



AUSTRALIAN CAPITAL TERRITORY

Taxation Administration (Consequential and Transitional Provisions) Act 1999

No. 5 of 1999

An Act to make certain transitional provisions, and to amend certain Acts, in consequence of the enactment of the *Taxation Administration Act 1999*

[Notified in ACT Gazette S8: 1 March 1999]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Taxation Administration (Consequential and Transitional Provisions) Act 1999*.

2. Commencement

- (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- (2) The remaining provisions commence on 1 March 1999.

3. Interpretation

- (1) In this Act, unless the contrary intention appears—

“Administration Act” means the *Taxation Administration Act 1999*;

“former Act” means the *Taxation (Administration) Act 1987*.

- (2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the Administration Act.

PART II—REPEAL

4. Acts repealed

The Acts specified in Schedule 1 are repealed.

PART III—TRANSITIONAL PROVISIONS

Division 1—Preservation of certain decisions and appointments

5. The Commissioner

The person who immediately before 1 March 1999 was the Commissioner under the former Act continues in office as Commissioner under the Administration Act as if appointed under the Administration Act.

6. Authorised officers and identity cards

(1) A person who immediately before 1 March 1999 was an authorised tax officer under the former Act is deemed to have been made an authorised officer under the Administration Act on that date.

(2) An identity card issued for the purposes of subsection 12 (3) of the former Act is deemed to be an identity card issued or recognised on 1 March 1999 under section 80 of the Administration Act.

7. Approvals to vary returns

A notice under subsection 12B (3) of the former Act that was in force immediately before 1 March 1999, varying the period in relation to which, or time within which a return is to be lodged, continues in force as if duly issued under subsection 40 (3) of the Administration Act.

8. Approvals to vary payments

(1) A permission under subsection 26 (4) of the former Act that was in force immediately before 1 March 1999, allowing further time for the payment of penalty tax, continues in force as if duly given under subsection 52 (1) of the Administration Act.

(2) A permission under subsection 26 (5) of the former Act that was in force immediately before 1 March 1999, allowing payment by instalments, continues in force as if duly given under subsection 52 (1) of the Administration Act.

9. Group exemptions

(1) An instrument under subsection 77 (2) of the former Act that was in force immediately before 1 March 1999, determining that a person is not a member of a group, continues in force as if duly issued under subsection 112 (2) of the Administration Act.

(2) Where an instrument referred to in subsection (1) could not have been made if the Administration Act had been in force at the time that it was made, the instrument ceases to be in force on 1 September 1999 if it does not cease to be in force on an earlier date.

10. Public officers

(1) Where a body corporate, immediately before 1 March 1999, was not exempted by the Commissioner from the requirement of having a public officer under subsection 82 (1) of the former Act, the Commissioner is deemed to have required the body, on that day, to have a public officer under subsection 117 (1) of the Administration Act.

(2) A person who immediately before 1 March 1999 was the public officer of a body corporate under the former Act continues as the public officer of the body under the Administration Act.

11. Determinations

(1) A determination made under section 99 of the former Act in relation to another Act continues in force as if made under section 139 of the Administration Act.

(2) A determination made under section 99 of the former Act in relation to subsection 66 (5) of the former Act continues in force as if made under section 139 of the Administration Act in relation to subsection 82 (5) of the Administration Act.

Division 2—Exceptions to section 38 of the Interpretation Act

12. Investigations and legal proceedings

Despite section 38 of the *Interpretation Act 1967*—

- (a) an investigation in respect of a right, privilege, obligation or liability under the former Act shall be instituted or continued after 1 March 1999 in accordance with the Administration Act;
- (b) any document or other thing duly obtained or retained by the Commissioner under section 12 of the former Act shall be dealt with under sections 85 and 86 of the Administration Act; and

- (c) a legal proceeding in respect of a right, privilege, obligation or liability under the former Act that is commenced after 1 March 1999 shall be conducted in accordance with Division 5 of Part XI of the Administration Act.

13. Interest and penalty tax

Despite section 38 of the *Interpretation Act 1967*, where a tax default occurred before 1 March 1999 and continues in whole or in part after that date, the taxpayer shall be liable for interest or penalty tax in relation to the period beginning on that date in accordance with the Administration Act.

