

# PAY-ROLL TAX ASSESSMENT.

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No. 109 of 1975.

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**AN ACT to amend the Pay-roll Tax Assessment Act,  
1971-1973.**

[*Assented to 1st December, 1975.*]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Pay-roll Tax Assessment Act Amendment Act, 1975.* Short title and citation.

(2) In this Act the Pay-roll Tax Assessment Act, 1971-1973 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Pay-roll Tax Assessment Act, 1971-1975.

Commence-  
ment.

2. (1) Subject to subsection (2) of this section, the provisions of this Act shall come into operation on the first day of January, 1976.

(2) Section 5 of this Act in so far as it amends subsection (7) of section 9 of the principal Act, shall be deemed to have come into operation on the first day of September, 1971.

Section 2  
amended.

3. Section 2 of the principal Act is amended by adding after the passage "PART IV.—REGISTRATION AND RETURNS—ss. 12-16." the passage "PART IVA.—GROUPING PROVISIONS—ss. 16A-16L."

Section 3  
amended.

4. Subsection (1) of section 3 of the principal Act is amended—

- (a) by adding after the interpretation "company" the following interpretation—  
"corporation" has the meaning ascribed to that expression by subsection (1) of section 5 of the Companies Act, 1961; ;
- (b) by adding after the interpretation "council" the following interpretation—  
"designated group employer", in relation to a group, means the member of that group who, under section 16I of this Act is for the time being the designated member of that group; ;
- (c) by deleting the interpretation "financial year" and substituting the following interpretations—  
"financial year" means each year commencing on the first day of July;

“foreign wages” means wages that are not taxable wages and are not interstate wages;

“group” means a group constituted under Part IVA of this Act;

“interstate wages” means wages that are taxable wages within the meaning of a corresponding law;

(d) by adding after the interpretation “person” the following interpretation—

“return period”, in relation to an employer, means a period relating to which that employer is required to furnish a return under this Act; ;

(e) by adding after the interpretation “trustee” the following interpretation—

“voting share” has the meaning ascribed to that expression by subsection (1) of section 5 of the Companies Act, 1961; ;

and

(f) by substituting for the words “payment made” wherever occurring in paragraphs (a), (b), (c) and (d) of the interpretation “wages”, the words “amount paid or payable”.

5. Section 9 of the principal Act is amended—

Section 9  
amended.

(a) by substituting for the words “the return relating to the month or period in which the determination is made and to any subsequent month or period” in lines eleven, twelve and thirteen of subsection (7), the words “any return specified in the determination whether relating to a month or

period that is before or after or partly before and partly after the making of the determination"; and

- (b) by adding after subsection (9) the following subsection—

(10) This section does not apply so as to authorise a deduction to be made in accordance with this section in respect of any return period that commences after the month of December, 1975.

Section 9A  
added.

6. The principal Act is amended by adding after section 9 a section as follows—

Deduction  
from taxable  
wages after  
1st January,  
1976.

9A. (1) In this section—

“interstate wages” does not include interstate wages paid or payable by a member of a group;

“prescribed amount”—

(a) in relation to a return for a return period of one month, means \$3 466; and

(b) in relation to a return for a return period of two or more months, means the product ascertained by multiplying \$3 466 by the number of months in that return period;

“taxable wages” does not include taxable wages paid or payable by a member of a group.

(2) This section applies only so as to authorise a deduction to be made for a return period that is after the month of December, 1975, from the taxable wages included in a return or assessment relating to that return period.

(3) For the purpose of ascertaining the pay-roll tax payable by an employer who pays or is liable to pay taxable wages for the whole of a return period but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to that return period) the prescribed amount, reduced by \$2 for each \$3 (disregarding any remainder) by which the amount of those taxable wages (in whole dollars) exceeds the prescribed amount.

(4) For the purpose of ascertaining the pay-roll tax payable by an employer who pays or is liable to pay wages during a return period and pays or is liable to pay taxable wages for part only of that return period but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to that return period) the amount that bears to the prescribed amount the same proportion as the number of days in that part of that return period bears to the total number of days in that return period, reduced by \$2 for each \$3 (disregarding any remainder) by which the amount of those taxable wages (in whole dollars) exceeds the same proportion of the prescribed amount.

