the order is notified in the *Gazette*.

Clause 10B(6) provides that sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order made under subclause (1).

Clause 10B(7) provides that an order made under subclause (1) ceases to have effect after any of the following: the expiry of the order as specified in the order, the order is revoked by the Minister, or the first anniversary of the Minister being notified by the Director of Public Health that there is no longer a public health emergency.

Clause 10B(8) provides an order made under subclause (1) is a statutory rule for the purposes of the *Rules Publication Act 1953* and is not subordinate legislation for the purposes of the *Subordinate Legislation Act 1992*.

Clause 10C provides that if an order made under clause 10B(1) waives the payment of payroll tax in respect of taxable wages, those wages remain taxable wages for the purposes of the Principal Act. It also provides that a waiver granted does not remove any other obligation under the Act or any other taxation law.

Clause 10D provides that the Commissioner of State Revenue may do anything necessary or convenient to give effect to an order made under clause 10B(1), including making a determination as to whether, or how, the order applies in specified circumstances, or a specified class of circumstances.

Any decision made by the Commissioner is a non-reviewable decision for the purposes of the *Taxation Administration Act 1997*.

Clause 10E provides that the Director of Public Health is to notify the Minister as soon as is practicable when there is no longer a public health emergency in respect of COVID-19 or a mutated form of the disease.

Part 4 - Payroll Tax Rebate (Apprentices, Trainees And Youth Employees) Act 2017 Amended

Clause 9 In this Part, the *Payroll Tax Rebate (Apprentices, Trainees And Youth Employees) Act 2017* is referred to as the Principal Act.

- Clause 10** Amends section 3 of the Principal Act (Interpretation) to insert a definition of “eligible period” which provides for a payroll tax rebate for eligible youth employees employed between 1 April 2020 and 31 December 2020.
- Clause 11** Amends section 5(3) of the Principal Act (Eligible employee for rebate) by omitting paragraph (a) and substituting a new paragraph (a) to provide that youth employees that were employed as at 31 March 2020 (the day before the commencement date for the rebate) are not eligible employees. That is, the clause specifies that the rebate is only available to new youth employees.
- Clause 12** Amends section 6 of the Principal Act (Duration of rebate) by omitting subsection (2) and substituting a new subsection (2) to provide that the duration of the rebate for an eligible youth employee employed between 1 April 2020 and 31 December 2020 is one year from the date the youth employee commenced their employment or engagement.
- Clause 13** Section 26A is inserted after section 26 of the Principal Act (Protection of Commissioner, &c.).
- Section 26A(1) provides that the Minister may, in response to the impact of the Coronavirus (COVID-19), amend either the eligible period of the rebate (currently nine months) or the length of the rebate by Ministerial Order.
- Section 26A(2) provides that if the Minister makes an order under section 26A(1)(a) that results in a shortening of the length of the eligible period of the rebate, the order must not take effect until at least 14 days after the day the order is notified in the Gazette.
- Section 26A(3) provides that sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order made under section 26A(1).
- Section 26A(4) provides that an order made under section 26A(1) is a statutory rule for the purposes of the *Rules Publication Act 1953* and is not subordinate legislation for the purposes of the *Subordinate Legislation Act 1992*.