



Western Australia

Pay-roll Tax Assessment Regulations 1971

Compare between:

[13 Jun 2003, 02-b0-03] and [01 Jul 2003, 02-c0-08]

Pay-roll Tax Assessment Regulations 1971

Part 1 — General

[Heading inserted in Gazette 18 Jul 1997 p. 3785.]

1. Citation

These regulations may be cited as the *Pay-roll Tax Assessment Regulations 1971* ¹.

[Regulation 1 amended in Gazette 18 Jul 1997 p. 3785.]

2. Interpretation

In these regulations — unless the contrary intention appears —
“**the Act**” means the *Pay-roll Tax Assessment Act 1971*.

2A. Prescribed classes of contracts

(1) In this regulation —

“**person**” does not include an employer who is —

- (a) registered under section 12; and
- (b) liable under the Act to pay pay-roll tax on wages paid or payable by the employer to persons engaged in labour under the contract.

(2) For the purposes of paragraph (b) of the definition of “wages” in section 3(1) of the Act the following class of contracts is prescribed, namely every contract —

- (a) that is between a ship or boat builder and another person;

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- (b) that is for the procurement of the services of one or more persons to provide solely or mainly labour for the design, construction, fit-out and maintenance of a ship or boat, or the doing of any of those things; and
- (c) that is not —
 - (i) a contract to produce a given result for a fixed fee;
 - (ii) a contract covered by an award, as that term is defined in regulation 28; or
 - (iii) a workplace agreement in force under the *Workplace Agreements Act 1993*.

[Regulation 2A inserted in Gazette 3 Apr 1998 p. 1988.]

3. Registration

Where the Commissioner has received an application made by an employer in accordance with section 12(1) of the Act for registration as an employer, the Commissioner shall forward to the employer an acknowledgement of his registration as such, setting out —

- (a) the registered number assigned by the Commissioner for the purpose, which registered number shall be quoted by the employer in all correspondence and returns to the Commissioner relating to pay-roll tax; and
- (b) the times within which and the periods in respect of which, returns are required to be furnished by the employer to the Commissioner in accordance with section 13 of the Act.

3A. Prescribed departments or other organisations

The departments or organisations specified in Schedule 2 are prescribed departments or organisations for the purposes of section 10(1)(m) of the Act.

[Regulation 3A inserted in Gazette 3 Dec 1993 p. 6483.]

[3B.] Repealed in Gazette 18 Jul 1997 p. 3785.]

4. Application for rebate to be in writing and served on the Commissioner

Every employer who, pursuant to section 11B(2)(a) of the Act, makes application to the Commissioner for a refund or rebate of pay-roll tax, shall make that application in writing served on the Commissioner.

[Regulation 4 inserted in Gazette 12 Jun 1981 p. 2052.]

5. Annual returns

- (1) Any person making an application for a certificate under section 14 of the Act exempting him from furnishing monthly returns shall make such application in writing served on the Commissioner.

[(2) repealed]

[Regulation 5 amended in Gazette 3 Apr 2001 p. 1916.]

6. When return or application deemed to be furnished

A return or application shall be deemed not to have been furnished to the Commissioner unless and until the proper form, containing a full, true and complete statement of all matters and things required to be stated therein has been received by the Commissioner or an officer authorised by the Commissioner to receive returns.

[Regulation 6 amended in Gazette 3 Apr 2001 p. 1916.]

7. Expenses of persons

Where a person, other than the employer or a representative of the employer concerning whom the evidence is required, is required under section 16 of the Act to attend and give evidence before the Commissioner there may be allowed to that person the sum, not exceeding in any case the minimum wage payable in the metropolitan area from time to time *per diem*, actually and necessarily lost by him by reason of his attendance, and, in addition, if he resides more than 7 km from the place at which

he is required to attend, such sum for travelling expenses, not exceeding the sum actually paid, as the Commissioner thinks reasonable.

[Regulation 7 amended in Gazette 12 Jun 1981 p. 2052.]

8. How tax may be paid, etc.

[(1) repealed]

- (2) Where a remittance in payment of tax is posted by or on behalf of an employer to the Commissioner, the payment shall not be deemed to have been made until the remittance has been received by the Commissioner.
- (3) Where a cheque has been delivered or remitted to the Commissioner in payment of tax, the tax shall, notwithstanding any receipt given therefor, not be deemed to have been paid until the amount for which the cheque is drawn has been collected.
- (4) The Commissioner shall issue a receipt for every amount of tax paid in person at the office of the Commissioner and, upon request, for any amount of tax paid by any other means, and the receipt may be issued by such persons as the Commissioner authorises.

*[Regulation 8 amended in Gazette 12 Jun 1981 p. 2052;
3 Apr 2001 p. 1916.]*

9. Officer may appear for Commissioner

Any officer authorised in writing by the Commissioner, whether generally or in respect of any special proceedings, may appear on behalf of the Commissioner before any Court of competent jurisdiction in any suit instituted in the name of the Commissioner for the recovery of any tax, and any officer so appearing shall be deemed to represent the Commissioner and shall be entitled to conduct the proceedings on his behalf and to give evidence.

9A. Prescription of Commissioner as State taxation officer

The Commissioner is prescribed as a State taxation officer for the purposes of Part IIIA of the *Taxation Administration Act 1953* of the Commonwealth.

[Regulation 9A inserted in Gazette 27 Mar 1986 p. 1302.]

[10. Repealed in Gazette 24 Jul 1998 p. 3912.]

[11. Repealed in Gazette 3 Apr 2001 p. 1916.]

11A. Interest on amount refunded

The prescribed rate of interest payable by the Commissioner under section 34(3) of the Act is 6% per annum.

[Regulation 11A inserted in Gazette 15 Aug 1986 p. 2928; amended in Gazette 12 Feb 1988 p. 403; 30 Jun 1989 p. 1896; 5 Jul 1991 p. 3378; 31 Jul 1992 p. 3801; 25 Sep 1992 p. 4775; 28 Nov 1997 p. 7030.]

12. Offences

Any person who contravenes or fails to comply with any provision of these regulations commits an offence.

Penalty: \$100.

Part 2 — Fringe benefits and prescribed benefits

[Heading inserted in Gazette 18 Jul 1997 p. 3785.]

Division 1 — General

[Heading inserted in Gazette 18 Jul 1997 p. 3785.]

