



Western Australia

## **Pay-roll Tax Assessment Regulations 2003**

Compare between:

[25 Jun 2010, 02-b0-03] and [08 Sep 2010, 02-c0-03]



Western Australia

Pay-roll Tax Assessment Act 2002

## **Pay-roll Tax Assessment Regulations 2003**

### **Part 1 — Preliminary matters**

**1. Citation**

These regulations may be cited as the *Pay-roll Tax Assessment Regulations 2003*<sup>1</sup>.

**2. Commencement**

These regulations come into operation on the day on which the *Pay-roll Tax Assessment Act 2002* comes into operation<sup>1</sup>.

**3. Meaning of terms used in these regulations**

The Glossary at the end of these regulations defines or affects the meaning of some of the words and expressions used in these regulations, and also affects the operation of other provisions.

## **Part 2 — Various exemptions and inclusions**

### **Division 1 — Miscellaneous**

#### **4. Exempt expenditure by departments and others**

The departments and other organisations listed in Schedule 1 are prescribed for the purposes of section 40(2)(q) of the Act.

#### **5. Contracts prescribed for the definition of wages**

An amount is wages for the purposes of section 9AA(1)(c) of the Act if the amount is paid or payable under a contract made between a ship or boat builder and another party for the procurement of the services of persons to provide solely or mainly labour for all or any of the design, construction, fit-out or maintenance of a ship or boat.

*[Regulation 5 amended by No. 15 of 2010 s. 29.]*

#### **6. Excluded contracts**

A contract is excluded from a class referred to in regulation 5 if —

- (a) it is a contract to produce a given result for a fixed fee;
- (b) it is a contract covered by an industrial award;
- (c) it is a workplace agreement in force under the *Workplace Agreements Act 1993*<sup>2</sup>;
- (d) it is an employer-employee agreement under Part VID of the *Industrial Relations Act 1979*; or
- (e) an employer who is registered under section 25 of the Act is a party to the contract and is liable under the Act to pay pay-roll tax on amounts paid or payable by the employer to a person who engages in labour under the contract.

## **Division 2 — Remote location benefits**

### **7. Remote location wages prescribed**

Wages of a kind referred to in this Division are prescribed for the purposes of section 40(2)(r) of the Act to the extent specified in this Division.

### **8. Education costs**

- (1) An expense payment fringe benefit, a property fringe benefit or a residual fringe benefit that is provided to an employee who is employed in a remote location in relation to the education costs of a dependant of the employee is exempt if the dependant is required to live away from home in order to attend, on a full-time basis, a primary, secondary or tertiary institution that is not within a reasonable distance of the remote location.
- (2) A subsidy that is provided to an employee who is employed in a remote location in relation to the education costs of a dependant of the employee is exempt to the extent that the costs are actually incurred because the dependant is required to live away from home in order to attend, on a full-time basis, a primary, secondary or tertiary institution that is not within a reasonable distance of the remote location.

### **9. Fringe benefits provided in remote locations**

- (1) An expense payment fringe benefit, a property fringe benefit or a residual fringe benefit provided in relation to the supply, use or cost of water for use for the domestic purposes of an employee who is employed in a remote location is exempt where, if the benefit related to residential fuel under the FBTA Act, the taxable value of the benefit would be reduced under section 59 of that Act.
- (2) An expense payment fringe benefit, a property fringe benefit, or a residual fringe benefit is exempt if —
  - (a) it relates to residential fuel; and

- (b) its taxable value is reduced under section 59 of the FBTA Act.

**10. Remote area housing benefits**

- (1) A remote area housing fringe benefit is exempt.
- (2) A subsidy provided for the cost of electricity, gas or water supplied to the residence of an employee living in a remote area is exempt to the extent of the costs actually incurred by the employee for the supply.
- (3) A loan fringe benefit, an expense payment fringe benefit, or a property fringe benefit is exempt if —
  - (a) the benefit relates to a remote area housing loan, remote area housing rent, remote area residential property, a remote area residential property option fee or remote area residential property repurchase consideration as provided in the FBTA Act; and
  - (b) the taxable value of the benefit is reduced under section 60 of that Act.
- (4) An expense payment fringe benefit, a property fringe benefit or a residual fringe benefit is exempt if —
  - (a) it relates to remote area holiday transport as provided in the FBTA Act; and
  - (b) its taxable value is reduced under section 61 of that Act.
- (5) If the taxable value of a remote area holiday transport fringe benefit is reduced under section 60A of the FBTA Act, the benefit is exempt to the extent of an amount equal to twice the amount of the reduction.

