



Western Australia

Taxation Legislation Amendment Act (No. 2) 2015

As at 09 Mar 2015

No. 8 of 2015

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Taxation Legislation Amendment Act (No. 2) 2015

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No. 8 of 2015

An Act to amend the following Acts —

- **the *Duties Act 2008*;**
- **the *Land Tax Assessment Act 2002*;**
- **the *Pay-roll Tax Assessment Act 2002*;**
- **the *Taxation Administration Act 2003*.**

[Assented to 9 March 2015]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Taxation Legislation Amendment Act (No. 2) 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the rest of the Act — on the day after assent day.

Part 2 — *Duties Act 2008* amended

3. Act amended

This Part amends the *Duties Act 2008*.

4. Section 3 amended

In section 3 insert in alphabetical order:

industrial association means any of the following —

- (a) an organisation registered under the *Industrial Relations Act 1979* section 53 or 54;
- (b) an association of employees, or an association of employers, registered as an organisation, or recognised, under the *Fair Work (Registered Organisations) Act 2009* (Commonwealth);
- (c) an association of employees registered or recognised as a trade union (however described) under the law of another State or a Territory;
- (d) an association of employers registered or recognised as such (however described) under the law of another State or a Territory;
- (e) an association of employees a principal purpose of which is the protection and promotion of the employees' interests in matters concerning their employment;

political party means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Parliament of the Commonwealth, or to a Parliament of a State or Territory, of a candidate or candidates endorsed by it or by a body or organisation of which it forms part;

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professional association means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the interests of its members in any profession;

promote trade, industry or commerce includes to carry out an undertaking a purpose of which includes the promotion of, or the advocacy for, trade, industry or commerce, whether generally or in respect of any particular kind of trade, industry or commerce;

relevant body has the meaning given in section 96A;

5. Section 95 amended

(1) In section 95 delete “Duty” and insert:

(1) Duty

(2) At the end of section 95 insert:

(2) However, subsection (1) does not apply if the person liable to pay duty on the dutiable transaction is a relevant body, or is related to a relevant body as referred to in subsection (3), unless a beneficial body determination is in force for the purposes of this Act in respect of the relevant body.

(3) A person liable to pay duty on a dutiable transaction is related to a relevant body if —

(a) the person holds the dutiable property the subject of the transaction as trustee of a trust; and

(b) the relevant body is a beneficiary under the trust, whether the relevant body has a vested share or is contingently entitled or is a potential

beneficiary under a discretionary trust,
unless —

- (i) the trust is a discretionary trust; and
- (ii) the Commissioner decides in a particular case that it would be inequitable for the person to be treated as related to the relevant body.

6. Sections 96A, 96B and 96C inserted

After section 95 insert:

96A. What is a relevant body

A reference to a relevant body is to any of the following —

- (a) a political party;
- (b) an industrial association;
- (c) a professional association;
- (d) a body, other than a body referred to in paragraph (a), (b), (c) or (e), that promotes trade, industry or commerce, unless the main purposes of the body are charitable purposes that fall within the first 3 categories (being relief of poverty, advancement of education and advancement of religion) identified by Lord Macnaghten in *Commissioners for Special Purposes of Income Tax v Pemsel* [1891] AC 531 as developed by the common law of Australia from time to time;
- (e) a body that is a member of a class of bodies prescribed for the purposes of this paragraph;
- (f) a body that —
 - (i) is a member of a group, as defined in the *Pay-roll Tax Assessment Act 2002*

- Glossary, of which a body referred to in another paragraph is also a member; or
- (ii) is a related body corporate, as defined in the Corporations Act section 9, of a body referred to in another paragraph; or
 - (iii) has as its sole or dominant purpose or object the conferral of a benefit, whether financial or non-financial, on a body referred to in another paragraph.