14. Assessments and payments

Despite section 38 of the *Interpretation Act 1967*, where a tax liability arose before 1 March 1999, that liability shall be dealt with under the Administration Act, in relation to any action taken or obligation arising after that date in relation to the liability, as if—

- (a) an assessment duly made under sections 15 and 20 of the former Act had been duly made under sections 5 and 11 of the Administration Act;
- (b) an amended assessment duly made under section 22 of the former Act were a reassessment duly made under section 9 of the Administration Act;
- (c) a compromise assessment duly made under section 22A of the former Act had been duly made under section 12 of the Administration Act;
- (d) any notice duly given under the former Act of, or of the withdrawal of, an assessment referred to in paragraph (a), (b) or (c) had been duly given under the Administration Act;
- (e) a notice duly given to an agent of a non-resident under subsection 44 (1) of the former Act had been duly given under subsection 55 (2) of the Administration Act;
- (f) a notice duly given to a debtor of a taxpayer under subsection 43 (1) of the former Act had been duly given under subsection 54 (2) of the Administration Act;
- (g) an objection duly lodged under Part XII of the former Act had been duly lodged under Part X of the Administration Act;

- (h) a decision on an objection duly made under subsection 89 (3) of the former Act were a determination duly made under section 104 of the Administration Act;
- (i) a notice duly given under subsection 89 (3) of the former Act had been duly given under section 105 of the Administration Act; and
- (j) an application duly made to the Tribunal under section 91 of the former Act had been duly made under section 107 of the Administration Act.

PART III—CONSEQUENTIAL AMENDMENTS

15. Consequential amendments of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

PART IV—MISCELLANEOUS

16. Consequential and transitional regulations

(1) The Executive may make regulations amending the provisions of this Act (other than this section), the Administration Act or any other Act in relation to any matter arising from, connected with or consequential upon the enactment of the Administration Act.

(2) Regulations made under subsection (1) may be expressed to have taken effect on a day earlier than the day on which they are notified in the *Gazette*, not being a day earlier than 1 March 1999.

(3) If regulations made under subsection (1) are expressed to take effect on a day earlier than the day on which they are notified in the *Gazette*, they do not operate so as to—

- (a) affect, in a manner prejudicial to any person (other than the Territory or a Territory authority), the rights of that person existing at the day of notification; or
- (b) impose liabilities on any person (other than the Territory or a Territory authority) in respect of any act or omission before the day of notification.

(4) The Executive may only make regulations under subsection (1) during the period of 12 months commencing on 1 March 1999.

SCHEDULE 1

Section 4

ACTS REPEALED

Taxation (Administration) Act 1987
Taxation (Administration) (Amendment) Act 1988
Taxation (Administration) (Amendment) Act (No. 2) 1988
Taxation (Administration) (Amendment) Act (No. 3) 1988
Taxation (Administration) (Amendment) Act (No. 4) 1988
Taxation (Administration) (Amendment) Act 1989
Taxation (Administration) (Amendment) Act 1990
Taxation (Administration) (Amendment) Act (No. 2) 1990
Taxation (Administration) (Amendment) Act (No. 3) 1990
Taxation (Administration) (Amendment) Act 1991
Taxation (Administration) (Amendment) Act (No. 2) 1991
Taxation (Administration) (Amendment) Act (No. 3) 1991
Taxation (Administration) (Amendment) Act 1993
Taxation (Administration) (Amendment) Act (No. 2) 1993
Taxation (Administration) (Amendment) Act 1994
Taxation (Administration) (Amendment) Act 1997
Taxation (Administration) (Amendment) Act 1998

SCHEDULE 2

Section 15

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Administrative Decisions (Judicial Review) Act 1989

Schedule 1 (paragraph (c) (first occurring))—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1999*”.

Ambulance Service Levy Act 1990

Section 3—

Omit the section, substitute the following section:

“3. Incorporation of the Taxation Administration Act

The *Taxation Administration Act 1999* is incorporated and shall be read as one with this Act.”.

Business Franchise (Liquor) Act 1993

Section 3 (definition of “Administration Act”)—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1999*”.

Section 3 (definitions of “determined amount” and “determined rate”)—

Omit “subsection 99 (1)”, substitute “section 139”.

Section 5—

Omit the section, substitute the following section:

“5. Incorporation of the Administration Act

The Administration Act is incorporated and shall be read as one with this Act.”.

Debits Tax Act 1997

Subsection 3 (1)—

Insert the following definition:

“ ‘Administration Act’ means the *Taxation Administration Act 1999*.”.

Subsection 3 (1) (definition of “Taxation (Administration) Act”)—

Omit the definition.

SCHEDULE 2—continued

Subsection 3 (4)—

Omit the subsection, substitute the following subsection:

“(4) For the purposes of this Act, tax or penalty tax payable under Part V of the Administration Act is due and payable at the expiration of the day by which the tax or penalty tax is required by this Act and Part VII of the Administration Act to be paid.”.

Subsection 3 (5)—

Omit “additional tax under this Act and Part IV of the Taxation (Administration) Act”, substitute “penalty tax under Part V of the Administration Act”.

Section 4—

Omit the section, substitute the following section:

“4. Incorporation of the Administration Act

The Administration Act is incorporated and shall be read as one with this Act.”.