(5) An employer who during any return period pays or is liable to pay taxable wages and interstate wages may, by notice in writing in the approved form containing the approved particulars, served on the Commissioner, nominate an amount, calculated in the approved manner, not exceeding the prescribed

amount, as the deduction that he claims to be entitled to make for that return period and for subsequent return periods.

(6) For the purpose of ascertaining the pay-roll tax payable by an employer who has served on the Commissioner a notice under subsection (5) of this section, there shall, subject to subsection (7) of this section, be deducted, for a return period (being the return period ending last before the day on which he served that notice on the Commissioner or any subsequent return period) from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) the amount nominated in that notice.

(7) The Commissioner may, on an application made to him in writing by an employer who pays or is liable to pay taxable wages and interstate wages during any return period or of his own motion in relation to such an employer, at any time, make a determination specifying an amount, not exceeding the prescribed amount, that may be deducted for any return period specified or referred to in the determination (being a return period commencing before, but not before the first day of January, 1976, or after, or the return period in which, the determination is made) from the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) and there shall be deducted, for any such return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) the amount so specified.

(8) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (7) of this section and any such revocation shall have effect as on and from the first day of the return period specified in the instrument, whether that return period is before, but not before the date of the determination, or after, or the return period in which, the instrument is executed by him.

(9) The Commissioner shall, as soon as practicable after making a determination under subsection (7) of this section, serve notice of the determination on the employer concerned.

7. Section 11 of the principal Act is amended— Section 11  
amended.

(a) by substituting for subsection (4) the following subsection—

(4) For the purposes of subsections (1) and (2) of this section, the amount prescribed in respect of the financial year—

(a) ending on the thirtieth day of June, 1975, is \$20 800; and

(b) ending on the thirty-first day of December, 1975, is \$10 400. ;

and

(b) by adding after subsection (7) the following subsection—

(8) In this section, except subsection (3), “financial year” includes the period commencing on the first day of July, 1975, and ending on the thirty-first day of December, 1975, but does not include the period commencing on the first day of July, 1975 and ending on the thirtieth day of June, 1976, or the financial year commencing on the first day of July, 1976, or a financial year commencing on any subsequent first day of July.

Sections 11A,  
11B and 11C  
added.

8. The principal Act is amended by adding after section 11 the following sections—

“Financial year” for purposes of this section and sections 11B and 11C and “prescribed amount” for purposes of sections 11B and 11C.

11A. (1) In this section and sections 11B and 11C of this Act—

“financial year” includes the period commencing on the first day of January, 1976, and ending on the thirtieth day of June, 1976;

“interstate wages” does not include interstate wages paid or payable by a member of a group;

“taxable wages” does not include taxable wages paid or payable by a member of a group.

(2) Subject to subsection (3) of this section, a reference in sections 11B and 11C of this Act to the “prescribed amount” is, in relation to an employer—

(a) who pays or is liable to pay taxable wages for the whole of a financial year but not any interstate wages during that year—a reference to the amount of \$41 600, reduced by \$2 for each \$3 (disregarding any remainder) by which the total (in whole dollars) of the taxable wages paid or payable by that employer during that financial year exceed \$41 600;

(b) who during a financial year pays or is liable to pay wages (disregarding foreign wages), those wages being taxable wages that are paid or payable for part only of that financial year, but who does not pay and is not liable to pay any interstate wages during that financial year—a reference to the amount that bears to \$41 600 the same proportion as that part bears to that

financial year, reduced by \$2 for each \$3 (disregarding any remainder) by which the total (in whole dollars) of the taxable wages paid or payable by that employer during that part exceed the amount firstmentioned in this paragraph;

- (c) who pays or is liable to pay wages (disregarding foreign wages) for the whole of a financial year at some time during which taxable wages are paid or payable and at some time during which interstate wages are paid or payable—a reference to the amount that bears to another amount (that other amount being \$41 600, reduced by \$2 for each \$3 (disregarding any remainder) by which the sum of the total (in whole dollars) of—

(i) the taxable wages paid or payable by that employer during that financial year; and

(ii) the interstate wages paid or payable by that employer during that financial year,

exceeds \$41 600) the same proportion as the total (in whole dollars) of the taxable wages paid or payable by that employer during that financial year bears to the sum of the total (in whole dollars) of—