96B. Application for a beneficial body determination

- (1) An application may be made to the Minister for a determination under section 96C that a relevant body is a beneficial body for the purposes of the taxation Acts if —
 - (a) the Commissioner has decided (the *decision*) that —
 - (i) a dutiable transaction is not an exempt transaction under section 95; or
 - (ii) an acquisition is not exempt under section 168(1) because the transfer referred to in that section would not be an exempt transaction under section 95;
 - and
 - (b) that decision is made solely on the ground that the person liable to pay duty on the dutiable transaction, or who would be liable to pay duty on the transfer, is —
 - (i) a relevant body referred to in section 96A(c), (d), (e) or (f); or
 - (ii) related to such a relevant body as referred to in section 95(3).

- (2) An application referred to in subsection (1) can be made only if —
 - (a) an objection was made to the decision and the objection and any subsequent review proceedings are exhausted, discontinued or finally determined; or
 - (b) under the Taxation Administration Act section 34B —
 - (i) all rights of objection or review conferred by that Act in respect of the decision have been surrendered; or
 - (ii) an objection to the decision has been determined and all rights to take review proceedings on the Commissioner's decision on the objection have been surrendered.
- (3) However, an application referred to in subsection (1) cannot be made if the decision was made, or confirmed, on a reassessment made on an application made by the taxpayer —
 - (a) under the Taxation Administration Act section 16(2)(b); and
 - (b) after the right to object to the original assessment had expired.
- (4) An application referred to in subsection (1) must be made within 60 days after subsection (2) first applies in respect of the decision.

96C. Beneficial body determination

- (1) On an application under section 96B the Minister, with the Treasurer's concurrence, may determine that a relevant body is a beneficial body for the purposes of the taxation Acts.

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- (2) The Minister, with the Treasurer's concurrence, may amend or revoke a beneficial body determination.
- (3) The Minister may make, amend or revoke a beneficial body determination only if the Minister is of the opinion that it is in the public interest to do so and after considering any information that the Minister considers relevant.
- (4) The Minister must —
 - (a) provide written reasons to the applicant for a decision in relation to an application under section 96B; and
 - (b) provide written reasons for a decision to amend or revoke a beneficial body determination to the body in respect of which the determination is made.
- (5) The Minister is to publish notice of the making, amendment or revocation of a beneficial body determination in the *Gazette*.
- (6) A beneficial body determination is subject to the conditions specified in the determination (if any).
- (7) A beneficial body determination made under this section comes into force —
 - (a) for the purposes of this Act — on the day on which the determination is made; and
 - (b) for the purposes of the *Land Tax Assessment Act 2002* and the *Pay-roll Tax Assessment Act 2002* — on the day specified in the notice in respect of each Act.

- (8) Despite subsection (7)(a), a beneficial body determination made under this section applies in relation to the relevant body in respect of —
- (a) the dutiable transaction, or acquisition, that is the subject of the application under section 96B (the *original transaction*); and
 - (b) any other transaction —
 - (i) that was entered into or occurred after the original transaction but before the determination was made; and
 - (ii) on which duty would not have been chargeable under section 95 (including for the purposes of section 168) had the determination been in force for the purposes of this Act in respect of the relevant body.
- (9) The Commissioner is to reassess the liability to duty of each transaction in respect of which a beneficial body determination applies under subsection (8).
- (10) The limitations as to time in the Taxation Administration Act section 17 do not apply in respect of a reassessment under subsection (9).
- (11) A beneficial body determination continues in force until the day on which notice of the revocation is published in the *Gazette*, and different days may be specified for each Act in respect of which the determination is in force.

Part 3 — *Land Tax Assessment Act 2002* amended

7. Act amended

This Part amends the *Land Tax Assessment Act 2002*.

8. Section 37 replaced

Delete section 37 and insert:

37. Land owned by public charitable or benevolent institutions, exemption for

- (1) In this section —
public charitable or benevolent institution does not include an institution that is a relevant body, unless a beneficial body determination is in force for the purposes of this Act in respect of the relevant body.
- (2) Land is exempt for an assessment year if at midnight on 30 June in the previous financial year, the land is —
 - (a) owned by, vested in or held in trust for a public charitable or benevolent institution; and
 - (b) used solely for the public charitable or benevolent purposes for which the institution was established.
- (3) This section applies to an assessment year that commences on or after 1 July 2015.