**Division 3 — Specified taxable benefits**

**11. Contributions to redundancy benefits schemes**

A contribution to a redundancy benefits scheme is a specified taxable benefit for the purposes of section 45(2)(b) of the Act

and the definition of *specified taxable benefits* in the Glossary to the Act.

**12. Value of redundancy benefits scheme contributions**

For the purposes of section 9BI of the Act, the value of a contribution to a redundancy benefits scheme is the amount equal to the amount of the contribution.

*[Regulation 12 amended by No. 15 of 2010 s. 30.]*

**13. Portable paid long service leave**

A contribution to a portable long service leave fund is a specified taxable benefit for the purposes of section 45(2)(b) of the Act and the definition of *specified taxable benefits* in the Glossary to the Act.

**14. Value of portable long service leave fund contributions**

For the purposes of section 9BI of the Act, the value of a contribution to a portable long service leave fund is the amount equal to the amount of the contribution.

*[Regulation 14 amended by No. 15 of 2010 s. 31.]*

**15. Wages exemptions related to specified taxable benefits**

If an employer makes a contribution to a redundancy benefits scheme or a portable long service leave fund in relation to an employee, then wages provided or payable by the employer to the employee are exempt wages for the purposes of section 40(4) of the Act to the extent of the amount that the employer is entitled to recover from the scheme or fund.

*[16-18. Deleted by No. 15 of 2010 s. 32.]*

**Division 4 — Fringe benefits**

*[19-26. Deleted by No. 15 of 2010 s. 33.]*

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**27. Notice of amended FBT Act assessment**

An employer who receives an amended assessment under the FBTA Act must give a copy of the amended assessment to the Commissioner within 30 days of receiving it.

Penalty: \$5 000.



## Part 3 — Allowances

*[Heading inserted by No. 15 of 2010 s. 34.]*

### Division 1 — Motor vehicle allowances

*[28-29. Deleted by No. 15 of 2010 s. 35.]*

#### 30. Business kilometres travelled in a return period

For the purposes of section 9FA(2) of the Act, the number of business kilometres travelled in a return period is —

- (a) if the employer is using the continuous recording method — the number of business kilometres travelled by the vehicle during the return period as calculated under regulation 34(c);
- (b) if the employer is using the averaging method — the average number of business kilometres travelled by the vehicle in the return period as calculated under regulation 35(3); or
- (c) if the employer is unable to use either of those methods — the number of business kilometres travelled by the vehicle in the return period as calculated under regulation 32(4).

*[Regulation 30 amended by No. 15 of 2010 s. 36.]*

*[31. Deleted by No. 15 of 2010 s. 37.]*

#### 32. Choosing a method for calculating business kilometres

- (1) The employer may use the continuous recording method to calculate the number of business kilometres travelled by the vehicle during any period.
- (2) The employer must use the continuous recording method to calculate the number of business kilometres travelled in the vehicle during a period if the employer —

- (a) has not previously paid a vehicle allowance for the vehicle;
  - (b) has been using only the averaging method for the vehicle for 5 years and has not completed a further continuous recording period; or
  - (c) the Commissioner gives the employer a direction under regulation 36.
- (3) The employer may use the averaging method to calculate the number of business kilometres travelled in the vehicle during a return period if —
- (a) the employer has used the continuous recording method for the vehicle for at least 12 consecutive weeks immediately before changing to the averaging method;
  - (b) the employer has kept a record of the vehicle's odometer readings at the beginning and end of the continuous recording period;
  - (c) the frequency and length of the business journeys made in the vehicle during the continuous recording period can reasonably be expected to be the same as the business journeys made during any similar period within the next 5 years; and
  - (d) a BK percentage calculated under regulation 35(2) is in force for the vehicle.
- (4) If the employer is unable to use the continuous recording method or the averaging method for a period, the number of business kilometres travelled by the vehicle during the period is taken to be —
- (a) if the Commissioner allows the employer to estimate the number of business kilometres travelled by the vehicle during that period and considers the employer's estimate to be reasonable — the employer's estimate of that number;

- (b) if the Commissioner specifies a number which is deemed to be the number of business kilometres travelled by the vehicle during that period — the number specified; or
  - (c) otherwise — zero.
- (5) An employer who pays motor vehicle allowances to more than one person may use different methods of calculation for each person.
- (6) When an employer chooses to use a particular method of calculation the employer must make a record of the choice before the end of the return period during which the choice takes effect.