(iii) the taxable wages paid or payable by that employer during that financial year; and

(iv) the interstate wages paid or payable by that employer during that financial year; and

(d) who during a financial year pays or is liable to pay wages (disregarding foreign wages) otherwise than for the whole of that financial year, some of those firstmentioned wages being taxable wages and some being interstate wages—a reference to the amount that bears to another amount (that other amount being an amount that bears to \$41 600 the same proportion as the part (excluding any period during which he paid or was liable to pay foreign wages only) of that year for which he pays or is liable to pay wages bears to that financial year, reduced by \$2 for each \$3 (disregarding any remainder) by which the sum of the total (in whole dollars) of—

(i) the taxable wages paid or payable by that employer during that part; and

(ii) the interstate wages paid or payable by that employer during that part,

exceeds that proportionate amount of \$41 600) the same proportion as the total (in whole dollars) of the taxable wages paid or payable by that employer during that part bears to the sum of the total (in whole dollars) of—

(iii) the taxable wages paid or payable by that employer during that part; and

(iv) the interstate wages paid or payable by that employer during that part.

(3) Where a person who did not pay and was not liable to pay taxable wages or interstate wages for any part of a financial year satisfies the Commissioner that, by reason of the nature of his trade or business, the taxable wages and interstate wages, if any, paid or payable by him fluctuate with different periods of the financial year, the Commissioner may treat him—

- (a) if he has conducted that trade or business in Australia during the whole of the financial year—as an employer throughout the financial year; or
- (b) if he has conducted that trade or business in Australia during part only of the financial year—as an employer during that lastmentioned part of the financial year.

(4) In respect of the financial year ending on the thirtieth day of June, 1976, subsection (2) of this section shall be construed as if the references therein to \$41 600 were references to \$20 800.

11B. (1) In this section, “annual amount of pay-roll tax”, in relation to an employer, means the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by the Pay-roll Tax Act, 1971 to the difference between—

Annual  
adjustments.

- (a) the total of the taxable wages paid or payable by that employer during a financial year; and
- (b) the prescribed amount, if any.

(2) Where taxable wages are paid or payable by an employer during a financial year commencing on or after the first day of January, 1976, made or to be made under this Act by an employer—

- (a) the Commissioner shall, on application made by that employer in accordance with subsection (3) of this section,

where the amount of pay-roll tax paid or payable by that employer when he made the returns relating to that financial year is greater than the annual amount of pay-roll tax in relation to that employer for that financial year, refund or rebate to that employer an amount equal to the difference, reduced by any amount refunded to him under section 19 of this Act; or

- (b) that employer shall, where the amount of pay-roll tax paid or payable by that employer when he made the returns relating to that financial year is less than the annual amount of pay-roll tax in relation to that employer for that financial year, pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year, an amount equal to the difference.

(3) An application under paragraph (a) of subsection (2) of this section shall, notwithstanding section 19 of this Act, be made within the financial year next following the financial year in respect of which the refund or rebate is applied for.

Adjustment  
of pay-roll  
tax when  
employer  
ceases to be  
an employer  
during a  
financial  
year.

11C. (1) In this section—

“prescribed period”, in relation to an employer who pays or is liable to pay wages, otherwise than as a member of a group, for part only of a financial year, means that part of that financial year;

“total amount of pay-roll tax” in relation to an employer, means the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by the Pay-roll Tax Act, 1971 to the difference between—

- (a) the total of the taxable wages paid or payable by the employer during a prescribed period; and
- (b) the prescribed amount, if any;

“wages” does not include foreign wages.

(2) Where in a financial year an employer ceases to pay wages or becomes a member of a group he shall, where the amount of pay-roll tax paid or payable by him when he made returns relating to the prescribed period is less than the total amount of pay-roll tax—in relation to that employer for that prescribed period, pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act relating to that prescribed period or the last return under this Act relating to that prescribed period, an amount equal to the difference.

(3) Where an employer, who has ceased to pay wages or has become a member of a group, as referred to in subsection (2) of this section, in any financial year, subsequently pays or is liable to pay taxable wages or interstate wages during that financial year otherwise than as a member of a group, section 11B of this Act applies to and in respect of him as if the reference in subsection (2) of section 11B of this Act to the amount of pay-roll tax paid or payable by that employer included a reference to any pay-roll tax paid or payable by that employer under subsection (2) of this section.