Paragraph 12 (1) (b)—

Omit “to which an assessment made under section 20 of the Taxation (Administration) Act relates shall be paid not later than the day specified in a”, substitute “in relation to which a notice of assessment or reassessment has been issued under section 14 of the Administration Act shall be paid not later than the day specified in the”.

Subsection 12 (2)—

Omit the subsection.

Subsection 13 (3)—

Omit “Taxation (Administration) Act”, substitute “Administration Act”.

Financial Institutions Duty Act 1987

Subsection 3 (1) (definition of “Commissioner”)—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1999*”.

SCHEDULE 2—continued

Gaming Machine Act 1987

Section 3A—

Omit the section, substitute the following section:

“3A. Incorporation of the Administration Act

The Administration Act is incorporated and shall be read as one with this Act.”.

Section 4—

Insert the following definition:

“ ‘Administration Act’ means the *Taxation Administration Act 1999*;”.

Section 4 (definition of “Commissioner”)—

Omit the definition, substitute the following definition:

“ ‘Commissioner’ has the same meaning as in the *Taxation Administration Act 1999*;”.

Section 4 (definitions of “Taxation (Administration) Act” and “tax law”)—

Omit the definitions.

Paragraph 15 (1) (a)—

Omit “subsection 18 (1) or (2) of the Taxation (Administration) Act”, substitute “section 82 of the Administration Act”.

Subsection 23 (6)—

Omit “Taxation (Administration) Act”, substitute “Administration Act”.

Paragraph 25A (2) (b)—

Omit “Taxation (Administration) Act”, substitute “Administration Act”.

Insurance Levy Act 1998

Section 3—

Omit the section, substitute the following section:

“3. Incorporation of the Taxation Administration Act—

The *Taxation Administration Act 1999* is incorporated and shall be read as one with this Act.”.

SCHEDULE 2—continued

Interactive Gambling Act 1998

Section 3 (definitions of “authorised tax officer” and “Commissioner”)—

Omit the definitions, substitute the following definitions:

“ ‘authorised tax officer’ means an authorised officer under the *Taxation Administration Act 1999*;

‘Commissioner’ has the same meaning as in the *Taxation Administration Act 1999*;”.

Section 3 (definition of “tax law”)—

Omit the definition.

Section 7—

Omit the section, substitute the following section:

“7. Incorporation of the Taxation Administration Act

The *Taxation Administration Act 1999* is incorporated and shall be read as one with this Act.”.

Paragraph 139 (2) (b)—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1999*”.

Liquor Act 1975

Subsection 4 (1) (definition of “Commissioner”)—

Omit the definition, substitute the following definition:

“ ‘Commissioner’ has the same meaning as in the *Taxation Administration Act 1999*;”.

Payroll Tax Act 1987

Section 2A—

Omit the section, substitute the following section:

“2A. Incorporation of the Taxation Administration Act

The *Taxation Administration Act 1999* is incorporated and shall be read as one with this Act.”.

SCHEDULE 2—continued

Subsection 3 (1) (definition of “determined rate”)—

Omit “section 99 of the *Taxation (Administration) Act 1987*”, substitute “section 139 of the *Taxation Administration Act 1999*”.

Subsection 14 (1)—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1999*”.

Subsection 16 (1)—

Omit “section 99 of the *Taxation (Administration) Act 1987*”, substitute “section 139 of the *Taxation Administration Act 1999*”.

Rates and Land Tax Act 1926

Subsection 4 (1) (definition of “Commissioner”)—

Omit the definition, substitute the following definition:

“ ‘Commissioner’ has the same meaning as in the *Taxation Administration Act 1999*;”.

Subsidies (Liquor and Diesel) Act 1998

Subsection 3 (1) (definition of “subsidy officer”, paragraph (a))—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1999*”.

Paragraphs 19 (1) (b) and 40 (1) (b)—

Omit the paragraphs, substitute the following paragraph:

“(b) at the interest rate set for the purposes of the *Taxation Administration Act 1999*; and”.

Tobacco Licensing Act 1984

Section 2—

Omit the section, substitute the following section:

“2. Incorporation of the Administration Act—

The Administration Act is incorporated and shall be read as one with this Act.”.

Subsection 3 (1) (definition of “Administration Act”)—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1999*”.

SCHEDULE 2—continued

Paragraph 26 (1) (b)—

Omit “section 18”, substitute “section 82”.

Subsection 35A (1)—

Omit “section 18”, substitute “section 82”.

Paragraph 36 (1) (b)—

Omit “section 18”, substitute “section 82”.

Section 39—

Omit “section 96”, substitute “section 57”.

[Presentation speech made in Assembly on 10 December 1998]