

TASMANIA

TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2005

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**TAXATION AND RELATED LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 2005**

*(Brought in by the Treasurer, the Honourable Paul Anthony
Lennon)*

A BILL FOR

An Act to amend the *Duties Act 2001*, the *Fire Service Act 1979*, the *Pay-roll Tax Act 1971* and the *Taxation Administration Act 1997*

Be it enacted by His 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 2005*.

2. Commencement

- (1) This Act, except as specified in subsections (2) and (3), commences on the day on which this Act receives the Royal Assent.
- (2) Part 6 is taken to have commenced on 1 July 2005.
- (3) Part 3 commences on 1 July 2006.

PART 2 – DUTIES ACT 2001 AMENDED**3. Principal Act**

In this Part, the *Duties Act 2001** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of “insurance intermediary” and substituting the following definition:

“insurance intermediary” means –

- (a) a person who arranges contracts of insurance in Tasmania –
 - (i) for reward; or
 - (ii) as an agent for a person carrying on a business of insurance; or
- (b) a financial services licensee (as defined in section 761A of the *Corporations Act 2001* of the Commonwealth) whose licence covers the

*No. 15 of 2001

arrangement of contracts of insurance as an agent for a person carrying on a business of insurance; or

- (c) a regulated principal (as defined in section 1430 of the *Corporations Act 2001* of the Commonwealth) when carrying on business as an insurance broker as regulated by Subdivision D of Division 1 of Part 10.2 of that Act;

- (b) by inserting “domain name,” after “trading name,” in paragraph (a) of the definition of “intellectual property”;
- (c) by inserting “domain name,” after “trading name,” in paragraph (b)(i) of the definition of “intellectual property”.

5. Section 35 amended (Vesting order)

Section 35(1) of the Principal Act is amended by omitting “land” third occurring and substituting “capital”.

6. Section 53 amended (Exemptions relating to various transactions)

Section 53 of the Principal Act is amended by omitting paragraph (b).

7. Section 54 inserted

After section 53 of the Principal Act, the following section is inserted in Part 6:

54. Contracts of sale under *Homes Act 1935*

Notwithstanding section 7(1), liability for duty on a contract of sale made under section 17 of the *Homes Act 1935* does not arise until a transfer is executed pursuant to the contract.

8. Section 56 amended (Exemptions – break-down of marriages)

Section 56(3)(b) of the Principal Act is amended by omitting “pursuant to” and substituting “effected by or in accordance with”.

9. Section 59A inserted

After section 59 of the Principal Act, the following section is inserted in Division 1:

59A. Company to be treated as private company in certain circumstances

Notwithstanding the definition of “**private company**” in section 3, for the purposes of this Chapter, a company is a private company if the Commissioner is satisfied that its listing on a recognised stock exchange was part of an arrangement or scheme having as its purpose, or one of its purposes, the defeat of the objects of this Chapter.

10. Section 178 amended (Who is an insurer?)

Section 178(2)(c) of the Principal Act is amended by omitting “registered under” and substituting “authorised as a general insurer under”.

11. Section 214 amended (Applicable exemptions)

Section 214(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “acquired for the sole” and substituting “acquired and used solely for the”;
- (b) by inserting in paragraph (b) “and used solely” after “acquired”;
- (c) by inserting in paragraph (c) “and used solely” after “acquired”.

12. Section 227 amended (Miscellaneous exemptions)

Section 227(1) of the Principal Act is amended by omitting paragraph (h).

PART 3 – DUTIES ACT 2001 FURTHER AMENDED**13. Principal Act**

In this Part, the *Duties Act 2001** is referred to as the Principal Act.

14. Section 163 amended (What is general insurance?)

Section 163(2) of the Principal Act is amended as follows:

- (a) by omitting “General” and substituting “Notwithstanding subsection (3), general”;
- (b) by inserting “regardless of how, or by whom, the insurance is effected” after “disease”.

*No. 15 of 2001

PART 4 – FIRE SERVICE ACT 1979 AMENDED**15. Principal Act**

In this Part, the *Fire Service Act 1979** is referred to as the Principal Act.

16. Section 77F amended (Inspectors)

Section 77F(1) of the Principal Act is amended by omitting “authorize” and substituting “authorise an authorised officer appointed under the *Taxation Administration Act 1997* and”.

*No. 35 of 1979

PART 5 – PAY-ROLL TAX ACT 1971 AMENDED**17. Principal Act**

In this Part, the *Pay-roll Tax Act 1971** is referred to as the Principal Act.

18. Section 2AAB amended (Central fund scheme contributions constitute wages for pay-roll tax purposes)

Paragraph (b) of the definition of “central fund scheme” in section 2AAB(3) of the Principal Act is amended as follows:

- (a) by omitting “various employers pay” and substituting “an employer pays”;
- (b) by omitting “their” first occurring and substituting “its”.

19. Section 49 amended (Regulations)

Section 49(1) of the Principal Act is amended by omitting paragraph (d).

*No. 43 of 1971

**PART 6 – PAY-ROLL TAX ACT 1971 FURTHER
AMENDED****20. Principal Act**

In this Part, the *Pay-roll Tax Act 1971** is referred to as the Principal Act.

21. Section 2AAA amended (Certain trust distributions constitute wages for pay-roll tax purposes)

Section 2AAA of the Principal Act is amended by inserting after subsection (7) the following subsection:

(8) For the purposes of this section –

“industrial instrument” means an award, enterprise agreement or industrial agreement within the meaning of the *Industrial Relations Act 1984*, or an award, certified agreement, Australian workplace agreement or old IR agreement within the meaning of the *Workplace Relations Act 1996* of the Commonwealth.

*No. 43 of 1971

PART 7 – TAXATION ADMINISTRATION ACT 1997
AMENDED**22. Principal Act**

In this Part, the *Taxation Administration Act 1997** is referred to as the Principal Act.

23. Section 4 amended (Meaning of taxation laws)

Section 4 of the Principal Act is amended by inserting after paragraph (ac) the following paragraph:

(b) *Land Tax Rating Act 2000*;

24. Section 34A inserted

After section 34 of the Principal Act, the following section is inserted in Division 1:

34A. Imposition of interest where making of duty assessment delayed

- (1) If in the opinion of the Commissioner the actions of the taxpayer or the taxpayer's representative, or both the taxpayer and the taxpayer's representative, unnecessarily delay the making of a duty assessment, the Commissioner may impose interest from the end of the last day for payment until the day on which the duty is paid.

*No. 74 of 1997

- (2) For the purposes of subsection (1), the “**last day for payment**” is the last day of the period of 3 months after the liability for duty arises as provided in section 10 of the *Duties Act 2001*.

25. Section 118A inserted

After section 118 of the Principal Act, the following section is inserted in Division 4:

118A. Administrative fee

- (1) If a person lodges an instrument with the Commissioner for assessment or lodges a return with the Commissioner, the Commissioner may charge that person a prescribed fee.
- (2) For the purposes of this section –
- “**instrument**” has the meaning given to that term in the *Duties Act 2001*.