Section 12  
amended,  
etc.

9. (1) Section 12 of the principal Act is amended—

- (a) by substituting for the words “four hundred dollars” in line four of subsection (1), the expression “\$800”;
- (b) by adding after the words “taxable wages” in line five of subsection (1), the passage “or who, being a member of a group, during a month pays or is liable to pay any taxable wages”; and
- (c) by repealing subsection (2) and substituting the following subsections—

(2) The Commissioner may cancel the registration of a person as an employer if—

- (a) that person, not being a member of a group, has ceased to be an employer paying wages as referred to in subsection (1) of this section; or
- (b) that person—
  - (i) ceases to be a member of a group; and
  - (ii) does not pay and is not liable to pay wages as referred to in subsection (1) of this section.

(2a) Where the Commissioner cancels the registration of a person as an employer in any financial year and that person subsequently pays or is liable to pay (otherwise than as a member of a group) taxable wages during that financial year that person may, notwithstanding that during any month he pays or is liable to pay wages at a rate not in excess of \$800 per week, apply to the Commissioner, in the approved form

and manner, for registration as an employer and thereupon the Commissioner shall register him as an employer under this Act. .

(2) The power conferred on the Commissioner by subsection (2) of section 12 of the Pay-roll Tax Assessment Act, 1971, as substituted by subsection (1) of this section, extends to authorising the Commissioner to cancel the registration of a person as an employer where that person was not, immediately before the first day of January, 1976, an employer paying wages as referred to in subsection (1) of section 12 of that Act, as so amended.

10. Section 14 of the principal Act is amended— Section 14  
amended.

(a) by adding after subsection (1) the following subsection—

(1a) In subsection (1) of this section, “financial year” includes the period commencing on the first day of July, 1975, and ending on the thirty-first day of December, 1975, and the period commencing on the first day of January, 1976, and ending on the thirtieth day of June, 1976, but does not include the period commencing on the first day of July, 1975, and ending on the thirtieth day of June, 1976. ;

and

(b) by adding after subsection (2) the following subsection—

(2a) The Commissioner may, at any time, by notice in writing, revoke any certificate issued under subsection (1) of this section. .

11. Section 15 of the principal Act is amended Section 15  
amended. by deleting the passage “In addition to any return required to be furnished by this Act, the” in lines one and two and substituting the word “The”.

Part IVA  
added.

12. The principal Act is amended by adding immediately after section 16 the following new Part—

PART IVA.—GROUPING PROVISIONS.

Interpreta-  
tion.

16A. In this Part, “business” includes—

- (a) a trade or profession;
- (b) any other activity carried on for fee, gain or reward; and
- (c) the activity, carried on by an employer, of employing one or more persons where that person performs or those persons perform duties for or in connection with another business.

Grouping  
of corpora-  
tions.

16B. For the purposes of this Act, two corporations constitute a group if they are by reason of subsection (5) of section 6 of the Companies Act, 1961, to be deemed, for the purposes of that Act, to be related to each other.

Grouping  
where  
employees  
used in  
another  
business.

16C. For the purposes of this Act, where—

- (a) an employee of an employer, or two or more employees of an employer, performs or perform duties solely or mainly for or in connection with a business carried on by that employer and another person or other persons or by another person or other persons; or
- (b) an employer has, in respect of the employment of, or the performance of duties by, one or more of his employees, an agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to a business carried on by

that other person or those other persons, whether alone or together with another person or other persons,

that employer and—

(c) each such other person; or

(d) both or all of those other persons,

constitute a group.

16D. (1) A reference in this section to two businesses does not include a reference to two businesses both of which are owned by the same person, not being a trustee or by the trustee or trustees of a trust.

Grouping  
of commonly  
controlled  
businesses.

(2) For the purposes of this Act, where the same person has, or the same persons have together, a controlling interest, as referred to in subsection (3) of this section, in each of two businesses, the persons who carry on those businesses constitute a group.

