

2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Payroll Tax Amendment Bill 2004

A Bill for

An Act to amend the *Payroll Tax Act 1987*

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

1 **1 Name of Act**

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

3 **2 Commencement**

4 This Act commences on 1 July 2005.

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

7 **3 Legislation amended**

8 This Act amends the *Payroll Tax Act 1987*.

9 **4 New section 9B**

10 *insert*

11 **9B Exemption from tax—maternity, adoption and primary**
12 **carer leave**

13 (1) Section 6 does not apply to wages paid or payable to an employee
14 for maternity leave, adoption leave or primary carer leave.

15 (2) Subsection (1) applies—

16 (a) only in relation to wages paid or payable for a maximum of
17 14 weeks leave for any 1 pregnancy, birth or adoption; and

18 (b) only in relation to leave taken before the relevant day for the
19 pregnancy, birth or adoption; and

20 (c) only if, in relation to the leave, the employee has given the
21 employer any required document for the leave.

22 (3) To remove any doubt—

23 (a) a reference in subsection (2) (a) to wages paid or payable for
24 14 weeks leave is a reference to—

- 1 (i) for a full-time employee who takes the leave on less than
2 full pay—a period equivalent to 14 weeks leave on full
3 pay; and
- 4 (ii) for a part-time employee—a period of 14 weeks leave at
5 the part-time rate of pay for the employee; and
- 6 (b) a reference to 1 birth includes a reference to a multiple birth;
7 and
- 8 (c) a reference to 1 adoption includes a reference to the adoption
9 of more than 1 child at the same time.

10 (4) In this section:

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

15 **Examples for this section of leave of another kind**

- 16 1 sick leave
17 2 annual leave
18 3 long service leave

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

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

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

6 **Examples of primary carers**

- 7 1 a parent of the child
8 2 the domestic partner of a parent of the child
9 3 a grandparent of the child

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

11 **relevant day** means—

- 12 (a) for a birth—the day 6 months after the day of the birth; and
13 (b) for a pregnancy that ends other than by a birth—the day
14 6 months after the day the pregnancy ends; and
15 (c) for an adoption—the day 6 months after the day that the child
16 is placed, for the purpose of adoption, in the care of the
17 adoptive parent.

18 **required document** means—

- 19 (a) for maternity leave—
20 (i) a birth certificate for the child; or
21 (ii) a medical certificate stating that the employee was
22 pregnant and the date of the end of the pregnancy; and
23 (b) for adoption leave—a statutory declaration stating—
24 (i) that a child has been placed, for the purpose of adoption,
25 in the care of the employee as the adoptive parent; and
26 (ii) the date of the placement; and
27 (c) for primary carer leave in relation to a newly born child—
28 (i) a birth certificate for the child; and

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- 1 (ii) a statutory declaration stating that the employee is the
2 primary carer for the child; and
- 3 (d) for primary carer leave in relation to a child placed for the
4 purpose of adoption—a statutory declaration stating—
- 5 (i) that the child has been placed, for the purpose of
6 adoption, in the care of the adoptive parent; and
- 7 (ii) the date of the placement; and
- 8 (iii) that the employee is the primary carer for the child; and
- 9 (e) any other document prescribed under the regulations.
- 10 *Note* A certificate, statutory declaration or other document must be kept for at
11 least 5 years (unless the commissioner authorises earlier destruction)
12 and produced if the commissioner requires its production (see the
13 *Taxation Administration Act 1999*, s 57 (Requirement to keep proper
14 records), s 62 (Accessibility) and s 64 (Period record to be kept)).

Endnotes

1 **Presentation speech**

Presentation speech made in the Legislative Assembly on 2004.

2 **Notification**

Notified under the Legislation Act on 2004.

3 **Republications of amended laws**

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