13. Interpretation in Part 2

(1) In this Part —

“dependant”, in relation to a person, means a child of that person who is wholly dependent upon that person’s earnings and is a child —

- (a) who is less than 18 years old; or
- (b) who is 18 years old or older but less than 25 years old, and who is receiving full-time education at a primary, secondary or tertiary institution;

“educational costs”—

- (a) include school fees and reasonable travel, accommodation and meal expenses, of a dependant incurred by reason of the dependant attending a primary, secondary or tertiary institution; and
- (b) do not include any fee required to be paid for tertiary education;

“employee share acquisition scheme” means a scheme by which an employer provides shares, rights to acquire shares, units in a unit trust or rights to acquire units in a unit trust, whether directly or indirectly, to or in relation to an employee in respect of services performed or rendered by the employee;

“fringe benefits tax” means the tax imposed under the *Fringe Benefits Tax Act 1986* of the Commonwealth on fringe benefits;

“fringe benefits taxable amount” has the same meaning as it has in section 5B(1A) of the *FBTA Act*;

“last year of tax”, in relation to a financial year, means the year of tax ending on 31 March in the financial year;

“otherwise deductible rule” has the same meaning as in section 3C of the Act;

“previous year of tax”, in relation to a financial year, means the year of tax ending on 31 March before the start of the financial year;

“record” means retrievable record, however compiled, recorded or stored;

“return” means a return required to be furnished under section 13 of the Act;

“WA fringe benefits” means fringe benefits —

- (a) that are taxable wages, or would have been taxable wages if Part 3 of the *Revenue Laws Amendment (Assessment) Act 1997* and the *Pay-roll Tax Amendment Regulations 1997* had come into operation on 1 April 1996; and
- (b) on which either —
 - (i) fringe benefits tax is paid or payable; or
 - (ii) fringe benefits tax would be payable if the otherwise deductible rule were not applied to the fringe benefits;

“year of tax” has the same meaning as it has in the FBT Act.

- (2) The amount of **“the WA fringe benefits for the last year of tax”**, when used in regulation 22(6a)(a)(i), 22(8)(a), 23(2)(b)(i), 24(2) or 25(3)(a)(i), is to be calculated as if the amendments to the Act in Part 5 of the *Revenue Laws Amendment (Assessment) Act (No. 2) 2001* had commenced on 1 April 2002.

[Regulation 13 inserted in Gazette 18 Jul 1997 p. 3785-6; amended in Gazette 29 Jan 2002 p. 479.]

14. Remote area wages that are not taxable wages

- (1) Wages described in the Table to this subregulation are wages to which section 10(1)(n) of the Act applies.

Table

Item	Wages
1.	An expense payment fringe benefit, a property fringe benefit or a residual fringe benefit under the FBTA Act provided to a person in relation to the educational costs of a dependant of the person where the dependant is required to live away from home in order to attend, on a full-time basis, a primary, secondary or tertiary institution that is not within a reasonable distance of the remote location at which the person performs or renders services.
2.	To the extent that it is paid in respect of costs that are actually incurred, a subsidy paid to a person who is usually resident in a remote area for educational costs of a dependant of the person where the dependant is required to live away from home in order to attend, on a full-time basis, a primary, secondary or tertiary institution that is not within a reasonable distance of the remote location at which the person performs or renders services.
3.	An expense payment fringe benefit, a property fringe benefit, or a residual fringe benefit, under the FBTA Act provided to a person in relation to the supply, use or cost of water for use for the domestic purposes of the person where, if the benefit related to residential fuel under the FBTA Act, the taxable value of the benefit would be reduced under section 59 of that Act.
4.	A remote area housing fringe benefit under section 29 of the FBTA Act.
5.	An expense payment fringe benefit, a property fringe benefit, or a residual fringe benefit, under the FBTA Act — (a) that under that Act relates to residential fuel; and (b) the taxable value of which is reduced under section 59 of that Act.
6.	To the extent that it is paid in respect of costs that are actually incurred in respect of a residence in a remote area, a subsidy paid for the cost of — (a) electricity; (b) gas; or

- (c) water,
supplied to the person receiving that subsidy.
- 7. A loan fringe benefit, an expense payment fringe benefit, or a property fringe benefit, under the FBTA Act —
 - (a) that under that Act relates to a remote area housing loan, remote area housing rent, remote area residential property, a remote area residential property option fee or remote area residential property repurchase consideration; and
 - (b) the taxable value of which is reduced under section 60 of that Act.
- 8. An expense payment fringe benefit, a property fringe benefit or a residual fringe benefit, under the FBTA Act —
 - (a) that under that Act relates to remote area holiday transport; and
 - (b) the taxable value of which is reduced under section 61 of that Act.
- (2) If the taxable value of a remote area holiday transport fringe benefit under the FBTA Act is reduced under section 60A of that Act, that amount of the fringe benefit that equals twice the amount of the reduction is wages to which section 10(1)(n) of the Act applies.

[Regulation 14 inserted in Gazette 18 Jul 1997 p. 3786-7.]

Division 2 — Prescribed benefits

[Heading inserted in Gazette 18 Jul 1997 p. 3787.]

15. Prescribed benefits

For the purposes of the definition of “prescribed benefit” in section 3(1) of the Act a benefit described in the Table to this regulation is prescribed to be a benefit.

Table

Item	Prescribed benefit
1.	A contribution to a scheme or trust (other than a superannuation fund as defined in item 1 of Schedule 2 to the Act) that operates to provide redundancy benefits for persons working within an industry on one of those persons — (a) being made redundant; (b) leaving that industry; or (c) retiring.
2.	A contribution to a fund established to provide portable paid long service leave.
3.	A contribution (other than anything that is otherwise wages under the Act) to an employee share acquisition scheme.

[Regulation 15 inserted in Gazette 18 Jul 1997 p. 3787.]

16. Exempt wages on prescribed benefit

- (1) Subject to subregulation (2), where a person makes a contribution referred to in item 1 or item 2 of the Table to regulation 15 in relation to an employee, wages paid or payable by the person to that employee are prescribed to be exempt wages under section 10(6) of the Act to the extent of the amount that the person is entitled to recover from the scheme, trust or fund, as the case requires.
- (2) Subregulation (1) only applies in relation to wages paid or payable in respect of services performed or rendered after 30 June 1997.

[Regulation 16 inserted in Gazette 18 Jul 1997 p. 3788.]

17. Value of redundancy and portable long service leave benefits

- (1) The value of a prescribed benefit referred to in item 1 of the Table to regulation 15 is the amount of the contribution.
- (2) The value of the prescribed benefit referred to in item 2 of the Table to regulation 15 is the amount of the contribution.

[Regulation 17 inserted in Gazette 18 Jul 1997 p. 3788.]

18. Value of employee share acquisition benefit

The value of the prescribed benefit referred to in item 3 of the Table to regulation 15 is —

- (a) where the contribution is a share, unit or a right to acquire a share or unit, the market value (determined in accordance with regulation 19) at the time the share, unit or right, as the case requires, is contributed, less any consideration paid or given by the relevant employee as consideration for the acquisition of the share, unit or right acquired by the employee;
- (b) where the contribution is money, the amount of money provided; or
- (c) where the contribution is property (other than property referred to in paragraph (a) or money) that is worth money, the amount of money that it is worth at the time the property is contributed.

[Regulation 18 inserted in Gazette 18 Jul 1997 p. 3788.]

19. Market value of a share, unit or right

- (1) The market value of a share, unit or right quoted on an approved financial market on the relevant day is —
 - (a) if there was at least one transaction on that financial market in shares, units or rights of that class during the one week period before that day — the weighted average of the prices at which those shares, units or

- rights were traded on that financial market during the one week period before that day; or
- (b) if there were no transactions on that financial market in that one week period in such shares, units or rights — the last price at which an offer was made on that financial market in that period to buy such a share, unit or right.
- (2) The market value of a share or unit (other than a unit in an unlisted public unit trust) not quoted on an approved financial market on the relevant day is the arm's length value of the share or unit —
- (a) as specified in a written report, in a form approved by the Commissioner, given to the employer by a person who is a qualified person in relation to valuing the share or unit; or
- (b) as calculated in accordance with any other method approved in writing by the Commissioner as a reasonable method of calculating the arm's length value of unlisted shares or units.
- (3) The market value of a unit in an unlisted public unit trust is the weighted average of the issue prices for the units during the one week period before the relevant day.
- (4) The market value of a right not quoted on an approved financial market on the relevant day is the market value on that day of the share or unit that may be acquired by exercising the right, less the lowest amount that must be paid to exercise the right to acquire the share or unit.
- (5) In determining the market value of a share, unit or right under subregulation (2), (3) or (4) the share, unit or right, and any share or unit that may be acquired as a consequence of the exercise or operation of the right, is taken not to be subject to any conditions or restrictions.