(3) For the purposes of subsection (2) of this section, the same person has, or the same persons have together, a controlling interest in each of two businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business—

(a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors, of the corporation are or is accustomed or under an obligation, whether formal or

informal, to act in accordance with the directions, instructions or wishes of that person or of those persons acting together;

- (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, fifty per centum or more of the voting power attached to voting shares issued by the corporation;
- (c) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons—
  - (i) owns, or own together (whether beneficially or not) fifty per centum or more of the capital of the partnership; or
  - (ii) is, or are together, entitled (whether beneficially or not) to fifty per centum or more of any profits of the partnership;
- (d) a person has, or persons have together, a controlling interest in a business, being a business carried on under a trust, if that person (whether or not as the trustee of another trust) is the beneficiary, or those persons (whether or not as the trustees of another trust) are together the beneficiaries, in respect of fifty per centum or more of the value of the interests in the trust firstmentioned in this paragraph;
- (e) a person has a controlling interest in a business if, whether or not he is a trustee of a trust, he is the sole owner of the business or persons, being two

or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.

(4) Where a corporation has a controlling interest under subsection (3) of this section in a business, it shall be deemed to have a controlling interest in any other business in which another corporation that is, by reason of subsection (5) of section 6 of the Companies Act, 1961, to be deemed, for the purposes of that Act, to be related to it has a controlling interest.

(5) Where—

- (a) a person has, or persons have together, a controlling interest under subsection (3) of this section in a business; and
- (b) the person or persons who carries or carry on that business has or have such a controlling interest in another business,

the person or persons referred to in paragraph (a) of this subsection shall be deemed to have a controlling interest in the business referred to in paragraph (b) of this subsection.

(6) Where—

- (a) a person is a beneficiary under a trust;  
or
- (b) two or more persons together are beneficiaries under a trust,

in respect of fifty per centum or more of the value of the interests in that trust and the trustee or trustees of that trust has or have under subsection (3) of this section a controlling interest in a business, that beneficiary or those beneficiaries shall, for the purposes of subsection (3) of this section, be deemed to have a controlling interest in that business.

Smaller groups subsumed into larger groups.

16E. (1) Notwithstanding any other provision of this Part (except subsection (2) of this section) where a person is, whether or not by virtue of this subsection, a member of two or more groups (each of which is in subsection (2) of this section referred to as a smaller group), all of the members of those groups constitute, for the purposes of this Act, one group.

(2) Except for the purpose of determining whether a group is constituted under subsection (1) of this section, a group which, but for this subsection, would be a smaller group ceases to be a group if its members are members of a group constituted under subsection (1) of this section.

Grouping provisions to operate independently.

16F. The fact that a person is not a member of a group constituted under a provision of this Part does not prevent that person from being a member of a group constituted under another provision of this Part.

Beneficiaries under discretionary trusts.

16G. A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and other person, may benefit under that trust shall be deemed, for the purposes of this Part, to be a beneficiary in respect of fifty per centum or more of the value of the interests in that trust.

Exclusion of persons from groups.

16H. (1) Where the Commissioner is satisfied, having regard to the nature and degree of ownership or control of the businesses, the nature of the businesses and any other matters that he considers relevant, that a business carried on by a member of a group is

carried on substantially independently of, and is not substantially connected with the carrying on of, a business carried on by any other member of that group, the Commissioner may, by order in writing served on that first-mentioned member, exclude him from that group.

(2) The Commissioner shall not, under subsection (1) of this section, make an order so as to exclude a person from a group on and from a date if that person is or was on that date a corporation which, by reason of subsection (5) of section 6 of the Companies Act, 1961, is to be deemed, for the purposes of that Act, to be related to another corporation which is a member of that group.

(3) Notwithstanding any other provision of this Part, an order under subsection (1) of this section shall have effect according to its tenor on and from the date specified in the order (being a date that is the date of the order or before the date of the order) as the date on and from which the person referred to in the order is or shall be deemed to have been excluded from the group so referred to.

16L. (1) The members of a group may, by an instrument in writing in the approved form containing the approved particulars, executed by or on behalf of each member of the group and served on the Commissioner, designate one of its members to be the designated group employer in respect of the group for the purposes of this Act and nominate an amount, calculated in the approved manner, not exceeding the prescribed amount as defined in subsection (1) of section 9A of this Act, as the deduction to be made for any return period in relation to which that designated group employer is required to furnish returns under this Act.