9. Sections 38AA, 38AB and 38AC inserted

After section 37 insert:

38AA. What is a relevant body

A reference to a relevant body is to any of the following —

- (a) a political party;
- (b) an industrial association;
- (c) a professional association;
- (d) a body, other than a body referred to in paragraph (a), (b), (c) or (e), that promotes trade, industry or commerce, unless the main purposes of the body are charitable purposes that fall within the first 3 categories (being relief of poverty, advancement of education and advancement of religion) identified by Lord Macnaghten in *Commissioners for Special Purposes of Income Tax v Pemsel* [1891] AC 531 as developed by the common law of Australia from time to time;
- (e) a body that is a member of a class of bodies prescribed for the purposes of this paragraph;
- (f) a body that —
 - (i) is a member of a group, as defined in the *Pay-roll Tax Assessment Act 2002* Glossary, of which a body referred to in another paragraph is also a member; or
 - (ii) is a related body corporate, as defined in the *Corporations Act 2001* (Commonwealth) section 9, of a body referred to in another paragraph; or

- (iii) has as its sole or dominant purpose or object the conferral of a benefit, whether financial or non-financial, on a body referred to in another paragraph.

38AB. Application for a beneficial body determination

- (1) An application may be made to the Minister for a determination under section 38AC that a relevant body is a beneficial body for the purposes of the taxation Acts if —
 - (a) the Commissioner has decided (the *decision*) that land is not exempt under section 37; and
 - (b) that decision is made solely on the ground that the land is owned by, vested in or held in trust for a relevant body referred to in section 38AA(c), (d), (e) or (f).
- (2) An application referred to in subsection (1) can be made only if —
 - (a) an objection was made to the decision and the objection and any subsequent review proceedings are exhausted, discontinued or finally determined; or
 - (b) under the *Taxation Administration Act 2003* section 34B —
 - (i) all rights of objection or review conferred by that Act in respect of the decision have been surrendered; or
 - (ii) an objection to the decision has been determined and all rights to take review proceedings on the Commissioner's decision on the objection have been surrendered.

- (3) However, an application referred to in subsection (1) cannot be made if the decision was made, or confirmed, on a reassessment made on an application made by the taxpayer —
 - (a) under the *Taxation Administration Act 2003* section 16(2)(b); and
 - (b) after the right to object to the original assessment had expired.
- (4) An application referred to in subsection (1) must be made within 60 days after subsection (2) first applies in respect of the decision.

38AC. Beneficial body determination

- (1) On an application under section 38AB the Minister, with the Treasurer's concurrence, may determine that a relevant body is a beneficial body for the purposes of the taxation Acts.
- (2) The Minister, with the Treasurer's concurrence, may revoke or amend a beneficial body determination.
- (3) The Minister may make, amend or revoke a beneficial body determination only if the Minister is of the opinion that it is in the public interest to do so and after considering any information that the Minister considers relevant.
- (4) The Minister must —
 - (a) provide written reasons to the applicant for a decision in relation to an application under section 38AB; and
 - (b) provide written reasons for a decision to amend or revoke a beneficial body determination to the body in respect of which the determination is made.

- (5) The Minister is to publish notice of the making, amendment or revocation of a beneficial body determination in the *Gazette*.
- (6) A beneficial body determination is subject to the conditions specified in the determination (if any).
- (7) A beneficial body determination made under this section comes into force —
 - (a) for the purposes of this Act — on the day on which the determination is made; and
 - (b) for the purposes of the *Duties Act 2008* and the *Pay-roll Tax Assessment Act 2002* — on the day specified in the notice in respect of each Act.
- (8) Despite subsection (7)(a), a beneficial body determination made under this section applies in relation to the relevant body —
 - (a) for the assessment year in respect of which the application under section 38AB was made (the ***original assessment year***); and
 - (b) for any subsequent assessment year —
 - (i) after the original assessment year up to, and including, the assessment year during which the determination was made; and
 - (ii) in respect of which land would have been exempt under section 37 had the determination been in force for the purposes of this Act in respect of the relevant body.
- (9) The Commissioner is to reassess the land tax payable on land for each assessment year in respect of which a beneficial body determination applies under subsection (8).