- (6) If the lowest amount that must be paid to exercise a right to acquire a share or unit is nil or cannot be determined, the market value of the right on a particular day is the same as the market value of the share or unit on that day.
- (7) If a share, unit or right is quoted on a day on 2 or more approved financial markets, the price on that day is the price on whichever of those financial markets is nominated by the employer, but if one or more of the financial markets on which the share, unit or right is quoted is an Australian financial market, the employer must nominate an Australian financial market.
- (8) The market value of a share, unit or right wherever determined shall be expressed in terms of Australian currency.
- (9) In this regulation —
- “approved financial market”** means an approved stock exchange within the meaning of Part XI of the *Income Tax Assessment Act 1936* of the Commonwealth;
- “qualified person”** in relation to valuing a share in a company or a unit in a unit trust, means a person registered as a company auditor under a law in force in a State or Territory who is not —
- (a) a trustee of the unit trust;
 - (b) a director, secretary or employee of the company or of a trustee of the unit trust;
 - (c) a partner, employer or employee of a person referred to in paragraph (a) or (b); or
 - (d) a partner or employee of a person so referred to;
- “relevant day”** means, in relation to the contribution of a share, unit or right, the day the share, unit or right is contributed;
- “unlisted public unit trust”** means a unit trust which is not quoted on an approved financial market and in respect of which either of the following conditions is satisfied —
- (a) any of the units in the unit trust were offered to the public; and

- (b) at all times during the previous 12 months, the units in the unit trust were held by not fewer than 50 unitholders.

[Regulation 19 inserted in Gazette 18 Jul 1997 p. 3788-9; amended in Gazette 3 Apr 1998 p. 1988; 6 Jun 2003 p. 2023-4.]

20. Records to be made and preserved

- (1) For the purposes of section 44 of the Act the following documents are prescribed to be made and preserved by an employer —
 - (a) documents and records which evidence the provision of a prescribed benefit; and
 - (b) documents and records used in the calculation of the value of, or which support the calculation of the value of, the prescribed benefit.

[Regulation 20 inserted in Gazette 18 Jul 1997 p. 3789-90.]

Division 3 — Fringe benefits — requirements

[Heading inserted in Gazette 18 Jul 1997 p. 3790.]

21. Benefits that are not fringe benefits

For the purposes of the definition of “fringe benefit” in section 3 (1) of the Act a living-away-from-home allowance fringe benefit under the FBT Act is prescribed not to be a fringe benefit.

[Regulation 21 inserted in Gazette 18 Jul 1997 p. 3790.]

22. Changing basis of calculating value of fringe benefits

- (1) An employer may, before the first or only return is required to be furnished for a financial year, change the basis for calculating the value of fringe benefits —
 - (a) if the employer has paid WA fringe benefits for at least 15 months immediately before the start of the financial year — from the actual value basis to the estimated value basis; or

- (b) from the estimated value basis to the actual value basis.
- (2) An employer who makes a change under subregulation (1) shall notify the Commissioner in an approved form before the day on which the first or only return is required to be furnished for the financial year.
Penalty: \$500.
- (3) All monthly returns for a financial year shall be made on the same basis unless the employer is allowed to change the basis during the financial year under subregulation (4).
- (4) The Commissioner, on the application in writing of an employer, may allow the employer to change the basis of calculating the value of fringe benefits during a financial year if the Commissioner is satisfied that —
 - (a) there is a compelling reason for making that change; and
 - (b) the employer would, if the Commissioner does not allow the change, pay substantially more pay-roll tax during the financial year than the employer would otherwise have to pay on an actual value basis for the financial year.
- (5) If an employer changes from the estimated value basis, the amount calculated under subregulation (6) must be included —
 - (a) if the change is made under subregulation (1), in the last monthly return for the last financial year; or
 - (b) if the change is made under subregulation (4), in the last monthly return for the financial year.
- (6) The amount to be included in a return under subregulation (5) is the difference between —
 - (a) the total of —
 - (i) the WA fringe benefits for the last year of tax; and
 - (ii) the WA fringe benefits paid or payable by the employer in April, May and June of the financial year (if any);

and

(b) the total of —

- (i) one quarter of the WA fringe benefits for the year of tax ending in the first financial year in which the employer last elected to make returns on an estimated value basis; and
- (ii) the total of the amounts of WA fringe benefits included in the returns for the financial year.

(6a) If, under subregulation (5), an amount is to be included in the last monthly return for the financial year commencing on 1 July 2001, the amount to be included is the difference between —

(a) the total of —

- (i) the sum of one half of the WA fringe benefits for the last year of tax and one half of the employer's fringe benefits taxable amount for the last year of tax; and
- (ii) the WA fringe benefits paid or payable by the employer in April, May and June of 2002 (if any);

and

(b) the total of —

- (i) one quarter of the WA fringe benefits for the year of tax ending in the first financial year in which the employer last elected to make returns on an estimated value basis; and
- (ii) the sum of the amounts included in the returns for the financial year.

(7) If an employer changes to the estimated value basis during a financial year, the last return for the financial year shall include the difference between —

(a) the WA fringe benefits for the last year of tax; and

- (b) the total of the amounts of WA fringe benefits included in the returns for the financial year.
- (8) If the employer makes the change referred to in subregulation (7) in the financial year commencing on 1 July 2001, the last return for the financial year shall include the difference between —
 - (a) the sum of one half of the WA fringe benefits for the last year of tax and one half of the employer's fringe benefits taxable amount for the last year of tax; and
 - (b) the sum of the amounts included in the returns for the financial year.

[Regulation 22 inserted in Gazette 18 Jul 1997 p. 3790-1; amended in Gazette 29 Jan 2002 p. 480.]

23. Monthly returns on estimated value basis

- (1) A monthly return made on the estimated value basis shall include as the value of the fringe benefits an amount that is —
 - (a) in a return for each of the first 11 months of a financial year, 1/12th of the WA fringe benefits for the previous year of tax; and
 - (b) in the return for the last month of the financial year, the difference between —
 - (i) the WA fringe benefits for the last year of tax; and
 - (ii) the total of the amounts of WA fringe benefits included in the returns for each of the previous months of the financial year.
- (2) A monthly return made on an estimated value basis for each month after December in the financial year commencing on 1 July 2001 shall include as the value of the fringe benefits an amount that is —

- (a) in a return for a month other than June, 1/12th of the employer's fringe benefits taxable amount for the previous year of tax; and
 - (b) in the return for June, the difference between —
 - (i) the sum of one half of the WA fringe benefits for the last year of tax and one half of the employer's fringe benefits taxable amount for the last year of tax; and
 - (ii) the sum of the amounts included in the returns for each of the previous months of the financial year.
- (3) A monthly return made on an estimated value basis for the financial year commencing on 1 July 2002 shall include as the value of the fringe benefits an amount that is —
 - (a) in a return for a month other than June, 1/12th of the employer's fringe benefits taxable amount for the previous year of tax; and
 - (b) in the return for June, the difference between —
 - (i) the WA fringe benefits for the last year of tax; and
 - (ii) the sum of the amounts included in the returns for each of the previous months of the financial year.