Designated  
group  
employer.

(2) The designated group employer in respect of a group ceases to be the designated group employer in respect of that group on and from the first day of the return period relating to him during which—

- (a) the composition of the group alters; or
- (b) the members of the group, by an instrument in writing in the approved form containing the approved particulars, executed by or on behalf of each of them who is known to the Commissioner to be a member of the group and served on the Commissioner, revoke the designation,

whichever occurs the earlier.

(3) For the purpose of ascertaining the pay-roll tax payable by a designated group employer, there shall, subject to subsection (4) of this section, be deducted, for a return period (being the return period commencing last before the day on which the instrument under subsection (1) of this section designating him as the designated group employer in respect of the group is served on the Commissioner or any subsequent return period) from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) the amount nominated in that instrument.

(4) The Commissioner may, on an application made to him in writing executed by or on behalf of each person known to the Commissioner to be a member of a group or of his own motion in relation to a group, at any time, make a determination specifying an amount, not exceeding the prescribed amount as defined by subsection (1) of section 9A of this Act, that may be deducted for any return period specified

or referred to in the determination (being a return period commencing before, but not before the first day of January, 1976, or after, or the return period in which, the determination is made) from the taxable wages included in a return made by, or an assessment relating to, an employer specified in the determination who was, during any such return period, a member of that group and there shall be deducted, for any such return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) the amount so specified.

(5) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (4) of this section and any such revocation shall have effect as on and from the first day of the return period specified in the instrument, whether that return period is before, but not before the date of the determination, or after, or the return period in which the instrument is executed by him.

(6) An employer specified in a determination made under subsection (4) of this section shall, on the first day of the first return period specified or referred to in the determination, be deemed to have been designated under subsection (1) of this section to be the group employer in respect of the group of which he was then a member and shall, subject to subsection (2) of this section, thereafter be the designated group employer in respect of that group.

(7) The Commissioner shall, as soon as practicable after making a determination under subsection (4) of this section, serve notice of the determination on the designated group employer in respect of the group concerned.

"Financial year" for purposes of this section and sections 16K and 16L and "prescribed amount" for purposes of sections 16K and 16L.

16J. (1) In this section and sections 16K and 16L of this Act, "financial year" includes the period commencing on the first day of January, 1976, and ending on the thirtieth day of June, 1976.

(2) Subject to subsection (3) of this section, a reference in sections 16K and 16L of this Act to the prescribed amount is, in relation to a designated group employer—

- (a) who during the whole of a financial year is the designated group employer in respect of a group at least one of the members of which pays or is liable to pay taxable wages for the whole of that financial year and none of the members of which pays or is liable to pay, as a member of that group, any interstate wages during that financial year—a reference to the amount of \$41 600, reduced by \$2 for each \$3 (disregarding any remainder) by which the total (in whole dollars) of the taxable wages paid or payable by the members in that group during that financial year exceeds \$41 600;
- (b) who during part only of a financial year is the designated group employer in respect of a group at least one of the members of which pays or is liable to pay taxable wages for the whole of that part and none of the members of which pays or is liable to pay, as a member of that group, any interstate wages during that financial year—a reference to the amount that bears to \$41 600 the same proportion as that part of that financial year bears to that financial year, reduced by \$2 for each \$3 (disregarding any remainder) by which the total (in whole dollars) of

the taxable wages paid or payable by the employers in that group during that part exceeds the amount first-mentioned in this paragraph;

(c) where—

- (i) during the whole of a financial year that designated group employer is the designated group employer in respect of a group;
- (ii) at least one member of that group pays or is liable to pay taxable wages or interstate wages for the whole of that year; and
- (iii) at some time during that year taxable wages are paid or payable by a member of that group and at some time during that year interstate wages are paid or payable by a member of that group, whether or not those times are wholly or partly concurrent and whether or not those members are the same member,

a reference to the amount that bears to another amount (that other amount being \$41 600, reduced by \$2 for each \$3 (disregarding any remainder) by which the sum of the total (in whole dollars) of—