- (10) The limitations as to time in the *Taxation Administration Act 2003* section 17 do not apply in respect of a reassessment under subsection (9).
- (11) A beneficial body determination continues in force until the day on which notice of the revocation is published in the *Gazette*, and different days may be specified for each Act in respect of which the determination is in force.

10. Schedule 1 amended

After Schedule 1 Division 2 insert:

Division 3 — Provisions for the *Taxation Legislation Amendment Act (No. 2) 2015*

3. Terms used

In this Division —

new provisions means sections 37, 38AA, 38AB and 38AC as in force immediately after the commencement of the amendments effected by the *Taxation Legislation Amendment Act (No. 2) 2015* Part 3;

previously exempt land means land that was exempt under section 37 for the assessment year immediately before the first assessment year to which the new provisions apply.

4. Previously exempt land: section 37

- (1) If the Commissioner forms the preliminary view that previously exempt land may not be exempt under the new provisions, then the Commissioner is to give notice (***preliminary notice about an exemption under section 37***) to the person who would be liable to pay land tax on that land informing the person —
 - (a) that the Commissioner has formed such a preliminary view; and
 - (b) about the effect of this clause.

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- (2) If preliminary notice about an exemption under section 37 is given, the Commissioner is to decide whether or not the previously exempt land will be exempt under the new provisions.
- (3) The Commissioner is to give notice to the person who would be liable to pay land tax on the previously exempt land informing the person of—
 - (a) the Commissioner's decision as to whether or not the previously exempt land will be exempt under the new provisions; and
 - (b) the grounds on which the decision is made.
- (4) Despite the amendments effected by the *Taxation Legislation Amendment Act (No. 2) 2015 Part 3* —
 - (a) the new provisions do not apply in relation to previously exempt land until the assessment year following the financial year during which notice is given under subclause (3); and
 - (b) this Act as in force immediately before the commencement of those amendments continues to apply to that land until that time.

5. Beneficial body determination: application may be made

Despite clause 4(4), if the Commissioner makes a decision under clause 4 that previously exempt land will not be exempt under the new provisions solely on the ground that an institution is a relevant body referred to in section 38AA(c), (d), (e) or (f), then —

- (a) an application may be made under section 38AB of the new provisions for a beneficial body determination in respect of the relevant body; and
- (b) the new provisions apply to and in respect of that application, and any subsequent determination, as if a reference in section 38AB(1) to the decision were a reference to the decision of the Commissioner under clause 4.

11. Glossary amended

In the Glossary clause 1 insert in alphabetical order:

industrial association means any of the following —

- (a) an organisation registered under the *Industrial Relations Act 1979* section 53 or 54;
- (b) an association of employees, or an association of employers, registered as an organisation, or recognised, under the *Fair Work (Registered Organisations) Act 2009* (Commonwealth);
- (c) an association of employees registered or recognised as a trade union (however described) under the law of another State or a Territory;
- (d) an association of employers registered or recognised as such (however described) under the law of another State or a Territory;
- (e) an association of employees a principal purpose of which is the protection and promotion of the employees' interests in matters concerning their employment;

political party means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Parliament of the Commonwealth, or to a Parliament of a State or Territory, of a candidate or candidates endorsed by it or by a body or organisation of which it forms part;

professional association means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the interests of its members in any profession;

promote trade, industry or commerce includes to carry out an undertaking a purpose of which includes the promotion of, or the advocacy for, trade, industry or commerce, whether generally or in respect of any particular kind of trade, industry or commerce;

relevant body has the meaning given in section 38AA;

Part 4 — *Pay-roll Tax Assessment Act 2002* amended

12. Act amended

This Part amends the *Pay-roll Tax Assessment Act 2002*.

13. Section 41 amended

(1) At the beginning of section 41 insert:

(1A) A charitable body or organisation is exempt under this section from liability to pay-roll tax if —

- (a) an exemption given by the Commissioner under subsection (2) is in force in respect of the body or organisation; or
- (b) it is a relevant body in respect of which a beneficial body determination is in force for the purposes of this Act.