*[Regulation 23 inserted in Gazette 18 Jul 1997 p. 3791;
amended in Gazette 29 Jan 2002 p. 480-1.]*

24. Annual returns on estimated value basis

- (1) An annual return made on an estimated value basis shall include as the value of the fringe benefits the WA fringe benefits for the last year of tax.
- (2) An annual return made on an estimated value basis for the financial year commencing on 1 July 2001 shall include as the value of the fringe benefits the sum of one half of the WA fringe

benefits for the last year of tax and one half of the employer's fringe benefits taxable amount for the last year of tax.

*[Regulation 24 inserted in Gazette 18 Jul 1997 p. 3791;
amended in Gazette 29 Jan 2002 p. 481.]*

25. Final returns by employers using estimated value basis

- (1) This regulation applies only to an employer that is making returns on an estimated value basis.
- (2) When an employer furnishes a final return, the value of the fringe benefits to be included in the final return is an amount that is the difference between —
 - (a) the total of —
 - (i) the WA fringe benefits for the last year of tax;
and
 - (ii) the WA fringe benefits paid or payable by the employer in April, May and June of the financial year (if any);and
 - (b) the total of —
 - (i) one quarter of the WA fringe benefits for the year of tax ending in the first financial year in which the employer last elected to make returns on an estimated value basis; and
 - (ii) the total of the amounts of WA fringe benefits included in the monthly returns for the financial year.
- (3) If an employer is to furnish a final return in the financial year commencing on 1 July 2001, the value of the fringe benefits to be included in the final return is an amount that is the difference between —
 - (a) the total of —
 - (i) the sum of one half of the WA fringe benefits for the last year of tax and one half of the employer's

fringe benefits taxable amount for the last year of tax; and

- (ii) the WA fringe benefits paid or payable by the employer in April, May and June of 2002 (if any);

and

- (b) the total of —

- (i) one quarter of the WA fringe benefits for the year of tax ending in the first financial year in which the employer last elected to make returns on an estimated value basis; and
- (ii) the sum of the amounts included in the returns for the financial year.

[Regulation 25 inserted in Gazette 18 Jul 1997 p. 3791; amended in Gazette 29 Jan 2002 p. 482.]

26. Amended assessments under FBTA Act

An employer shall, within 30 days of receiving an amended assessment under the FBTA Act, give a copy of the amended assessment to the Commissioner.

Penalty: \$500.

[Regulation 26 inserted in Gazette 18 Jul 1997 p. 3792.]

27. Records to be made and preserved

- (1) For the purposes of section 44 of the Act —

- (a) the following documents are prescribed to be made and preserved by an employer —

- (i) documents and records which evidence the provision of a WA fringe benefit; and
- (ii) documents and records used in the calculation of the value of, or which support the calculation of the value of, the WA fringe benefit;

and

- (b) an employer who has elected to include in a return an amount for fringe benefits based on an estimated value basis shall make a record of the value of WA fringe benefits paid or payable in the year of tax ending in the first financial year in which the employer last made such an election.
- (2) An employer who makes a record under subregulation (1)(b) shall retain the record until the expiry of a period of 5 years —
 - (a) after the employer changes from the estimated value basis; or
 - (b) the employer makes a final return,whichever is the soonest.

[Regulation 27 inserted in Gazette 18 Jul 1997 p. 3792.]

Part 3 — Allowances

[Heading inserted in Gazette 18 Jul 1997 p. 3792.]

Division 1 — Motor vehicle allowances

[Heading inserted in Gazette 18 Jul 1997 p. 3792.]

28. Interpretation in Division 1 of Part 3

In this Division —

“allowance period” means the period during which the travel to which the allowance related occurred;

“averaging method” means the method described in regulations 32 to 35 for calculating the number of business kilometres travelled by a person;

“award” means —

- (a) an award, order or industrial agreement within the meaning of the *Industrial Relations Act 1979*;
- (b) an award, order or determination made by the Coal Industry Tribunal of Western Australia under the *Coal Industry Tribunal of Western Australia Act 1992*; or
- (c) an award, order or industrial agreement under a similar law of another State or of the Commonwealth;

“business journey” means a journey made on or after 1 July 1997 by a person —

- (a) in the course of the person’s employment; and
- (b) in a motor vehicle provided or maintained by that person;

“business kilometre” means a kilometre, or part of a kilometre, travelled by a person in the course of a business journey;

“continuous recording method” means the method described in regulation 31 for calculating the number of business kilometres travelled by a person;

“motor vehicle allowance” means an allowance paid to a person in respect of business journeys made by the person during the return period in which the allowance was paid or during a previous return period;

“recording period” means a period selected under regulation 32.

[Regulation 28 inserted in Gazette 18 Jul 1997 p. 3792-3.]

29. Motor vehicle allowances prescribed

- (1) An employer who pays a motor vehicle allowance to a person may choose to claim an exclusion under section 3(1a) of the Act for that allowance.
- (2) If an employer does not choose to claim an exclusion for a motor vehicle allowance, none of that allowance is excluded from being wages under section 3(1a) of the Act.
- (3) If an employer chooses to claim an exclusion for a motor vehicle allowance, the allowance (however calculated) is excluded from being wages under section 3(1a) of the Act to the extent that it does not exceed the amount calculated by multiplying —
 - (a) the rate determined under subregulation (4); by
 - (b) the number of business kilometres which the person —
 - (i) is calculated, under regulation 31(2), as having travelled;
 - (ii) is deemed, under regulation 35(2), to have travelled; or
 - (iii) is deemed, under subregulation (5), to have travelled,during the allowance period.
- (4) The rate to be applied under subregulation (3)(a) is —
 - (a) if the allowance is paid under an award which specifies motor vehicle allowances as a rate for each business kilometre travelled, the rate specified in the award; or

- (b) otherwise, the rate for each business kilometre travelled as set out in the Table to this subregulation for the financial year during which the allowance was paid.

Table

Financial year	Rate
1997/1998 and all subsequent years	50 cents

- (5) If an employer who has chosen to claim an exclusion for a motor vehicle allowance is unable to comply with regulation 31 or regulations 32 to 35, as the case requires, in relation to an allowance period, then for the purposes of subregulation (3)(b), the number of business kilometres travelled by the person during that period is deemed to be —
- (a) if the Commissioner allows the employer to estimate the number of business kilometres travelled by the person during that period and considers the employer's estimate to be reasonable, the employer's estimate of that number;
- (b) if the Commissioner specifies a number which is deemed to be the number of business kilometres travelled by the person during that period, the number specified; or
- (c) otherwise, zero.

[Regulation 29 inserted in Gazette 18 Jul 1997 p. 3793-4.]