- (iv) the taxable wages paid or payable by the employers in that group during that financial year; and
- (v) the interstate wages paid or payable by employers in that group during that financial year, exceeds \$41 600) the same proportion as the total (in whole dollars) of the taxable wages paid or payable by the

employers in that group during that financial year bears to the sum of the total (in whole dollars) of—

- (vi) the taxable wages paid or payable by the employers in that group during that financial year; and
- (vii) the interstate wages paid or payable by employers in that group during that financial year; and

(d) where—

- (i) during part only of a financial year that designated group employer is the designated group employer in respect of a group;
- (ii) at least one member of that group pays or is liable to pay taxable wages or interstate wages for the whole of that part; and
- (iii) at some time during that part taxable wages are paid or payable by a member of that group and at some time during that part interstate wages are paid or payable by a member of that group, whether or not those times are wholly or partly concurrent and whether or not those members are the same member,

a reference to the amount that bears to another amount (that other amount being the amount that bears to \$41 600 the same proportion as that part bears to that financial year, reduced by \$2 for

each \$3 (disregarding any remainder) by which the sum of the total (in whole dollars) of—

- (iv) the taxable wages paid or payable by the employers in that group during that part; and
- (v) the interstate wages paid or payable by employers in that group during that part,

exceeds that proportionate amount of \$41 600) the same proportion as the total (in whole dollars) of the taxable wages paid or payable by the employers in that group during that part bears to the sum of the total (in whole dollars) of—

- (vi) the taxable wages paid or payable by the employers in that group during that part; and
- (vii) the interstate wages paid or payable during that part by the employer in that group.

(3) In respect of the financial year ending on the thirtieth day of June, 1976, subsection (2) of this section shall be construed as if the references therein to \$41 600 were references to \$20 800.

16K. (1) This section applies in relation to a group at least one member of which paid or was liable to pay, as such a member, taxable wages or interstate wages during the whole of a financial year.

Annual  
adjustment.

(2) A reference in this section to the annual amount of pay-roll tax paid or payable by the members of a group is a reference to the amount

ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by the Pay-roll Tax Act, 1971, to the amount by which—

- (a) the total of the taxable wages paid or payable by the members of that group during a financial year,

exceeds—

- (b) where—

- (i) during that year there was only one designated group employer in respect of that group—the prescribed amount applicable to that designated group employer;

or

- (ii) during that year there were two or more designated group employers in respect of that group—the prescribed amount that, if there had been only one designated group employer in respect of that group during that year, would have been applicable to that designated group employer had he paid all of the taxable wages referred to in paragraph (a) paid or payable during that year.

(3) A reference in this section to the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of a group is a reference to the amount of pay-roll tax paid or payable when returns were made or required to be made under this Act relating to that financial year, being returns in which the taxable wages referred to in paragraph (a) of subsection (2) of this section were included or required to be included.

(4) Where the actual amount of pay-roll tax paid or payable in respect of a financial year commencing on or after the first day of January, 1976, by the members of a group is greater than the annual amount of pay-roll tax in relation to those members for that financial year, the Commissioner shall, on application made in accordance with subsection (7) of this section by the person who is the designated group employer in respect of that group on the thirtieth day of June in that financial year, refund or rebate to that employer an amount equal to the difference, reduced by the total of any amounts refunded to any member of that group under section 19 of this Act in respect of the tax paid or payable by any such member when returns relating to that year were made or required to be made under this Act by that member.

(5) Where the actual amount of pay-roll tax paid or payable in respect of a financial year commencing on or after the first day of January, 1976, by the members of a group is less than the annual amount of pay-roll tax in relation to those members for that financial year, the person who is the designated group employer in respect of that group on the thirtieth day of June in that financial year shall pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year, an amount equal to the difference.

(6) If a designated group employer in respect of a group fails to pay any amount that he is required to pay under subsection (5) of this section in respect of a financial year, every member of the group who paid or was liable to pay taxable wages during that financial year is liable, jointly and severally, to pay that amount to the Commissioner.

(7) An application under subsection (4) of this section shall, notwithstanding section 19 of this Act, be made within the financial year next following the financial year in respect of which the refund is applied for.

Adjustment  
of pay-roll  
tax when  
members  
of a group  
cease to  
pay taxable  
wages or  
interstate  
wages  
during a  
financial  
year.