(2) After section 41(2) insert:

(3A) However, a charitable body or organisation that is a relevant body cannot be given an exemption by the Commissioner under subsection (2).

(3) In section 41(3) and (4) delete “The exemption” and insert:

An exemption given by the Commissioner under subsection (2)

(4) After section 41(4) insert:

(5) The day on which an exemption given by the Commissioner under subsection (2) comes into

operation under subsection (4) cannot be earlier than —

- (a) if the charitable body or organisation is registered, or has at any time been registered, the commencement of the assessment year during which the application for the exemption was made; or
- (b) otherwise, the commencement of the assessment year that is 5 years before the assessment year in which the charitable body or organisation was first found by the Commissioner to be liable to pay-roll tax.

- (5) In section 41(6) delete “The exemption” and insert:

An exemption given by the Commissioner under subsection (2)

- (6) In section 41(7) delete “the exemption” and insert:

an exemption given under subsection (2)

14. Sections 42A, 42B and 42C inserted

After section 41 insert:

42A. What is a relevant body

A reference to a relevant body is to any of the following —

- (a) a political party;
- (b) an industrial association;
- (c) a professional association;

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- (d) a body, other than a body referred to in paragraph (a), (b), (c) or (e), that promotes trade, industry or commerce, unless the main purposes of the body are charitable purposes that fall within the first 3 categories (being relief of poverty, advancement of education and advancement of religion) identified by Lord Macnaghten in *Commissioners for Special Purposes of Income Tax v Pemsel* [1891] AC 531 as developed by the common law of Australia from time to time;
- (e) a body that is a member of a class of bodies prescribed for the purposes of this paragraph;
- (f) a body that —
 - (i) is a member of a group of which a body referred to in another paragraph is also a member; or
 - (ii) is a related body corporate of a body referred to in another paragraph; or
 - (iii) has as its sole or dominant purpose or object the conferral of a benefit, whether financial or non-financial, on a body referred to in another paragraph.

42B. Application for a beneficial body determination

- (1) An application may be made to the Minister for a determination under section 42C that a relevant body is a beneficial body for the purposes of the taxation Acts if —
 - (a) the Commissioner has (the *decision*) —
 - (i) refused to give an exemption under section 41(2); or

- (ii) revoked an exemption under section 41(7);
 - and
 - (b) that decision is made solely on the ground that the applicant for the exemption, or the subject of the revoked exemption, is a relevant body referred to in section 42A(c), (d), (e) or (f).
- (2) An application referred to in subsection (1) can be made only if —
- (a) an objection was made to the decision and the objection and any subsequent review proceedings are exhausted, discontinued or finally determined; or
 - (b) under the *Taxation Administration Act 2003* section 34B —
 - (i) all rights of objection or review conferred by that Act in respect of the decision have been surrendered; or
 - (ii) an objection to the decision has been determined and all rights to take review proceedings on the Commissioner's decision on the objection have been surrendered.
- (3) However, an application referred to in subsection (1) cannot be made if the decision was made, or confirmed, on a reassessment made on an application made by the taxpayer —
- (a) under the *Taxation Administration Act 2003* section 16(2)(b); and
 - (b) after the right to object to the original assessment had expired.

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- (4) An application referred to in subsection (1) must be made within 60 days after subsection (2) first applies in respect of the decision.

42C. Beneficial body determination

- (1) On an application under section 42B the Minister, with the Treasurer's concurrence, may determine that a relevant body is a beneficial body for the purposes of the taxation Acts.
- (2) The Minister, with the Treasurer's concurrence, may amend or revoke a beneficial body determination.
- (3) The Minister may make, amend or revoke a beneficial body determination only if the Minister is of the opinion that it is in the public interest to do so and after considering any information that the Minister considers relevant.
- (4) The Minister must —
 - (a) provide written reasons to the applicant for a decision in relation to an application under section 42B; and
 - (b) provide written reasons for a decision to amend or revoke a beneficial body determination to the body in respect of which the determination is made.
- (5) The Minister is to publish notice of the making, amendment or revocation of a beneficial body determination in the *Gazette*.
- (6) A beneficial body determination is subject to the conditions specified in the determination (if any).

