

1992  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer)

**Payroll Tax (Amendment) Bill (No. 2)  
1992**

**A BILL  
FOR**

**An Act to amend the *Payroll Tax Act 1987***

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

**Short title**

- 5     **1.** This Act may be cited as the *Payroll Tax (Amendment) Act (No. 2) 1992*.

**Principal Act**

2. In this Act, "Principal Act" means the *Payroll Tax Act 1987*.<sup>1</sup>

**Commencement**

- 10     **3.** This Act commences on the day on which it is notified in the *Gazette*.

**Interpretation**

4. Section 3 of the Principal Act is amended by omitting from subsection (1) the definition of "employer" and substituting the following definition:

“‘employer’ means a person who pays or is liable to pay wages and includes—

- (a) the Territory or a Territory authority;
- 5 (b) a body, whether incorporated or not, established under a law of a State or another Territory, being a body that is resident, or carries on business, in the Territory; and
- (c) a person who is an employment agent;”.

#### Insertion

5. After section 6 of the Principal Act the following section is inserted:

#### 10 Employment of transitional staff

“7. For the purposes of this Act—

- (a) the Territory or the appropriate Territory authority, as the case requires, shall be taken to be the employer of a member of the transitional staff within the meaning of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth; and
- 15 (b) the wages of that member shall be taken to be payable by the Territory or that authority, as the case requires.”.

#### Exemption from tax

20 6. (1) Section 9 of the Principal Act is amended—

- (a) by omitting from paragraph (g) “or”; and
- (b) by adding at the end the following paragraphs and subsections:
  - 25 “(i) from the Territory Public Account within the meaning of the *Audit Act 1989* (not being wages paid or payable from a Trust Account established under section 85 of that Act specified by the Minister in writing for the purpose of this paragraph); or
  - (j) by a Territory authority that is funded solely from moneys appropriated from the Consolidated Revenue Fund.

30 “(2) An instrument made for the purpose of paragraph (1) (i) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

35 “(3) Section 6 does not apply to wages paid or payable by an employment agent to a person under a contract between the agent and that person in relation to the performance of work by that

person for a client of the employment agent, where the employment agent—

- 5 (a) procures the services of that person in relation to the performance of work, being services that are ancillary to the supply of goods under the contract by that person to the client; or
- 10 (b) procures the services of that person in relation to the performance of work, where—
- (i) those services are of a kind not ordinarily required by the employment agent and are rendered by a person who ordinarily renders services of that kind to the public generally; or
- 15 (ii) the Commissioner is satisfied that those services are rendered by a person who ordinarily renders services of that kind to the public generally;

unless the Commissioner determines that the contract was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person.

“(4) In subsection (3)—

- 20 (a) a reference to a contract shall be taken to include a reference to an agreement, arrangement or undertaking, whether formal or informal and whether express or implied;
- 25 (b) a reference to supply shall be taken to include a reference to supply by way of sale, exchange, lease or hire; and
- (c) a reference to services shall be taken to include a reference to results (whether goods or services) of work performed.”.

30 (2) Subsections 9 (3) and (4) of the Principal Act as amended by this Act shall be taken to have commenced on 17 September 1991.

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#### NOTE

1. Reprinted as at 31 March 1991.