



Australian Capital Territory

Payroll Tax Amendment Act 2004

A2004-52

An Act to amend the *Payroll Tax Act 1987*

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

1 Name of Act

This Act is the *Payroll Tax Amendment Act 2004*.

2 Commencement

This Act commences on 1 July 2005.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Payroll Tax Act 1987*.

4 New section 9B

insert

9B Exemption from tax—maternity, adoption and primary carer leave

- (1) Section 6 does not apply to wages paid or payable to an employee for maternity leave, adoption leave or primary carer leave.
- (2) Subsection (1) applies—
 - (a) only in relation to wages paid or payable for a maximum of 14 weeks leave for any 1 pregnancy, birth or adoption; and
 - (b) only in relation to leave taken before the relevant day for the pregnancy, birth or adoption; and
 - (c) only if, in relation to the leave, the employee has given the employer any required document for the leave.

(3) To remove any doubt—

- (a) the reference in subsection (2) (a) to wages paid or payable for 14 weeks leave is taken to be a reference to—
 - (i) for a full-time employee who takes the leave on less than full pay—wages paid or payable for a period equivalent to 14 weeks leave on full pay; and
 - (ii) for a part-time employee who takes the leave at less than the employee's average rate of pay over the 6 weeks immediately before the leave is taken—wages paid or payable for a period equivalent to 14 weeks leave at that average rate of pay; and
 - (iii) for any other part-time employee—wages paid or payable for a period equivalent to 14 weeks leave at the rate of pay of the employee immediately before the leave was taken; and
- (b) a reference to 1 birth includes a reference to a multiple birth; and
- (c) a reference to 1 adoption includes a reference to the adoption of more than 1 child at the same time.

(4) In this section:

adoption leave, for an employee, means leave given to the employee in relation to the adoption of a child by the employee (whether the leave is taken before or after the adoption), but does not include leave given to the employee as leave of another kind.

Examples for this section of leave of another kind

- 1 sick leave
- 2 annual leave
- 3 long service leave

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

maternity leave, for an employee, means leave given to a female employee in relation to her pregnancy or the birth of her child (whether the leave is taken during the pregnancy or after the birth of the child), but does not include leave given to the employee as leave of another kind.

primary carer leave, for an employee, means leave given to the employee as the primary carer of a child in relation to the birth or adoption of the child (whether the leave is taken before or after the birth or adoption), but does not include leave given to the employee as leave of another kind.

Examples of primary carers

- 1 a parent of the child
- 2 the domestic partner of a parent of the child
- 3 a grandparent of the child

Note For the meaning of ***domestic partner***, see Legislation Act, s 169.

relevant day means—

- (a) for a birth—the day 6 months after the day of the birth; and
- (b) for a pregnancy that ends other than by a birth—the day 6 months after the day the pregnancy ends; and
- (c) for an adoption—the day 6 months after the day that the child is placed, for the purpose of adoption, in the care of the adoptive parent.

required document means—

- (a) for maternity leave—
 - (i) a birth certificate for the child; or
 - (ii) a medical certificate stating that the employee was pregnant and the date of the end of the pregnancy; and

- (b) for adoption leave—a statutory declaration stating—
 - (i) that a child has been placed, for the purpose of adoption, in the care of the employee as the adoptive parent; and
 - (ii) the date of the placement; and
- (c) for primary carer leave in relation to a newly born child—
 - (i) a birth certificate for the child; and
 - (ii) a statutory declaration stating that the employee is the primary carer for the child; and
- (d) for primary carer leave in relation to a child placed for the purpose of adoption—a statutory declaration stating—
 - (i) that the child has been placed, for the purpose of adoption, in the care of the adoptive parent; and
 - (ii) the date of the placement; and
 - (iii) that the employee is the primary carer for the child; and
- (e) any other document prescribed under the regulations.

Note A certificate, statutory declaration or other document must be kept for at least 5 years (unless the commissioner authorises earlier destruction) and produced if the commissioner requires its production (see the *Taxation Administration Act 1999*, s 57 (Requirement to keep proper records), s 62 (Accessibility) and s 64 (Period record to be kept)).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 June 2004.

2 Notification

Notified under the Legislation Act on 16 August 2004.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Payroll Tax Amendment Bill 2004, which was passed by the Legislative Assembly on 5 August 2004.

Clerk of the Legislative Assembly

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