**33. Changing the method of calculating business kilometres**

- (1) An employer may change from using the averaging method to using the continuous recording method with effect from the beginning of any return period.
- (2) An employer may change from using the continuous recording method to using the averaging method with effect from the beginning of any return period if the employer meets the criteria set out in regulation 32(3).

**34. The continuous recording method**

If an employer chooses to use the continuous recording method to calculate the number of business kilometres travelled by a motor vehicle, the employer must —

- (a) keep records of the odometer readings at the beginning and end of each business journey travelled by the vehicle;
- (b) keep records of the purpose of each of the business journeys; and

- (c) at the end of each return period, calculate the number of business kilometres travelled by the vehicle during the return period using the odometer readings referred to in paragraph (a).

**35. The averaging method**

- (1) To use the averaging method to calculate the number of business kilometres travelled by a vehicle, an employer must first establish the BK percentage for the vehicle in accordance with subregulation (2).
- (2) To establish the BK percentage, the employer must —
  - (a) select a recording period of at least 12 consecutive weeks under regulation 36;
  - (b) determine the number of business kilometres travelled by the vehicle during the recording period using the records of the odometer readings made during the recording period; and
  - (c) calculate the percentage of the kilometres travelled during the recording period that were business kilometres in accordance with the following formula —

$$\text{BK percentage} = \frac{\text{BK} \times 100\%}{\text{TK}}$$

where —

**BK** is the number of business kilometres travelled by the vehicle in the recording period; and

**TK** is the total number of kilometres travelled by the vehicle in the recording period.

- (3) When the BK percentage has been established, the average number of business kilometres travelled by the vehicle during a return period is calculated using the following formula —

$$\text{Average BK} = \frac{\text{BK}\% \times 100}{\text{TK}}$$

where —

- Average BK is the average number of business kilometres travelled by the vehicle in the recording period;
- BK% is the BK percentage established under subregulation (2); and
- TK is the total number of kilometres travelled by the vehicle in the return period based on records of the vehicle's odometer readings made by the employer at the beginning and end of the return period.
- (4) The employer may continue to use the BK percentage established for a vehicle for the purposes of the averaging method for 5 years from the end of a continuous recording period, unless within those 5 years —
- (a) the vehicle is not used for business journeys during a period of 12 consecutive weeks; or
  - (b) the Commissioner directs the employer in writing to use the continuous recording method.

**36. Selecting a continuous recording period**

- (1) A continuous recording period is a period of at least 12 consecutive weeks nominated by the employer during which —
- (a) the vehicle is or will be used for business journeys of the frequency and length that can reasonably be expected to be made by the vehicle during any similar period within the next 5 years; and
  - (b) the employer uses the continuous recording method to determine the number of business kilometres travelled by the vehicle.
- (2) If an employer is directed by the Commissioner to select another recording period, the period must be selected from the current period in which the employer has been using the continuous recording method.

**37. Replacing one motor vehicle with another**

- (1) If a person who is paid a motor vehicle allowance ceases to use a motor vehicle for business journeys and commences using another motor vehicle in its place, the employer may nominate the second motor vehicle as a replacement for the first.
- (2) When a nomination has been made under subregulation (1) —
  - (a) the replacement motor vehicle is to be treated as the original motor vehicle;
  - (b) if the employer is using the averaging method, the employer may continue to do so until the employer would have been required to revert to the continuous recording method under another provision of these regulations even if the original vehicle had not been replaced; and
  - (c) the employer must —
    - (i) record the odometer readings of both vehicles at the time of the replacement; and
    - (ii) take those readings into account when calculating the number of kilometres travelled during the return period in which the replacement occurred.
- (3) The employer must record the nomination in writing during the return period in which the replacement occurs.
- (4) The employer must retain all records made under this regulation for 5 years from the end of the last return period during which any allowance relating to journeys made before the replacement is paid.

**38. Replacement or recalibration of odometer**

If the odometer of a motor vehicle which is used for business journeys is replaced or recalibrated the employer must —

- (a) record the odometer readings immediately before and after the replacement or recalibration; and
- (b) take those readings into account when calculating the number of kilometres travelled in the vehicle during the allowance period in which the replacement or recalibration occurred.