30. Methods for calculating number of business kilometres

- (1) An employer who has chosen to claim an exclusion for a motor vehicle allowance must record and calculate the number of business kilometres travelled by the person during the allowance period using the continuous recording method unless the employer has chosen to use the averaging method and has calculated a percentage under regulation 34(1)(c) which is still in force.

- (2) An employer may choose to use the averaging method if —
 - (a) a motor vehicle is, or will be, provided or maintained by the person for more than 12 weeks; and
 - (b) the allowance is, or will be, paid regularly in respect of business journeys made during recurring periods of the same, or about the same, length (*e.g. weekly, fortnightly, monthly*).
- (3) Subject to subregulation (2), an employer may change the employer's chosen method of calculation with effect from the beginning of any return period but an employer who changes from the averaging method to the continuous recording method may not change back to the averaging method until the employer has, on that occasion, used the continuous recording method for at least 12 weeks.
- (4) Subject to subregulation (2), an employer who pays motor vehicle allowances to more than one person may use different methods of calculation for each person.
- (5) When an employer chooses to use a particular method of calculation the employer must record that choice in writing before the end of the return period during which the choice takes effect.
- (6) An employer must retain a record made under subregulation (5) for 5 years from when the employer ceases to use that method of calculation.

[Regulation 30 inserted in Gazette 18 Jul 1997 p. 3794.]

31. Continuous recording method

- (1) An employer who uses the continuous recording method in respect of a person must keep records of —
 - (a) the odometer readings at the beginning and end of each business journey made by that person; and

- (b) the purpose of each such journey,
and retain them for 5 years from the end of the return period
during which any allowance relating to those journeys is paid.
- (2) At the end of each return period the employer must calculate the
number of business kilometres travelled by the person during
the allowance period using the odometer readings referred to in
subregulation (1)(a).
- (3) The employer must retain calculations made under
subregulation (2) for 5 years from the end of the return period
during which the allowance is paid.

[Regulation 31 inserted in Gazette 18 Jul 1997 p. 3794.]

32. Averaging method — selecting a recording period

- (1) When an employer chooses to use the averaging method for a
person the employer must, in writing, select a recording period.
- (2) A recording period must be a continuous period of at least
12 weeks during which the person made, or is reasonably
expected to make, business journeys with the frequency and of
the length that can reasonably be expected to be made by the
person during any similar period within the next 5 years.
- (3) An employer must select another recording period if —
 - (a) the employer has been using the averaging method for a
person for 5 years since the end of the last recording
period and wishes to continue using the averaging
method;
 - (b) the person makes business journeys in a motor vehicle
which was not used during the last recording period
(other than a replacement vehicle nominated under
regulation 36);
 - (c) the employer changed from using the averaging method to
using the continuous recording method and then chooses to
change back to using the averaging method; or
 - (d) directed in writing to do so by the Commissioner.

- (4) An employer may select another recording period at any time before being required to do so under subregulation (3).
- (5) When an employer is required under subregulation (3)(c) to select a new recording period, the selected period must be during the current period in which the employer used the continuous recording method.
- (6) An employer must retain —
 - (a) a written selection made under subregulation (1) for 5 years from the end of the last return period during which the percentage, calculated under regulation 34(1)(c), for the selected recording period is in force; and
 - (b) any direction given under subregulation (3)(d) for 5 years from the date it is given.

[Regulation 32 inserted in Gazette 18 Jul 1997 p. 3795.]

33. Averaging method — keeping records

- (1) During a recording period an employer who uses the averaging method must keep a record, for each vehicle used by the person for business journeys during the recording period, of —
 - (a) the odometer readings at the beginning and end of —
 - (i) each business journey; and
 - (ii) the recording period;
 - and
 - (b) the specific purpose of each business journey.
- (2) At all times while the employer uses the averaging method, the employer must keep a record, for each vehicle used by the person for business journeys, of the odometer readings at the beginning and end of each allowance period.
- (3) The employer must retain —
 - (a) all records made under subregulation (1) for 5 years from the end of the last return period during which the

percentage calculated under regulation 34(1)(c) from those records is in force; and

- (b) all records made under subregulation (2) for 5 years from the end of the return period during which any allowance relating to journeys made during the allowance period is paid.

[Regulation 33 inserted in Gazette 18 Jul 1997 p. 3795-6.]

34. Averaging method — calculating the average

- (1) After making the records required under regulation 33 for a recording period an employer must calculate for each vehicle used by the person for business journeys during the recording period —
 - (a) the number of business kilometres travelled in that vehicle during the recording period, based on the odometer readings referred to in regulation 33(1)(a)(i);
 - (b) the total number of kilometres travelled in that vehicle during the recording period, based on the odometer readings referred to in regulation 33(1)(a)(ii); and
 - (c) the percentage of the total number of kilometres travelled during the recording period which were business kilometres (*i.e. (a) divided by (b), multiplied by 100*).
- (2) A percentage calculated under subregulation (1)(c) remains in force until the end of the next recording period selected under regulation 32.
- (3) The employer must retain all calculations made under this regulation for 5 years from the end of the last return period during which the percentage which those calculations were used to calculate is in force.

[Regulation 34 inserted in Gazette 18 Jul 1997 p. 3796.]

35. Averaging method — calculating deemed distance

- (1) For each return period during which an employer uses the averaging method the employer must calculate, for each vehicle used by the person for business journeys during the allowance period —
 - (a) the total number of kilometres travelled in that vehicle during the allowance period, based on the odometer readings referred to in regulation 33(2); and
 - (b) the number of business kilometres which the person is to be deemed to have travelled in that vehicle during the allowance period, by multiplying —
 - (i) the total number of kilometres calculated under paragraph (a); by
 - (ii) the percentage calculated for that vehicle under regulation 34(1)(c) for the last recording period.
- (2) A person is deemed to have travelled, during an allowance period, the number of business kilometres calculated by adding together the figures calculated under subregulation (1)(b) for each of the vehicles used by the person for business journeys during that allowance period.
- (3) The employer must retain all calculations made under this regulation for 5 years from the end of the return period during which any allowance relating to journeys made during the allowance period is paid.

[Regulation 35 inserted in Gazette 18 Jul 1997 p. 3796.]

36. Replacing one motor vehicle with another

- (1) If a person who is paid a motor vehicle allowance ceases to use a motor vehicle for business journeys and commences using another motor vehicle in its place, the employer may nominate the second motor vehicle as a replacement for the first.

- (2) When a nomination has been made under subregulation (1) —
 - (a) the replacement motor vehicle is to be treated as the original motor vehicle;
 - (b) subject to regulation 32(3), if the employer is using the averaging method, the employer need not repeat for the replacement vehicle the steps already taken under regulations 32 to 35 for the original motor vehicle; and
 - (c) the employer must —
 - (i) record the odometer readings of both vehicles at the time of the replacement; and
 - (ii) take those readings into account when calculating the number of kilometres travelled during the allowance period when the replacement occurred.
- (3) The employer must record the nomination in writing during the allowance period in which the replacement occurs.
- (4) The employer must retain all records made under this regulation for 5 years from the end of the last return period during which any allowance relating to journeys made before the replacement is paid.

[Regulation 36 inserted in Gazette 18 Jul 1997 p. 3796-7.]

