

1998

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**TAXATION ADMINISTRATION (CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS) BILL 1998**

EXPLANATORY MEMORANDUM

Circulated by the Authority of the Chief Minister and Treasurer

Kate Carnell, MLA

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TAXATION ADMINISTRATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 1998

Summary

The Taxation Administration (Consequential and Transitional Provisions) Bill 1998 (the Bill) should be read as one with the Taxation Administration Bill 1998, which replaces the *Taxation (Administration) Act 1987*.

The Bill contains transitional provisions, the purposes of which are to ensure that there is a smooth transition from the old to the new Act

As a general rule, decisions which were made prior to commencement of the Act will be preserved

Financial/Cost Implications

There are no financial or cost implications in relation to the enactment of the Bill

Details of the Bill are attached

DETAILS

PART I- PRELIMINARY

Short Title

Clause 1 provides for the short title of this Act to be the *Taxation Administration (Consequential and Transitional Provisions) Act 1998*

Commencement

Clause 2 provides for sections 1 and 2 of the Act to commence on the day on which the Act is notified in the Gazette and for the rest of the Act to commence on 1 March 1999

Interpretation

Clause 3 defines “Administration Act” and “former Act” Expressions used in this Act have the same meanings as in the Administration Act, unless a contrary intention is evident

PART II - REPEAL

Acts Repealed

Clause 4 provides that the Acts listed in the attached Schedule 1 are repealed These are the *Taxation (Administration) Act 1987* and all subsequent amending Acts

PART III - TRANSITIONAL PROVISIONS

The Commissioner

Clause 5 provides for the Commissioner appointed under the former Act to continue in office under the Administration Act as though appointed under that Act

Authorised officers and identity cards

Clause 6 provides that an authorised officer under the former Act is deemed to have been made an authorised officer under the Administration Act An authorised officer's identity card issued under the former Act is also deemed to have been issued or recognised under the Administration Act

Approvals to vary returns

Clause 7 provides that a notice under the former Act varying the period in relation to which, or the time within which a return must be lodged, continues in force under the Administration Act

Approvals to vary payments

Clause 8 provides that a permission under the former Act allowing further time for the payment of penalty tax or payment by instalments continues in force under the Administration Act

Group exemptions

Clause 9 provides that an instrument under the former Act determining that a person was not a member of a group continues in force under the Administration Act. However, it is also a sunset clause, limiting the duration of any such instrument until 1 September 1999 if it could not have been made under the provisions of the Administration Act

Public officers

Clause 10 provides that if a company was not exempted by the Commissioner from needing to appoint a public officer under the former Act, the company is deemed to be required to have a public officer under the provisions of the Administration Act. Any public officer continues in office

Determinations

Clause 11 provides that all determinations made under section 99 of the former Act for the purposes of another Act continue in force under section 139 of the Administration Act

Investigations and legal proceedings

Clause 12 overrides the effect of section 38 of the *Interpretation Act 1967* on the repeal of the former Act in respect of the following matters in the way described.

- an investigation in respect of a right, privilege, obligation or liability under the former Act shall be instituted or continued in accordance with the provisions of the Administration Act,
- any document or thing seized or retained by the Commissioner under the former Act shall be dealt with under the provisions of the Administration Act, and
- a legal proceedings 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 the provisions of the Administration Act

Interest and penalty tax

Clause 13 overrides the effect of section 38 of the *Interpretation Act 1967* on continuing tax defaults which occurred prior to 1 March 1999 by providing that a taxpayer's liability for penalty tax and interest shall be determined under the Administration Act

Assessments and payments

Clause 14 overrides the effect of section 38 of the *Interpretation Act 1967* by providing that, in relation to the specified assessments, decisions or applications made, notices given or objections lodged under the former Act, the provisions of the Administration Act shall apply

PART III - CONSEQUENTIAL AMENDMENTS

Consequential amendments to other Acts

Clause 15 provides that the Acts specified in Schedule 2 are amended as set out in the Schedule

PART IV - MISCELLANEOUS

Consequential and transitional regulations

Clause 16 provides for the making of regulations to overcome any possible unexpected or unintended effect of the Taxation Administration Bill

SCHEDULE 1 - provides a list of the Acts repealed by this Bill

SCHEDULE 2 - provides details of the consequential amendments to the tax laws and other Territory legislation which contains references to the former Act