*[Division 2 (r. 39, 40) deleted by No. 15 of 2010 s. 38.]*

## **Part 4 — Superannuation contributions**

### **41. Actuarial determinations for some superannuation contributions**

- (1) If a superannuation contribution to a superannuation fund is taken by section 9CB of the Act to be wages paid by an employer to an employee during a return period, then the employer must ensure that an actuarial determination is in force for that return period in respect of the contribution and the employee.
- (2) An employer must ensure that a new actuarial determination is made as soon as practicable after the occurrence of an event which could reasonably be expected to significantly affect the accuracy of the current determination.
- (3) If the Commissioner considers that as a result of a significant change of circumstances an actuarial determination is no longer accurate, the Commissioner may direct the employer to ensure that a new actuarial determination is made and the employer is to comply with that direction.
- (4) A determination made under subregulation (3) has effect in respect of each return period which commences after the date on which the direction is given.

*[Regulation 41 amended by No. 15 of 2010 s. 39.]*

### **42. Categories of members**

- (1) An actuarial determination required by regulation 41 must be made in relation to each member of a fund either separately or in accordance with this regulation.
- (2) An actuary may, if the actuary considers it reasonable to do so, divide the members into categories and make a determination in respect of a notional average member of each category.



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

*[Regulation 42 amended by No. 15 of 2010 s. 40.]*

*[43. Deleted by No. 15 of 2010 s. 41.]*

#### **44. Scope of actuarial determinations**

- (1) An actuarial determination must specify the amount of contributions to be made for each member, or category of member, for each return period during the 3 years after the day on which the determination is made.
- (2) If a determination is required under regulation 41(2) the determination must also specify the amount of contributions for each member, or category of member, for each return period from the date the significant event occurred to the date on which the determination was made.
- (3) If a determination is required under regulation 41(3) the determination must also specify the amount of contributions for each member, or category of member, for each return period from the date of the Commissioner's direction to the date on which the determination was made.
- (4) The contribution may be expressed —
  - (a) as a dollar amount (which need not be the same for each return period); or

- (b) by reference to a variable which is, or a number of variables which are, readily ascertainable for each member for each return period (e.g. as a percentage of salary).

*[Regulation 44 amended by No. 15 of 2010 s. 42.]*

**45. Duration of actuarial determination**

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

## **Part 5 — Keeping books and accounts**

### **46. Prescribed records (section 44)**

- (1) For the purposes of section 44(1)(a) of the Act, the following are prescribed —
  - (a) documents and records that evidence the provision by the employer of wages or benefits listed in subregulation (2);
  - (b) documents and records used in the calculation of the value of, or that support the calculation of the value of, the wages or benefits;
  - (c) other documents and records that the employer is required by this regulation to keep.
  
- (2) The following wages and benefits are listed for the purposes of subregulation (1) —
  - (a) a contribution to a redundancy benefits scheme;
  - (b) a contribution to a portable long service leave fund;
  - (c) the value of a share or option taken to be wages under section 9DA or 9DG;
  - (d) a WA fringe benefit;
  - (e) a motor vehicle allowance;
  - (f) an accommodation allowance;
  - (g) an amount taken to be wages under section 9CB of the Act.
  - [(h) deleted]*
  
- (3A) An employer who claims an exemption under section 41A(2) of the Act must keep —
  - (a) for wages paid or payable for maternity leave — a medical certificate for the employee stating —
    - (i) that the employee is or was pregnant; or

- (ii) that the employee has given birth and the date of the birth;

or

  - (b) for wages paid or payable for parental leave — a statutory declaration by the employee stating —
    - (i) that a female is or was pregnant with the employee's unborn child; or
    - (ii) that the employee's child has been born and the date of the birth;

or

  - (c) for wages paid or payable for adoption leave — a statutory declaration by the employee —
    - (i) that a child has been placed in the custody of the employee pending the making of an adoption order; or
    - (ii) that an adoption order has been made or recognised in favour of the employee and the date of the order or recognition.
- (3) An employer who uses the estimated value method for calculating the value of fringe benefits must keep a record of the value of WA fringe benefits paid or payable for the FBTA year ending in the first assessment year in which the employer last changed from using the actual value method.
- (4) The employer must retain records kept under subregulation (3) for at least —
- (a) 5 years after the employer changed from the actual value method; or
  - (b) 5 years after the employer lodges a final return,
- whichever comes first.