37. Replacement or recalibration of odometer

- (1) If the odometer of a motor vehicle which is used for business journeys is replaced or recalibrated the employer must —
 - (a) record the odometer readings immediately before and after the replacement or recalibration; and
 - (b) take those readings into account when calculating the number of kilometres travelled in the vehicle during the allowance period in which the replacement or recalibration occurred.
- (2) The employer must retain all records and calculations made under this regulation for 5 years from the end of the last return

period during which any allowance relating to journeys made before the replacement or recalibration is paid.

[Regulation 37 inserted in Gazette 18 Jul 1997 p. 3797.]

Division 2 — Accommodation allowances

[Heading inserted in Gazette 18 Jul 1997 p. 3797.]

38. Interpretation in Division 2 of Part 3

In this Division —

“award” means —

- (a) an award, order or industrial agreement within the meaning of the *Industrial Relations Act 1979*;
- (b) an award, order or determination made by the Coal Industry Tribunal of Western Australia under the *Coal Industry Tribunal of Western Australia Act 1992*; or
- (c) an award, order or industrial agreement under a similar law of another State or of the Commonwealth;

“business night” means a night on or after 1 July 1997 when the person —

- (a) is, or is expected to be, absent from the person’s usual place of residence in the course of the person’s employment; and
- (b) stays, or is expected to stay, in accommodation other than accommodation provided by the employer;

“relevant period” means the period consisting of —

- (a) the return period during which the absence was initially expected to occur;
- (b) the following return period; and
- (c) any subsequent return periods which the Commissioner in writing allows to be included.

[Regulation 38 inserted in Gazette 18 Jul 1997 p. 3797-8.]

39. Accommodation allowances prescribed

- (1) An accommodation allowance (however calculated) paid to a person during a return period is excluded under section 3(1a) of the Act to the extent that it does not exceed the amount calculated by multiplying —
- (a) the rate determined under subregulation (2); by
 - (b) the number of business nights in respect of which the allowance was paid.
- (2) The rate to be applied under subregulation (1)(a) is —
- (a) if the allowance is paid under an award which specifies accommodation allowances as a rate for each business night, the rate specified in the award; or
 - (b) otherwise, the applicable rate for each business night set out in the Table to this subregulation according to where the person stayed, or is expected to stay, and the financial year during which the accommodation was, or is expected to be, provided.

Table

Financial year	Rate per night for accommodation —		
	in Western Australia	elsewhere in Australia	in another country
1997/1998 and all subsequent years	\$110	\$145	\$200

[Regulation 39 inserted in Gazette 18 Jul 1997 p. 3798.]

40. Reinstatement of unused allowances

- (1) This regulation applies if —
- (a) an accommodation allowance is paid in advance in respect of an expected business night;
 - (b) the allowance is excluded from being wages in the return period during which it is paid; and
 - (c) the person is in fact not absent as expected on that night or stays in accommodation provided by the employer.

- (2) Where this regulation applies an adjustment is to be made under subregulation (3) unless —
- (a) the person —
 - (i) is absent on another night during the relevant period; and
 - (ii) is not paid another accommodation allowance in respect of that night;
 - or
 - (b) the allowance is repaid by the person to the employer during the relevant period.
- (3) Where an adjustment is required under subregulation (2) the exclusion of the allowance for that night from being wages under section 3(1a) of the Act is to be reversed at the end of the relevant period by adding to the wages paid to the person during the last return period in the relevant period an amount equal to so much of the allowance which was excluded from being wages as relates to that night.

[Regulation 40 inserted in Gazette 18 Jul 1997 p. 3798-9.]

41. Record keeping

If an employer pays an accommodation allowance and any part of it is excluded from being wages under section 3(1a) of the Act the employer must keep sufficient written records to substantiate the calculation of that exclusion and retain them for 5 years from —

- (a) the night in respect of which the allowance is paid; or
- (b) the end of the return period during which the allowance is paid,

whichever is later.

[Regulation 41 inserted in Gazette 18 Jul 1997 p. 3799.]

Part 4 — Certain superannuation contributions

[Heading inserted in Gazette 18 Jul 1997 p. 3799.]

42. Employer to obtain actuarial determination

- (1) An employer who is deemed to have made a contribution to a superannuation scheme of a type described in item 2(1) of Schedule 2 to the Act, in a return period, in respect of a participant, must ensure that an actuarial determination, made in accordance with this Part, is in force in respect of contributions to that scheme, in that return period, in respect of that participant.
- (2) An employer must ensure that a new actuarial determination is made as soon as practicable after the occurrence of an event which could reasonably be expected to significantly affect the accuracy of the current determination.
- (3) If the Commissioner considers that as a result of a significant change of circumstances an actuarial determination is no longer accurate, the Commissioner may direct the employer to ensure that a new actuarial determination is made and the employer is to comply with that direction.
- (4) A determination made under subregulation (3) has effect in respect of each return period which commences after the date on which the direction is given.

[Regulation 42 inserted in Gazette 18 Jul 1997 p. 3799.]

43. Categories of participants

- (1) An actuarial determination required by regulation 42 must be made in relation to each participant either separately or in accordance with this regulation.
- (2) An actuary may, if the actuary considers it reasonable to do so, divide the participants in a scheme into categories and make a determination in respect of a notional average member of each category.

- (3) If a determination is made under subregulation (2) for a category, that determination applies in respect of each participant who is a member of that category, including any person who subsequently becomes a member of that category.
- (4) An actuary may categorize participants in a scheme according to their occupations, their salaries, the type of benefits to which they are or will become entitled, or on such other basis as the actuary considers appropriate.

[Regulation 43 inserted in Gazette 18 Jul 1997 p. 3799.]

44. Deemed rate of earnings

The earnings referred to in item 2(3) of Schedule 2 to the Act are to be calculated at a rate equal to the yield rate, on the day on which the determination is made, for 10 year treasury bonds issued by the Commonwealth.

[Regulation 44 inserted in Gazette 18 Jul 1997 p. 3800.]

45. Determination for 3 years

- (1) An actuarial determination must specify the amount of contributions for each participant, or category of participants, for each return period for the 3 years from the date on which the determination is made.
- (2) If a determination is required under regulation 42(2) the determination must also specify the amount of contributions for each participant, or category of participants, for each return period from the date the significant event occurred to the date on which the determination was made.
- (3) If a determination is required under regulation 42(3) the determination must also specify the amount of contributions for each participant, or category of participants, for each return period from the date of the Commissioner's direction to the date on which the determination was made.
- (4) The contribution may be expressed —

- (a) as a dollar amount (which need not be the same for each return period); or
- (b) by reference to a variable which is, or a number of variables which are, readily ascertainable for each participant for each return period (*e.g. as a percentage of salary*).

[Regulation 45 inserted in Gazette 18 Jul 1997 p. 3800.]

46. Duration of actuarial determination

An actuarial determination made under this Part remains in force for 3 years from when it is made unless before then another actuarial determination is made to replace it.

[Regulation 46 inserted in Gazette 18 Jul 1997 p. 3800.]

47. Retention of superannuation records

If an employer has, or is deemed to have, made a superannuation contribution in respect of a person which is deemed by section 3A of the Act to be wages the following documents are prescribed to be preserved by that employer —

all documents and records used to ascertain the amount of the contribution including, if item 2(3) of Schedule 2 to the Act applies, the actuarial determination relating to that contribution.