- (7) A beneficial body determination made under this section comes into force —
 - (a) for the purposes of this Act — on the day on which the determination is made; and
 - (b) for the purposes of the *Duties Act 2008* and the *Land Tax Assessment Act 2002* — on the day specified in the notice in respect of each Act.
- (8) Despite subsection (7)(a), a beneficial body determination made under this section applies —
 - (a) on and from the day specified by the Minister in the determination, and section 41(5) applies in relation to specifying that day as if it were the day on which an exemption under section 41(2) comes into operation; and
 - (b) in relation to any liability to pay-roll tax in respect of which the relevant body would have been exempt under section 41 had a beneficial body determination been in force for the purposes of this Act in respect of the relevant body.
- (9) The Commissioner is to reassess the liability to pay-roll tax of a relevant body for the period in respect of which a beneficial body determination applies in respect of the body under subsection (8).
- (10) The limitations as to time in the *Taxation Administration Act 2003* section 17 do not apply in respect of a reassessment under subsection (9).
- (11) A beneficial body determination continues in force until the day on which notice of the revocation is published in the *Gazette*, and different days may be specified for each Act in respect of which the determination is in force.

15. Schedule 1 amended

At the end of Schedule 1 insert:

Division 4 — Provisions for the *Taxation Legislation Amendment Act (No. 2) 2015*

10. Terms used

In this Division —

commencement day means the day on which the *Taxation Legislation Amendment Act (No. 2) 2015* Part 4 comes into operation;

exemption means an exemption under section 41;

new provisions means sections 41, 42A, 42B and 42C as in force immediately after commencement day;

previously exempt charitable body or organisation means a charitable body or organisation in respect of which an exemption was in force immediately before commencement day.

11. Exemptions currently held by relevant bodies may be revoked

- (1) If the Commissioner forms the preliminary view that a previously exempt charitable body or organisation may be a relevant body then the Commissioner is to give notice (*preliminary notice about an exemption under section 41*) to that body or organisation informing it —
 - (a) that the Commissioner has formed such a preliminary view; and
 - (b) that the exemption may be revoked under this clause; and
 - (c) that if the exemption is revoked under this clause, the revocation will have effect on and from the day specified in the notice, being a day that is at least 2 months after the day on which the notice is given (the *specified day*).

- (2) If preliminary notice about an exemption under section 41 is given the Commissioner is to decide whether or not the previously exempt charitable body or organisation is a relevant body.
- (3) If the Commissioner decides that the previously exempt charitable body or organisation is a relevant body, the Commissioner, by notice given to the body or organisation, is to —
 - (a) revoke the exemption; and
 - (b) inform the previously exempt charitable body or organisation of the grounds on which the decision to revoke the exemption was made.
- (4) The revocation of an exemption under this clause has effect —
 - (a) on and from the specified day; and
 - (b) for the purposes of an application under section 42B, as if the revocation were made under section 41(7).
- (5) If the Minister makes a determination under section 42C of the new provisions that the previously exempt charitable body or organisation in respect of which an exemption was revoked is a beneficial body for the purposes of the taxation Acts, then the new provisions apply in relation to that determination as if —
 - (a) a reference in section 42C(7)(a) to the day on which the determination comes into force for the purposes of this Act were a reference to the specified day; and
 - (b) a reference in section 42C(8) to the day on and from which the beneficial body determination applies were a reference to the specified day.

12. Exemptions for periods before the commencement of the Taxation Legislation Amendment Act (No. 2) 2015 Part 4

- (1) This clause applies to a charitable body or organisation if, after commencement day —
 - (a) the charitable body or organisation becomes registered and applies for an exemption; and
 - (b) the Commissioner decides that the charitable body or organisation is a relevant body.
- (2) Despite section 41(3A), the Commissioner may give an exemption under section 41(2) to a charitable body or organisation to which this clause applies but such an exemption —
 - (a) does not apply to the period on and after commencement day; and
 - (b) is to be taken to have been revoked immediately before that day.