*[Regulation 46 amended by No. 15 of 2010 s. 43.]*

## Part 6 — Returns

*[Heading inserted in Gazette 2 May 2006 p. 1711.]*

### 47. Manner of lodging and paying in certain circumstances

- (1) For the purposes of section 28A(1) of the Act —
  - (a) the manner of lodging a return is by using the electronic online system provided for that purpose by the Commissioner; and
  - (b) the manner of paying any pay-roll tax that is due is by using the electronic online system provided for that purpose by the Commissioner or any other approved method of electronic funds transfer.
- (2) The Commissioner may, in writing, approve of a particular employer not complying with subregulation (1) if satisfied that it is impracticable for the employer to do so.
- (3) An approval under subregulation (2) remains in force until the end of the first 30 June following the day on which the approval was given.
- (4) If the Commissioner approves of an employer not complying with subregulation (1), the following apply for the purposes of section 28A(1) of the Act —
  - (a) the manner of lodging a return is by delivering it in person, or posting it, to the Commissioner or faxing a copy of it to an appropriate fax number;
  - (b) the manner of paying any pay-roll tax that is due is by cheque or money order or, if the Commissioner approves, a method referred to in subregulation (1)(b).

*[Regulation 47 inserted in Gazette 2 May 2006 p. 1711.]*

**Schedule 1 — Exempt departments and  
other organisations**

[r. 4]

The Commissioner for Equal Opportunity  
The Commissioner of Main Roads  
The Commissioner of Workplace Agreements<sup>3</sup>  
The Corruption and Crime Commission of Western Australia  
The Curriculum Council  
The Department of Agriculture and Food  
The Department of the Attorney General  
The Department for Community Development  
The Department of Consumer and Employment Protection<sup>4</sup>  
The Department of Corrective Services  
The Department of Culture and the Arts  
The Department of Education and Training  
The Department of Education Services  
The Department of Environment and Conservation  
The Department of Fisheries  
The Department of Health  
The Department of Indigenous Affairs  
The Department of Local Government and Regional Development  
The Department of Industry and Resources  
The Department for Planning and Infrastructure  
The Department of the Premier and Cabinet  
The Department of Racing, Gaming and Liquor

The Department of the Registrar, Western Australian Industrial Relations Commission

The Department of Sport and Recreation

The Department of Treasury and Finance

The Department of Water

The Disability Services Commission

The Electorate Offices of Members of Parliament

The Gascoyne Development Commission

The Goldfields Esperance Development Commission

The Governor's Establishment

The Great Southern Development Commission

The Kimberley Development Commission

The Mid West Development Commission

The Office of Energy

The Office of the Auditor General

The Office of the Director of Public Prosecutions

The Office of the Information Commissioner

The Office of the Inspector of Custodial Services

The Office of the Public Sector Standards Commissioner

The Office of Water Regulation<sup>5</sup>

The Parliament

The Parliamentary Commissioner for Administrative Investigations

The Peel Development Commission

The Pilbara Development Commission

The Recreation Camps and Reserves Board

The South West Development Commission

The State Supply Commission

The Water and Rivers Commission<sup>6</sup>

The Western Australian Building Management Authority

The Western Australian Electoral Commission

The Western Australia Police Service and the Police Force within the meaning of the *Police Act 1892*

The Wheatbelt Development Commission

*[Schedule 1 amended in Gazette 7 Sep 2004 p. 3884; 5 Nov 2004 p. 4987; 2 May 2006 p. 1709-10; 11 Jul 2006 p. 2546; 22 Aug 2006 p. 3469; 22 Dec 2006 p. 5807.]*



## Glossary

[r. 3]

### 1. Terms used

In this Glossary, unless the contrary intention appears —

**actuarial determination** means a determination by an actuary made in accordance with regulation 44;

**allowance period**, in relation to a motor vehicle allowance, means the period during which the vehicle travelled the business kilometres to which the allowance relates;

**averaging method**, in relation to a motor vehicle allowance paid or payable in relation to a vehicle for a return period, means the method described in regulations 32, 33 and 35 for calculating the number of business kilometres travelled by the vehicle in the return period;

**BK percentage**, in relation to a vehicle, means the percentage of business kilometres travelled by the vehicle in a given period as calculated under regulation 35(2);

**business journey**, in relation to a vehicle for which a motor vehicle allowance is paid by an employer, means a journey made in the vehicle by an employee in the course of his or her employment;

**business kilometre**, in relation to a motor vehicle allowance, means a kilometre and any remainder of part of a kilometre, travelled by a person in the course of a business journey;

**business night**, in relation to an accommodation allowance paid or payable to a person, means a night during which the person, in the course of his or her employment —

- (a) is absent from the person's usual place of residence; and
- (b) stays in accommodation other than accommodation provided by the employer;

