

WESTERN AUSTRALIA

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**STATE ENTERPRISES  
(COMMONWEALTH TAX  
EQUIVALENTS) ACT 1996**

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**No. 55 of 1996**

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**AN ACT to authorize the imposition on State enterprises of liability to pay to the Consolidated Fund amounts equivalent to income and sales tax from which they are exempt under Commonwealth law, to repeal the *Public Authorities (Contributions) Act 1974* and to amend certain other Acts.**

[Assented to 11 November 1996.]

The Parliament of Western Australia enacts as follows:

**Short title**

**1.** This Act may be cited as the *State Enterprises (Commonwealth Tax Equivalents) Act 1996*.

### **Commencement**

2. This Act comes into operation on such day as is fixed by proclamation.

### **Application in 1996/97 financial year**

3. (1) If when this Act commences the obligation in section 5 applies to a State enterprise in respect of the financial year that began on 1 July 1996, the application of the obligation extends to the period from 30 June 1996 to the commencement of this Act.

(2) Regulations made under section 6 (2) may vary the operation of subsection (1) in respect of a particular State enterprise.

(3) When this Act commences the repeal and amendments made by sections 9 and 10 are to be taken to have come into operation on 1 July 1996.

### **Interpretation**

4. In this Act, unless the contrary intention appears —

“**financial year**” includes part of a financial year;

“**income tax**” means the tax levied under section 17 of the *Income Tax Assessment Act 1936* of the Commonwealth;

“**sales tax**” means the tax that is payable under the *Sales Tax Assessment Act 1992* of the Commonwealth;

“**State enterprise**” means —

(a) a company; or

(b) a body established by a written law,

that is for the time being a State/Territory body (and not an excluded STB) under Division 1AB of Part III of the *Income Tax Assessment Act 1936* of the Commonwealth or section 3D of the *Sales Tax (Exemptions and Classifications) Act 1992* of the Commonwealth.

### **Payment of amount in lieu of Commonwealth tax**

5. (1) A State enterprise to which this section applies is to pay to the Treasurer a tax equivalent sum in respect of each financial year.

(2) The tax equivalent sum is to equal the amount of any income tax or sales tax for which the enterprise would have been liable in respect of the financial year if the enterprise were not exempt from that tax under the relevant Commonwealth Act.

### **Application of section 5 to State enterprises**

6. (1) The obligation in section 5 only applies —

(a) to a State enterprise if, and to the extent that, it is prescribed by the regulations for the purposes of that section; and

(b) in respect of a financial year during which the State enterprise is exempt from income tax or sales tax under the relevant Commonwealth law.

(2) Where a State enterprise is so prescribed, or the prescription of a State enterprise is revoked, the regulations may make provisions of a transitional nature that are necessary or convenient in connection with the prescription or revocation.

**Determination of amounts under section 5**

7. (1) The Treasurer is to determine —
- (a) the principles and rules according to which the liability under section 5 is to be assessed;
  - (b) who is to make the assessments; and
  - (c) the times at which payments are to be made.
- (2) The Treasurer may also give directions and rulings for the purpose of giving effect to section 5.
- (3) A State enterprise is to comply with any such determination, direction or ruling that applies to it.
- (4) This section has effect subject to any regulations of the kind referred to in section 6 (2).

**Regulations**

8. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to this Act.

**Repeal and transitional provisions**

9. (1) The *Public Authorities (Contributions) Act 1974* is repealed.
- (2) Despite the repeal effected by subsection (1) —
- (a) the Bunbury Water Board is to transfer to the Consolidated Fund, not later than 30 September 1997, 5% of the total revenue of that board for the year to 30 September 1996;

- (b) the Busselton Water Board is to transfer to the Consolidated Fund, not later than 30 December 1996, 5% of the total revenue of that board for that part of its financial year that ended on 30 June 1996; and
- (c) section 3 (2) and (3) of the repealed Act continue to apply for the purposes of paragraphs (a) and (b).

### **Consequential amendments**

**10.** (1) The *State Government Insurance Commission Act 1986\** is amended by repealing section 34 (2), (3) and (4).

[\* *Act No. 51 of 1986.*

*For subsequent amendments see 1995 Index to  
Legislation of Western Australia, Table 1, p. 210.]*

(2) The *Gas Corporation Act 1994\** is amended —

- (a) by repealing section 80;
- (b) in section 81 by deleting “sections 79 and 80” and substituting the following —
  - “ section 79 ”;
- (c) in section 82 (1) (a) by deleting “the amounts payable to the Treasurer under sections 79 and 80” and substituting the following —
  - “  
any amounts payable to the Treasurer under  
section 79 and the *State Enterprises  
(Commonwealth Tax Equivalents) Act 1996*  
”;
- and
- (d) in Schedule 3, in clauses 25 (4) and 26 (4) (a), by deleting “amounts paid or to be paid in lieu of Commonwealth Income Tax under section 80 of this

Act” in both places where it occurs and substituting the following —

“  
any amounts paid or payable in lieu of Commonwealth income tax under the *State Enterprises (Commonwealth Tax Equivalents) Act 1996*  
”.

[\* Act No. 87 of 1994.]

(3) The *Electricity Corporation Act 1994*\* is amended —

- (a) by repealing section 79;
- (b) in section 80 by deleting “sections 78 and 79” and substituting the following —

“ section 78 ”;

- (c) in section 81 (1) (a) by deleting “the amounts payable to the Treasurer under sections 78 and 79” and substituting the following —

“  
any amounts payable to the Treasurer under section 78 and the *State Enterprises (Commonwealth Tax Equivalents) Act 1996*  
”;

and

- (d) in Schedule 3, in clauses 25 (4) and 26 (4) (a), by deleting “amounts paid or to be paid in lieu of Commonwealth Income Tax under section 79 of this Act” in both places where it occurs and substituting the following —

“  
any amounts paid or payable in lieu of Commonwealth income tax under the *State Enterprises (Commonwealth Tax Equivalents) Act 1996*  
”.

[\* Act No. 86 of 1994.]

(4) The *Water Corporation Act 1995*\* is amended —

- (a) by repealing section 77;
- (b) in section 78 by deleting “sections 76 and 77” and substituting the following —

“ section 76 ”;

- (c) in section 79 (1) (a) (i) by deleting “the amounts payable to the Treasurer under sections 76 and 77” and substituting the following —

“  
any amounts payable to the Treasurer under  
section 76 and the *State Enterprises  
(Commonwealth Tax Equivalents) Act 1996*  
”;

and

- (d) in Schedule 3, in clauses 25 (4) and 26 (4) (a), by deleting “amounts paid or to be paid in lieu of Commonwealth Income Tax under section 77 of this Act” in both places where it occurs and substituting the following —

“  
any amounts paid or payable in lieu of  
Commonwealth income tax under the *State  
Enterprises (Commonwealth Tax Equivalents)  
Act 1996*  
”.

[\* *Act No. 70 of 1995.*]