[Regulation 47 inserted in Gazette 18 Jul 1997 p. 3800.]

[Schedule 1 repealed in Gazette 24 Jul 1998 p. 3912.]

Schedule 2

[r. 3A]

Exempted departments or other organisations

<i>Item</i>	<i>Exempted department or other organisation</i>
1.	Commissioner for Equal Opportunity
1A	Commissioner of Main Roads
2.	Commissioner of Workplace Agreements
2A	Curriculum Council
3.	Department of Agriculture
4.	Department for Community Development
5.	Department of Conservation and Land Management
6.	Department of Consumer and Employment Protection
7.	Department of Culture and the Arts
9.	Department of Education
10.	Department of Education Services
11.	Department of Environmental Protection
12.	Department of Fisheries
13.	Department of Health
14.	Department of Indigenous Affairs
15.	Department of Industry and Technology
16.	Department of Justice
17.	Department of Land Administration
18.	Department of Local Government and Regional Development
19.	Department of Mineral and Petroleum Resources
20.	Department for Planning and Infrastructure
21.	Department of the Premier and Cabinet
22.	Department of Racing, Gaming and Liquor
23.	Department of the Registrar, Western Australian Industrial Relations Commission
24.	Department of Sport and Recreation
25.	Department of Training

<i>Item</i>	<i>Exempted department or other organisation</i>
26.	Department of Transport
27.	Department of Treasury and Finance
29.	Electorate Offices of Members of Parliament
29A	Gascoyne Development Commission
29B	Goldfields Esperance Development Commission
30.	Governor's Establishment
30A	Great Southern Development Commission
30B	Kimberley Development Commission
30C	Mid West Development Commission
32.	Office of the Auditor General
33.	Office of the Director of Public Prosecutions
35.	Office of the Information Commissioner
36.	Office of Multicultural Interests
36A	Office of the Public Sector Standards Commissioner
37.	Office of Seniors' Interests
38.	Office of Water Regulation
39.	Parliament (including members of Parliament)
40.	Parliamentary Commissioner for Administrative Investigations
40A	Peel Development Commission
40B	Pilbara Development Commission
41.	Police Department
43.	Recreation Camps and Reserves Board
43A	South West Development Commission
44.	Valuer General's Office
45.	Western Australian Building Management Authority
46.	Western Australian Electoral Commission
46A	Wheatbelt Development Commission
47.	Women's Policy Development Office

[Schedule 2 inserted in Gazette 11 Jan 2002 p. 48-9; amended in Gazette 28 Jun 2002 p. 3110-11; 13 Jun 2003 p. 2120.]

Notes

- ¹ This is a compilation of the *Pay-roll Tax Assessment Regulations 1971* and includes the amendments made by the other written laws referred to in the following table ^{4, 5}. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Pay-roll Tax Regulations</i> ²	15 Oct 1971 p. 4057-9	15 Oct 1971
	26 Oct 1979 p. 3307-8	26 Oct 1979
<i>Pay-roll Tax Amendment Regulations 1981</i>	12 Jun 1981 p. 2052	12 Jun 1981
<i>Pay-roll Tax Amendment Regulations 1986</i>	27 Mar 1986 p. 1302	27 Mar 1986
<i>Pay-roll Tax Amendment Regulations (No. 2) 1986</i>	15 Aug 1986 p. 2928	15 Aug 1986
<i>Pay-roll Tax Amendment Regulations 1988</i>	12 Feb 1988 p. 403	12 Feb 1988
<i>Pay-roll Tax Amendment Regulations 1989</i>	30 Jun 1989 p. 1896	30 Jun 1989
<i>Pay-roll Tax Amendment Regulations 1991</i>	5 Jul 1991 p. 3377-8	5 Jul 1991
<i>Pay-roll Tax Amendment Regulations 1992</i>	31 Jul 1992 p. 3800-1	31 Jul 1992
<i>Pay-roll Tax Amendment Regulations (No. 2) 1992</i>	25 Sep 1992 p. 4775	25 Sep 1992
<i>Pay-roll Tax Amendment Regulations 1993</i>	3 Dec 1993 p. 6482-4	1 Jan 1994 (see r. 2 and <i>Gazette</i> 24 Dec 1993 p. 6795)
<i>Pay-roll Tax Amendment Regulations 1994</i>	3 Jun 1994 p. 2322-3	3 Jun 1994
<i>Pay-roll Tax Amendment Regulations 1995</i>	2 May 1995 p. 1691	2 May 1995
<i>Pay-roll Tax Amendment Regulations (No. 2) 1995</i>	17 Nov 1995 p. 5343-4	17 Nov 1995
<i>Pay-roll Tax Amendment Regulations 1996</i>	8 Mar 1996 p. 884	8 Mar 1996
<i>Pay-roll Tax Amendment Regulations (No. 2) 1996</i>	17 May 1996 p. 2112-13	17 May 1996
<i>Pay-roll Tax Amendment Regulations (No. 3) 1996</i>	19 Jul 1996 p. 3487-9	1 Jul 1996 (see r. 2)

Citation	Gazettal	Commencement
<i>Pay-roll Tax Amendment Regulations (No. 4) 1996</i>	3 Dec 1996 p. 6691	3 Dec 1996
<i>Pay-roll Tax Amendment Regulations 1997</i> ³	18 Jul 1997 p. 3784-800	1 Jul 1997 (see r. 2)
<i>Pay-roll Tax Assessment Amendment Regulations 1997</i>	14 Oct 1997 p. 5728	14 Oct 1997
<i>Pay-roll Tax Assessment Amendment Regulations (No. 2) 1997</i>	28 Nov 1997 p. 7030	28 Nov 1997
Reprint of the Pay-roll Tax Assessment Regulations 1971 as at 16 Mar 1998 (includes amendments listed above)		
<i>Pay-roll Tax Assessment Amendment Regulations 1998</i>	3 Apr 1998 p. 1988	3 Apr 1998
<i>Pay-roll Tax Assessment Amendment Regulations (No. 2) 1998</i>	24 Jul 1998 p. 3911-12	24 Jul 1998
<i>Pay-roll Tax Assessment Amendment Regulations 2001</i>	3 Apr 2001 p. 1916	3 Apr 2001
<i>Pay-roll Tax Assessment Amendment Regulations (No. 3) 2001</i>	11 Jan 2002 p. 48-9	11 Jan 2002
<i>Pay-roll Tax Assessment Amendment Regulations 2002</i>	29 Jan 2002 p. 479-82	29 Jan 2002
<i>Pay-roll Tax Assessment Amendment Regulations (No. 2) 2002</i>	28 Jun 2002 p. 3110-11	1 Jul 2002 (see r. 2)
Reprint of the Pay-roll Tax Assessment Regulations 1971 as at 13 Sep 2002 (and includes all amendments above)		
<i>Corporations (Consequential Amendments) (FSR) Regulations 2003 Pt. 2</i>	6 Jun 2003 p. 21023-6	11 Mar 2002 (see r. 2 and Commonwealth Gazette 24 Oct 2001 No. GN 42)
<i>Pay-roll Tax Assessment Amendment Regulations 2003</i>	13 Jun 2003 p. 2119-20	13 Jun 2003
<u>These regulations were repealed as a result of the repeal of the Pay-roll Tax Assessment Act 1971 by the Taxation Administration (Consequential Provisions) Act 2002 s. 5(f) (No. 45 of 2002) as at 1 Jul 2003 (see s. 2(1) and (2) and Gazette 27 Jun 2003 p. 2383)</u>		

² Now known as the *Pay-roll Tax Assessment Regulations 1971*; citation changed (see note under r. 1).