**continuous recording method**, in relation to a motor vehicle allowance paid or payable in relation to a vehicle for a return period, means the method described in regulation 34 for calculating the number of business kilometres travelled by the vehicle in the return period;

**continuous recording period** has the meaning given in regulation 36(1);

**dependant**, in relation to a person, means a child of the person who is wholly dependent upon the person's earnings and who is either —

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

**education costs** —

- (a) include school fees and reasonable expenses incurred for travel, accommodation and meals;
- (b) do not include any fee required to be paid for tertiary education;

**employee** means a person to whom wages are paid or payable;

**expense payment fringe benefit** has the same meaning as in the FBTA Act;

**industrial award** means —

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

**loan fringe benefit** has the same meaning as in the FBTA Act;

**portable long service leave fund** means a fund established to provide paid long service leave for employees in a particular industry who are employed from time to time by different employers in the industry;

**property fringe benefit** has the same meaning as in the FBTA Act;

***redundancy benefits scheme*** means a scheme or trust (except a superannuation fund) that operates to provide benefits for persons working within an industry who —

- (a) are made redundant;
- (b) leave the industry; or
- (c) retire;

***remote area holiday transport*** has the same meaning as in section 58ZC of the FBTA Act;

***remote area housing fringe benefit*** has the same meaning as in section 58ZC of the FBTA Act;

***remote area housing loan*** has the same meaning as in section 58ZC of the FBTA Act;

***remote area housing rent*** has the same meaning as in section 58ZC of the FBTA Act;

***remote area residential property*** has the same meaning as in section 58ZC of the FBTA Act;

***remote area residential property option fee*** has the same meaning as in section 58ZC of the FBTA Act;

***remote area residential property repurchase consideration*** has the same meaning as in section 58ZC of the FBTA Act;

***residential fuel*** has the same meaning as in the FBTA Act;

***residual fringe benefit*** has the same meaning as in the FBTA Act;

***vehicle***, in relation to a vehicle allowance, means a motor vehicle that is provided and maintained by a person to whom an employer pays a vehicle allowance for business kilometres travelled by the vehicle.

*[Clause 1 amended by No. 15 of 2010 s. 44.]*

**Notes**

<sup>1</sup> This is a compilation of the *Pay-roll Tax Assessment Regulations 2003* and includes the amendments made by the other written laws referred to in the following table <sup>7, 8, 10</sup>. The table also contains information about any reprint.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Pay-roll Tax Assessment Regulations 2003</i>	27 Jun 2003 p. 2341-80	1 Jul 2003 (see r. 2 and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Pay-roll Tax Assessment Amendment (2003) Regulations 2003</i>	18 Jul 2003 p. 2844	18 Jul 2003
<i>Pay-roll Tax Assessment Amendment (2003) Regulations (No. 2) 2003</i>	28 Nov 2003 p. 4778	28 Nov 2003
<i>Pay-roll Tax Assessment Amendment Regulations 2004</i>	25 Jun 2004 p. 2246-7	1 Jul 2004 (see r. 2)
<i>Pay-roll Tax Assessment Amendment Regulations (No. 2) 2004</i>	7 Sep 2004 p. 3883-4	7 Sep 2004
<i>Pay-roll Tax Assessment Amendment Regulations (No. 3) 2004</i>	5 Nov 2004 p. 4986-7	5 Nov 2004
<i>Pay-roll Tax Assessment Amendment Regulations 2005</i>	19 Apr 2005 p. 1303-4	1 Jul 2005 (see r. 2)
<i>Pay-roll Tax Assessment Amendment Regulations (No. 2) 2006</i>	2 May 2006 p. 1709-10	2 May 2006
<i>Pay-roll Tax Assessment Amendment Regulations 2006</i>	2 May 2006 p. 1710-11	1 Jul 2006 (see r. 2)
<i>Pay-roll Tax Assessment Amendment Regulations (No. 4) 2006</i>	27 Jun 2006 p. 2306-7	1 Jul 2006 (see r. 2)
<i>Pay-roll Tax Assessment Amendment Regulations (No. 3) 2006</i>	11 Jul 2006 p. 2546	11 Jul 2006
<i>Pay-roll Tax Assessment Amendment Regulations (No. 5) 2006</i>	22 Aug 2006 p. 3468-9	22 Aug 2006
<b>Reprint 1: The Pay-roll Tax Assessment Regulations 2003 as at 13 Oct 2006</b> (includes amendments listed above)		
<i>Pay-roll Tax Assessment Amendment Regulations (No. 6) 2006</i>	22 Dec 2006 p. 5806-7	1 Jan 2007 (see r. 2 and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Pay-roll Tax Assessment Amendment Regulations 2007</i>	15 May 2007 p. 2096	1 Jul 2007 (see r. 2)

