



Western Australia

Pay-roll Tax Assessment Amendment (Exemption for Trainees) Act 2018

As at 18 May 2018

No. 7 of 2018

Published on www.legislation.wa.gov.au

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Pay-roll Tax Assessment Amendment (Exemption for Trainees) Act 2018

No. 7 of 2018

An Act to amend the *Pay-roll Tax Assessment Act 2002*.

[Assented to 18 May 2018]

The Parliament of Western Australia enacts as follows:

s. 1

1. Short title

This is the *Pay-roll Tax Assessment Amendment (Exemption for Trainees) Act 2018*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 come into operation on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act is deemed to have come into operation on 1 December 2017.

3. Act amended

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

4. Section 40 amended

Delete section 40(2)(m) and (o).

5. Section 41D inserted

At the end of Part 5 insert:

41D. Exempt wages: apprentices and trainees under training contracts

- (1) In this section —

apprentice has the meaning given in the VET Act section 60A;

class A or class B qualification means a prescribed VET qualification (as defined in the VET Act section 5(1)) that is classified as a class A qualification or class B qualification under the VET Act section 60C;

initial employer, in relation to an employee and a training contract, means the employer who enters into the contract with the employee and does not include another employer to whom the contract is assigned;

group member, in relation to an employer, means another employer in a group of which the employer is a member;

nominal period, in relation to a training contract, means the nominal period or nominal term (however described) that applies under a requirement for the training contract imposed under the VET Act section 60C(5);

registered training contract means a training contract that has been registered under the VET Act section 60F;

training contract has the meaning given in the VET Act section 60A;

VET Act means the *Vocational Education and Training Act 1996*.

- (2) Wages paid or payable by an employer to or in relation to an employee are exempt from pay-roll tax if the wages are paid or payable for a period during which the employee is an apprentice under a registered training contract that —
- (a) is for a class A or class B qualification; and
 - (b) in accordance with a requirement imposed under the VET Act section 60C(5), refers to the apprentice under the training contract as an “apprentice”.

- (3) Wages paid or payable by an employer to or in relation to an employee are exempt from pay-roll tax if —
- (a) the wages are paid or payable for a period during which the employee is an apprentice under a registered training contract that —
 - (i) is for a class A or class B qualification; and
 - (ii) in accordance with a requirement imposed under the VET Act section 60C(5), refers to the apprentice under the training contract as a “trainee”; and
 - (iii) has not been in effect for longer than the nominal period for the training contract; and
 - (b) the employee is an eligible new employee under subsection (4); and
 - (c) on the day on which the training contract was lodged for registration under the VET Act section 60F(2) —
 - (i) there had not been any previous registered training contract between the employee and the initial employer or a group member of the initial employer; and
 - (ii) the employee’s pay entitlement did not exceed the threshold amount worked out under subsection (5).
- (4) For the purposes of subsection (3)(b), the employee is an eligible new employee unless, immediately preceding the commencement date stated in the training contract, the employee had been continuously employed by the initial employer or by the initial

employer and one or more group members of the initial employer —

- (a) in full-time employment for more than 3 months; or
 - (b) in part-time or casual employment (or a combination of both) for more than 12 months; or
 - (c) in a combination of full-time employment and part-time or casual employment (or both) for a period that is more than the equivalent of 3 months of full-time employment, worked out on the basis that 4 months of part-time or casual employment are taken to be equivalent to 1 month of full-time employment.
- (5) For the purposes of subsection (3)(c)(ii), the employee's pay entitlement exceeds the threshold amount if, under the terms and conditions that apply to the employee's employment, the employee is entitled to a rate of pay for ordinary hours of work that, expressed in annualised terms, would exceed \$100 000 per annum for a full-time employee or a pro rata amount for a part-time employee.
- (6) If a training contract is suspended under the VET Act —
- (a) an exemption under subsection (2) or (3) does not apply to wages paid or payable to or in relation to the employee for the period of the suspension; and
 - (b) the period of the suspension is not to be taken into account in determining the period for which the training contract has been in effect for the purposes of subsection (3)(a)(iii).

6. Schedule 1 Division 6 inserted

At the end of Schedule 1 insert:

Division 6 — Provisions for the *Pay-roll Tax Assessment Amendment (Exemption for Trainees) Act 2018*

15. Terms used

In this Division —

apprentice has the meaning given in the *Vocational Education and Training Act 1996* section 60A;

commencement day means 1 December 2017, being the day on which the *Pay-roll Tax Assessment Amendment (Exemption for Trainees) Act 2018* section 6 is deemed, under section 2(b) of that Act, to have come into operation;

existing training contract means a training contract that was lodged for registration under the *Vocational Education and Training Act 1996* section 60F(2) before commencement day.

16. Modification of s. 41D for existing training contracts

Section 41D applies in relation to an employee who is an apprentice under an existing training contract as if section 41D(3)(b) and (c)(i) were omitted.

17. Reassessment

Subject to the *Taxation Administration Act 2003* section 17, the Commissioner must make any reassessment necessary as a result of the amendments made by the *Pay-roll Tax Assessment Amendment (Exemption for Trainees) Act 2018* coming into operation on commencement day.