³ The *Pay-roll Tax Amendment Regulations 1997* r. 8 reads as follows:

“

8. Transitional provision

Despite regulation 6, regulation 3B of the principal regulations as in force before the commencement of these regulations continues to apply to wages paid or payable before 1 July 1997.

”.

⁴

Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 7 this Act is to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002*. Pt. 1 and Pt. 6 Div. 3 of those regulations read as follows:

“

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002*.

2. Commencement

- (1) These regulations do not have effect unless an arrangement is in operation under section 5 of the Act.
- (2) When such an arrangement is in operation, these regulations and the modifications they prescribe are deemed to have taken effect on 6 October 1997.
- (3) If a State taxing law was repealed before these regulations take effect then, despite the repeal, when these regulations are deemed under subsection (2) to have taken effect, the repealed law is deemed to have been modified, in accordance with these regulations, on 6 October 1997.

3. Modification of State taxing laws

- (1) In its operation as an applied WA law, the Act is modified by omitting section 7.
- (2) For the purposes of section 7(2) of the Act, each State taxing law is taken to be modified to the extent necessary to give effect to subregulation (3).
- (3) If —
 - (a) a State taxing law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding applied law also applies, or could

apply, to any extent, to or in relation to the same event, state of affairs or transaction;

- (b) a person is required or permitted, or could be required or permitted, to take an action under both the State taxing law and the corresponding applied law in relation to the event, state of affairs or transaction;
- (c) the person has taken the action in accordance with the corresponding applied law; and
- (d) the Commissioner has enough information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the State taxing law or the corresponding applied law or both, as the case requires,

then —

- (e) the person is not required to take the action under the State taxing law; and
 - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the State taxing law in relation to the event, state of affairs or transaction.
- (4) The particular modifications set out in these regulations of certain State taxing laws have effect for the purposes of section 7(2) of the Act.

Part 6 — Pay-roll tax

Division 3 — The *Pay-roll Tax Assessment Regulations 1971*

54. Modification of the *Pay-roll Tax Assessment Regulations 1971*

This Division sets out modifications of the *Pay-roll Tax Assessment Regulations 1971**.

[* Reprinted as at 13 September 2002.]

55. Regulation 1A inserted

After regulation 1, the following regulation is inserted —

“

1A. Application of regulations in non-Commonwealth places

- (1) In these regulations, unless the contrary intention appears —
 - (a) a reference to these regulations is to be read as a reference to these regulations in their application as a law of Western Australia;

- (b) a reference to the Act is to be read as a reference to the Act in its application as a law of Western Australia;
 - (c) a reference to the *Revenue Laws Amendment (Assessment) Act 1997* is to be read as a reference to that Act in its application as a law of Western Australia; and
 - (d) a reference to the *Pay-roll Tax Amendment Regulations 1997* is to be read as a reference to those regulations in their application as a law of Western Australia.
- (2) These regulations are to be read with the applied Pay-roll Tax Assessment Regulations as a single body of law.
- ”.

56. Regulation 2 amended

Regulation 2 is amended by inserting the following definition in its appropriate alphabetical position —

“

“applied Pay-roll Tax Assessment Regulations” means the *Pay-roll Tax Assessment Regulations 1971* of Western Australia in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;

”.

”.

- ⁵ Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 8(2) of the Commonwealth, this Act is to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*. Pt. 1 and Pt. 6 Div. 3 of that notice read as follows:

“

Part 1 — Preliminary

1. Citation

This notice may be cited as the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*.

2. Commencement

- (1) This notice does not have effect unless an arrangement is in operation under section 9 of the Commonwealth Places Mirror Taxes Act in relation to Western Australia.
- (2) When such an arrangement is in operation, this notice and the modifications it prescribes are deemed to have taken effect on 6 October 1997.
- (3) If an applied WA law was repealed before this notice takes effect then, despite the repeal, when this notice is deemed under subsection (2) to have taken effect, the repealed law is deemed to have been modified on 6 October 1997 as set out in this notice.

3. Definitions

In this notice —

“applied WA law” means the provisions of a State taxing law of Western Australia that apply or are taken to have applied in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;

“Commonwealth Mirror Taxes Act” means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth;

“WA taxing law” means a State taxing law of Western Australia.

4. Modification of applied WA laws

- (1) For the purposes of section 8 of the Commonwealth Mirror Taxes Act, each applied WA law is taken to be modified to the extent necessary to give effect to subregulation (2).
- (2) If —
 - (a) an applied WA law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding State taxing law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction;
 - (b) a person is required or permitted, or could be required or permitted, to take an action under both the applied WA law and the corresponding State taxing law in relation to the event, state of affairs or transaction;
 - (c) the person has taken the action in accordance with the corresponding State taxing law; and
 - (d) the Commissioner has enough information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the applied WA law or the corresponding State taxing law or both, as the case requires,

then —

- (e) the person is not required to take the action under the applied WA law; and
 - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the applied WA law in relation to the event, state of affairs or transaction.
- (3) The particular modifications set out in this notice of certain applied WA laws have effect for the purposes of section 8 of the Commonwealth Mirror Taxes Act.

Part 6 — Pay-roll tax

Division 3 — The applied *Pay-roll Tax Assessment Regulations 1971*

80. Modification of the applied regulations

This Division sets out modifications of the *Pay-roll Tax Assessment Regulations 1971** of Western Australia.

[* Reprinted 13 September 2002.]

81. Regulation 1A inserted

After regulation 1, the following regulation is inserted —

“

1A. Application of regulations in Commonwealth places

- (1) In these regulations, unless the contrary intention appears —
 - (a) a reference to these regulations is to be read as a reference to these regulations in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;
 - (b) a reference to the Act is to be read as a reference to the Act in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;
 - (c) a reference to the *Revenue Laws Amendment (Assessment) Act 1997* is to be read as a reference to that Act in its application as a law of the

- Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;
- (d) a reference to the *Pay-roll Tax Amendment Regulations 1997* is to be read as a reference to those regulations in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act; and
 - (e) a reference to any of the following Acts is to be read as a reference to the Act of that name of the Parliament of Western Australia —
 - (i) the *Coal Industry Tribunal of Western Australia Act 1992*;
 - (ii) the *Industrial Relations Act 1979*;
 - (iii) the *Workplace Agreements Act 1993*.
- (2) These regulations are to be read with the corresponding Pay-roll Tax Assessment Regulations as a single body of law.
- (3) In addition to being modified as prescribed by the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*, these regulations are deemed to be further modified to any extent that is necessary or convenient to enable these regulations to operate effectively as a law of the Commonwealth.
- ”.

82. Regulation 2 modified

Regulation 2 is modified by inserting the following definition in its appropriate alphabetical position —

“

“**corresponding Pay-roll Tax Assessment Regulations**” means the *Pay-roll Tax Assessment Regulations 1971* in their application as a law of Western Australia;

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