Citation	Gazettal	Commencement
<i>Pay-roll Tax Assessment Amendment Regulations 2009</i>	19 Jun 2009 p. 2252	r. 1 and 2: 19 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b))
<b>Reprint 2: The Pay-roll Tax Assessment Regulations 2003 as at 14 Aug 2009</b> (includes amendments listed above)		
<i>Pay-roll Tax Assessment Amendment Act 2010</i> Part 3 assented to 25 Jun 2010 <sup>9</sup>		25 Jun 2010 (see s. 2(a))

- <sup>2</sup> The *Workplace Agreements Act 1993* expired 14 Sep 2003.
- <sup>3</sup> At the time of this reprint the Commissioner of Workplace Agreements does not exist.
- <sup>4</sup> Under the *Public Sector Management Act 1994* the names of departments may be changed. At the time of this reprint the former Department of Consumer and Employment Protection is called the Department of Commerce.
- <sup>5</sup> The Office of Water Regulation was abolished with effect 1 Jan 2004 (see Notice in *Gazette* 6 Jan 2004 p. 41).
- <sup>6</sup> The *Water Resources Legislation Amendment Act 2007* s. 223 reads as follows:

**223. Agreements and instruments generally**

- (1) Any agreement or instrument (including subsidiary legislation) in force immediately before the transfer time —
- (a) to which a former body was a party; or
  - (b) which contains a reference to a former body,
- has effect after the transfer time, to the extent to which the agreement or instrument relates to the functions of a relevant successor to the former body, as if —
- (c) the relevant successor were substituted for the former body as a party to the agreement or instrument; and
  - (d) any reference in the agreement or instrument to the former body were (unless the context otherwise requires) amended to be or include a reference to the relevant successor.
- (2) This section does not apply to any agreement or instrument covered by another provision of this Part.

<sup>7</sup> Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 7 these regulations are to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes Administration) Regulations 2007*. Regulation 1-4 and Pt. 5 Div. 3 of those regulations read as follows:

**1. Citation**

These regulations are the *Commonwealth Places (Mirror Taxes Administration) Regulations 2007*.

**2. Commencement**

These regulations come into operation on the day on which the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007* comes into operation.

**3. When certain modifications have effect**

- (1) The modifications prescribed in Part 2, Part 3, Part 5, Part 6 Division 2 and Part 7 have effect on and from 1 July 2003.
- (2) The modifications prescribed in Part 4 have effect on and from 9 April 2006 and prevail over the modifications in the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002* Part 5 to the extent of any inconsistency.

Note: Modifications prescribed for the purposes of section 7(2) of the Act may be expressed to take effect from a date that is earlier than the date on which the modifications are published in the Gazette, see section 7(3) of the Act.

**4. Modification of State taxing laws**

- (1) For the purposes of section 7(2) of the Act, each State taxing law is taken to be modified to the extent necessary to give effect to subregulation (2).
- (2) If —
  - (a) a State taxing law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding applied law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction; and
  - (b) a person is required or permitted, or could be required or permitted, to take an action under both the State taxing law and the corresponding applied law in relation to the event, state of affairs or transaction; and
  - (c) the person has taken the action in accordance with the corresponding applied law; and

- (d) the Commissioner of State Revenue has sufficient information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the State taxing law or the corresponding applied law or both, as the case requires,
- then —
- (e) the person is not required to take the action under the State taxing law; and
  - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the State taxing law in relation to the event, state of affairs or transaction.
- (3) The particular modifications set out in these regulations of certain State taxing laws have effect for the purposes of section 7(2) of the Act.

## Part 5 — Pay-roll tax

### Division 3 — The *Pay-roll Tax Assessment Regulations 2003*

**35. Modification of the *Pay-roll Tax Assessment Regulations 2003***

This Division sets out modifications of the *Pay-roll Tax Assessment Regulations 2003* in their application as a law of Western Australia.

**36. Regulation 3A inserted**

After regulation 3 the following regulation is inserted —

“

**3A. Application of regulations in non-Commonwealth places**

- (1) In this regulation —  
*applied Pay-roll Tax Assessment Regulations* means the *Pay-roll Tax Assessment Regulations 2003* of Western Australia in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Act.
- (2) In these regulations, unless the contrary intention appears —
  - (a) a reference to these regulations is to be read as a reference to these regulations in their application as a law of Western Australia; and

- (b) a reference to the Act or the *Pay-roll Tax Assessment Act 2002* is to be read as a reference to that Act in its application as a law of Western Australia.
- (3) These regulations are to be read with the applied Pay-roll Tax Assessment Regulations as a single body of law.