13. A body or organisation given an exemption under clause 12 may apply for a beneficial body determination

- (1) If the Commissioner makes a decision under clause 12(1)(b) solely on the ground that the charitable body or organisation is a relevant body referred to in section 42A(c), (d), (e) or (f) (the *relevant body*), then —
 - (a) an application may be made under section 42B for a beneficial body determination in respect of the relevant body; and
 - (b) the new provisions apply to and in respect of that application, and any subsequent determination, as if a reference in section 42B(1) to the decision were a reference to the decision of the Commissioner under clause 12(1)(b).
- (2) If the Minister makes a beneficial body determination under section 42C in respect of a relevant body, then the new provisions apply in relation to that determination as if —
 - (a) a reference in section 42C(7)(a) to the day on which the determination comes into force for the purposes

- of this Act were a reference to commencement day;
and
- (b) a reference in section 42C(8) to the day on and from which the beneficial body determination applies were a reference to commencement day.

16. Glossary amended

In the Glossary clause 1 insert in alphabetical order:

industrial association means any of the following —

- (a) an organisation registered under the *Industrial Relations Act 1979* section 53 or 54;
- (b) an association of employees, or an association of employers, registered as an organisation, or recognised, under the *Fair Work (Registered Organisations) Act 2009* (Commonwealth);
- (c) an association of employees registered or recognised as a trade union (however described) under the law of another State or a Territory;
- (d) an association of employers registered or recognised as such (however described) under the law of another State or a Territory;
- (e) an association of employees a principal purpose of which is the protection and promotion of the employees' interests in matters concerning their employment;

political party means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Parliament of the Commonwealth, or to a Parliament of a State or Territory, of a candidate or candidates endorsed by it or by a body or organisation of which it forms part;

professional association means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the interests of its members in any profession;

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promote trade, industry or commerce includes to carry out an undertaking a purpose of which includes the promotion of, or the advocacy for, trade, industry or commerce, whether generally or in respect of any particular kind of trade, industry or commerce;

relevant body has the meaning given in section 42A;

Part 5 — *Taxation Administration Act 2003* amended

17. Act amended

This Part amends the *Taxation Administration Act 2003*.

18. Sections 34A and 34B inserted

At the end of Part 4 Division 1 insert:

34A. Beneficial body determinations

- (1) A decision to make, or not to make, or to revoke or amend, a beneficial body determination is final and not subject to objection or review under this Act or to any other form of appeal or review.
- (2) No action can be brought in any court or tribunal to compel the Minister to make a beneficial body determination.

34B. Surrender of right of objection or review

- (1) This section applies to a decision in respect of which an application may be made for a beneficial body determination.
- (2) If a taxpayer gives written notice in respect of a decision to which this section applies to the Commissioner to the effect that —
 - (a) the taxpayer surrenders all rights of objection or review conferred by this Act in respect of the decision, then the decision is not subject to objection or review under this Act or to any other form of appeal or review; or
 - (b) an objection to the decision having been determined, the taxpayer surrenders all subsequent rights of review conferred by this Act in respect of the decision, then the decision

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is not subject to review under this Act or to any other form of appeal or review.

- (3) Notice about a decision cannot be given —
- (a) under subsection (2)(a) after the right to object to the decision under this Act has expired; or
 - (b) under subsection (2)(b) after the right to take review proceedings in respect of the decision has expired.

19. Section 34 amended

After section 34(2)(ca) insert:

- (cb) a decision to make, or not to make, or to revoke or amend, a beneficial body determination;
- (cc) a decision which, under section 34B(2)(a), is not subject to objection under this Act;

20. Section 40 amended

After section 40(2) insert:

- (3) Subsection (1) does not apply to, or in respect of, a decision if this Act expressly provides that the decision is not subject to review under this Act.

21. Glossary amended

In the Glossary clause 1 insert in alphabetical order:

beneficial body determination means a determination that a relevant body is a beneficial body for the purposes of the taxation Acts made under any of the following —

- (a) the *Duties Act 2008* section 96C;

- (b) the *Land Tax Assessment Act 2002* section 38AC;
 - (c) the *Pay-roll Tax Assessment Act 2002* section 42C;
- objection** means an objection under Part 4;