16L. (1) This section applies in relation to a group at least one member of which paid or was liable to pay, as such a member, taxable wages or interstate wages for part only (being a continuous part) of a financial year and no member of which paid or was liable to pay, as such a member, any such wages during the whole of that year.

(2) In this section, "prescribed period", in relation to a group, means part only (being a continuous part) of a financial year for which at least one member of the group paid or was liable to pay taxable wages or interstate wages.

(3) A reference in this section to the total amount of pay-roll tax paid or payable for a prescribed period by the members of a group is a reference to the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by the Pay-roll Tax Act, 1971, to the amount by which—

(a) the total of the taxable wages paid or payable by the employers in that group during that prescribed period,

exceeds—

(b) where—

- (i) during that prescribed period there was only one designated group employer in respect of that group—the prescribed amount applicable to that designated group employer; or
- (ii) during that prescribed period there were two or more designated group employers in

respect of that group—the prescribed amount that, if there had been only one designated group employer in respect of that group during that prescribed period, would have been applicable to that designated group employer had he paid all of the wages referred to in paragraph (a) paid or payable during that prescribed period.

(4) Where, at the expiration of a prescribed period relating to a group, the total amount of pay-roll tax paid or payable when returns were made or required to be made under this Act, being returns in which the taxable wages referred to in paragraph (a) of subsection (3) of this section were included or required to be included, is less than the total amount of pay-roll tax paid or payable for that prescribed period by the members of that group, the person who is the designated group employer in respect of that group on the last day of that prescribed period shall pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act or the last return under this Act relating to that prescribed period, an amount equal to the difference.

(5) Subsections (4) and (5) of section 16K of this Act apply in relation to a group to which this section applies as if—

- (a) at least one member of the group paid or was liable to pay, as such a member, taxable wages or interstate wages for the whole of that financial year;
- (b) the reference in subsection (3) of section 16K of this Act to the actual amount of pay-roll tax paid or payable

in respect of a financial year by the members of that group included a reference to any pay-roll tax paid or payable under subsection (4) of this section by a designated group employer in respect of that financial year; and

- (c) the person, if any, who was the designated group employer in respect of that group at the time when the group last ceased in that financial year to have a member who was paying or was liable to pay, as such a member, taxable wages or interstate wages was the designated group employer in respect of that group on the thirtieth day of June in that financial year.

(6) If a designated group employer in respect of a group fails to pay any amount that he is required to pay under subsection (4) of this section in respect of a period, every member of the group who paid or was liable to pay taxable wages during the financial year that includes that period is liable, jointly and severally, to pay that amount to the Commissioner.

Section 18  
amended.

13. Section 18 of the principal Act is amended—

- (a) by adding after the words “taxable wages” in line one of paragraph (a) of subsection (1) the passage “or, where relevant, interstate wages”;
- (b) by substituting for the word “thereon” in line two of paragraph (b) of subsection (1), the words “by the employer”;
- (c) by deleting the passage “section 9 of”, in lines six and seven of subsection (3); and
- (d) by substituting for the passage “under subsection (6) of section 9 of this Act in respect of a month or period ending before the determination is made” in lines two,

three and four of subsection (4) the passage “in respect of a return period ending before the determination is made as to the deduction that may be made from the taxable wages included or required to be included in returns made or required to be made under this Act”.

14. Subsection (7) of section 25 of the principal Act is amended by adding after the word “Act”, in line two of paragraph (a), the passage “or his liability, as a trustee, under Part IVA of this Act”.

Section 25  
amended.

15. Subsection (1) of section 41 of the principal Act is amended—

Section 41  
amended.

- (a) by adding after the words “public officer” in line four, the passage “(being a natural person whose principal place of residence is in Western Australia)”; and
- (b) by adding after the word “filled” in line six, the words “by such a person”.

16. Section 42 of the principal Act is amended—

Section 42  
amended.

- (a) by adding after the section designation “42.” the subsection designation “(1)”; and
- (b) by adding at the end thereof the following subsection—

(2) Nothing in subsection (1) of this section affects the operation of Part IVA of this Act in relation to trustees. .

17. Subsection (1) of section 50 of the principal Act is amended by adding after the words “financial year” in line four of paragraph (a) the passage “, whether or not a person was or was not a member of a group”.

Section 50  
amended.