<sup>8</sup> Under the *Commonwealth Places (Mirror Taxes) Act 1998* s. 8(2) of the Commonwealth, these regulations are to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*. Clause 1-5 and Pt. 5 Div. 3 of that notice read as follows:

**1. Citation**

This notice is the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*.

**2. Commencement**

This notice comes into operation on the day after the day on which it is registered under the *Legislative Instruments Act 2003* of the Commonwealth.

**3. When certain modifications have effect**

- (1) The modifications prescribed in Part 2, Part 3, Part 5, Part 6 Division 2 and Part 7 have effect on and from 1 July 2003.
- (2) The modifications prescribed in Part 4 have effect on and from 9 April 2006 and prevail over the modifications in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002* Part 5 to the extent of any inconsistency.

Note: Modifications prescribed in a notice under section 8 of the Act may be expressed to take effect from a date that is earlier than the date on which the modifications are published in the *Commonwealth of Australia Gazette*, see section 8(5) of the Act.

**4. Definitions**

In this notice —

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

***Commissioner of State Revenue*** means the Commissioner of State Revenue of Western Australia appointed in accordance with



the *Taxation Administration Act 2003* section 6 of Western Australia;

**Commonwealth Mirror Taxes Act** means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth.

**5. Modification of applied WA laws**

- (1) For the purposes of the Commonwealth Mirror Taxes Act section 8, each applied WA law is taken to be modified to the extent necessary to give effect to subclause (2).
- (2) If —
  - (a) an applied WA law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding State taxing law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction; and
  - (b) a person is required or permitted, or could be required or permitted, to take an action under both the applied WA law and the corresponding State taxing law in relation to the event, state of affairs or transaction; and
  - (c) the person has taken the action in accordance with the corresponding State taxing law; and
  - (d) the Commissioner of State Revenue has sufficient information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the applied WA law or the corresponding State taxing law or both, as the case requires,then —
  - (e) the person is not required to take the action under the applied WA law; and
  - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the applied WA law in relation to the event, state of affairs or transaction.
- (3) The particular modifications set out in this notice of certain applied WA laws have effect for the purposes of the Commonwealth Mirror Taxes Act section 8.

## Part 5 — Pay-roll tax

### Division 3 — The applied *Pay-roll Tax Assessment Regulations 2003*

**36. Modification of the applied *Pay-roll Tax Assessment Regulations 2003***

This Division sets out modifications of the *Pay-roll Tax Assessment Regulations 2003* of Western Australia in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia.

**37. Regulation 3A inserted**

After regulation 3 the following regulation is inserted —

“

**3A. Application of regulations in Commonwealth places**

(1) In this regulation —

*corresponding Pay-roll Tax Assessment Regulations* means the *Pay-roll Tax Assessment Regulations 2003* of Western Australia in their application as a law of Western Australia.

(2) In these regulations —

(a) a reference to these regulations is to be read as a reference to these regulations in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act; and

(b) a reference to the Act or the *Pay-roll Tax Assessment Act 2002* is to be read as a reference to the *Pay-roll Tax Assessment Act 2002* of Western Australia in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act.

(3) These regulations are to be read with the corresponding Pay-roll Tax Assessment Regulations as a single body of law.

(4) In addition to being modified as prescribed by the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*, these regulations are deemed to be further modified to any extent that is necessary or convenient to enable these regulations to operate effectively as a law of the Commonwealth.

”.

**38. Glossary modified**

The Glossary clause 1 is modified in paragraph (c) of the definition of “industrial award” by deleting “another State” and inserting instead —

“ a State other than Western Australia ”.

<sup>9</sup> The *Pay-roll Tax Assessment Amendment Act 2010* s. 45 reads as follows:

**45. Power to amend or repeal regulations unaffected**

This Part does not prevent the *Pay-roll Tax Assessment Regulations 2003* from being amended or repealed under the *Pay-roll Tax Assessment Act 2002*.

<sup>10</sup> [The amendments set out in the \*Pay-roll Tax Assessment Amendment Regulations 2010\* have not been included in this compilation; equivalent amendments were made by the \*Pay-roll Tax Assessment Amendment Act 2010\* Part 3.](#)