



Western Australia

Pay-roll Tax Relief (COVID-19 Response) Act 2020

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Pay-roll Tax Relief (COVID-19 Response) Act 2020

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Defined terms

Western Australia

Pay-roll Tax Relief (COVID-19 Response) Act 2020

**An Act to provide relief from pay-roll tax in response to the
COVID-19 pandemic.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Pay-roll Tax Relief (COVID-19 Response) Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 come into operation on the day on which this Act receives the Royal Assent (*assent day*);
- (b) section 11 comes into operation on the day after assent day;
- (c) section 12 comes into operation on 21 April 2022;
- (d) the rest of the Act is deemed to have come into operation on 1 March 2020.

[Section 2 amended: No. 35 of 2020 s. 4.]

3. Relationship with other Acts

- (1) The *Pay-roll Tax Act 2002* and the *Pay-roll Tax Assessment Act 2002* are to be read with this Act as if they formed a single Act and, for that purpose, this Act is taken to be a pay-roll tax Act as defined in the Glossary to the *Pay-roll Tax Assessment Act 2002*.
- (2) The *Taxation Administration Act 2003* applies in relation to the administration and enforcement of this Act as if this Act were, for that purpose, specified as a taxation Act in section 3(1) of that Act.

4. Terms used

- (1) A term has the same meaning in this Act as it has in the *Pay-roll Tax Assessment Act 2002* or the *Taxation Administration Act 2003* unless the contrary intention appears in this Act.

(2) In this Act —

emergency period means —

- (a) in relation to jobkeeper subsidised exempt wages, the period —
 - (i) commencing on 30 March 2020; and
 - (ii) ending on 27 September 2020;and
- (b) in relation to small business exempt wages, the period —
 - (i) commencing on 1 March 2020; and
 - (ii) ending on 30 June 2020;and
- (c) in relation to wages prescribed as exempt under section 6(c) — such period as is prescribed, and different periods may be prescribed in relation to different classes of exempt wages;

jobkeeper payment has the meaning given in the *Fair Work Act 2009* (Commonwealth) section 789GC;

jobkeeper subsidised exempt wages means wages described in section 7;

prescribed means prescribed by regulations made under section 11;

small business exempt wages means wages described in section 8.

5. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2 — Wages exempt from pay-roll tax during emergency period

6. Exempt wages

Wages paid or payable by an employer for the emergency period are exempt from pay-roll tax if the wages are —

- (a) jobkeeper subsidised exempt wages; or
- (b) small business exempt wages; or
- (c) prescribed as exempt for the purposes of providing relief to employers for the purposes of alleviating the economic effects of the COVID-19 pandemic.

7. Jobkeeper subsidised exempt wages

- (1) Jobkeeper subsidised exempt wages are wages paid or payable by an employer that are subsidised by the jobkeeper payment.
- (2) Jobkeeper subsidised exempt wages do not include any part of wages paid or payable by an employer that are not subsidised by the jobkeeper payment.

8. Small business exempt wages

- (1) Small business exempt wages are wages paid or payable by a small business employer.
- (2) A non-group employer or a member of a group is a small business employer if —
 - (a) the non-group employer, or each member of the group —
 - (i) is registered on or before 21 July 2020; or
 - (ii) if required to do so under the *Pay-roll Tax Assessment Act 2002* section 24(1) or (2) — has made an application for registration on or before 21 July 2020 under section 24 of that Act;and

- (b) the non-group employer or the group member —
 - (i) is an employer or group member described in subsection (3); and
 - (ii) meets the threshold requirement in subsection (4).
- (3) A non-group employer or a group member —
 - (a) for the purposes of the threshold in subsection (4)(a) — must be, or have been, a non-group employer or a member of the group during a period that includes 29 February 2020; and
 - (b) for the purposes of the threshold in subsection (4)(b) — must be a non-group employer or a member of the group during a period that includes 30 June 2020.
- (4) A non-group employer or a group member described in subsection (3) meets the threshold requirement for the purpose of subsection (2)(b)(ii) if at least one of the following is satisfied —
 - (a) the total amount of Australian taxable wages paid or payable by the employer or all of the members of the group for the period commencing on 1 July 2019 and ending on 29 February 2020 is less than \$5 000 000;
 - (b) the total amount of Australian taxable wages paid or payable by the employer or all of the members of the group for the assessment year beginning on 1 July 2019 is less than \$7 500 000.
- (5) Small business exempt wages that, but for section 6(b), would be WA taxable wages paid or payable by a non-group employer or a group member, are taken to be WA taxable wages paid or payable by the employer or the group member for the purposes of the threshold requirement in subsection (4).

Part 3 — Other provisions

9. Treatment of exempt wages under *Pay-roll Tax Assessment Act 2002*

- (1) Small business exempt wages taken to be WA taxable wages under section 8(5) are also taken to be WA taxable wages —
 - (a) for the purposes of the *Pay-roll Tax Assessment Act 2002* Part 2 Divisions 2, 3 and 6 —
 - (i) to determine if WA taxable wages or Australian taxable wages are less than, greater than, or equal to the relevant threshold amounts, and the amounts that operate as threshold amounts specified in sections 23F(3), 23G(4) and 23H(4), for the assessment year beginning on 1 July 2019; and
 - (ii) to determine a deductible amount for the assessment year beginning on 1 July 2019;
 - and
 - (b) for the purposes of the *Pay-roll Tax Assessment Act 2002* Part 3 in relation to the assessment year beginning on 1 July 2019.
- (2) Wages exempt from pay-roll tax under section 6 are taken to be exempt from pay-roll tax under the *Pay-roll Tax Assessment Act 2002* Part 5.

10. Reassessment

Subject to the *Taxation Administration Act 2003* section 17, the Commissioner must make any reassessment necessary to give effect to this Act.

11. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are

necessary or convenient to be prescribed, for giving effect to this Act.

- (2) Without limiting subsection (1), regulations may prescribe measures in relation to liability to pay-roll tax for the purposes of providing relief to employers for the purposes of alleviating the economic effects of the COVID-19 pandemic.
- (3) Regulations made for the purposes of subsection (2) may provide that specified provisions of a pay-roll tax Act —
 - (a) do not apply in relation to a specified matter; or
 - (b) apply with specified modifications in relation to a specified matter.
- (4) Regulations may be expressed to apply to wages paid or payable before the day on which the regulations come into operation but not before 1 March 2020 if the application of the regulations to the wages would not adversely affect a person who is or may be liable to pay any pay-roll tax on the wages.

[12. *Has not come into operation.*]

Notes

This is a compilation of the *Pay-roll Tax Relief (COVID-19 Response) Act 2020* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Pay-roll Tax Relief (COVID-19 Response) Act 2020</i> (other than s. 12)	16 of 2020	20 Apr 2020	Act other than s. 1, 2, 11 and 12: 1 Mar 2020 (see s. 2(d)) s. 1 and 2: 20 Apr 2020 (see s. 2(a)); s. 11: 21 Apr 2020 (see s. 2(b))
<i>Pay-roll Tax Relief (COVID-19 Response) Amendment Act 2020</i>	35 of 2020	4 Nov 2020	s. 1 and 2: 4 Nov 2020 (see s. 2(a)); Act other than s. 1 and 2: 5 Nov 2020 (see s. 2(b))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
<i>Pay-roll Tax Relief (COVID-19 Response) Act 2020</i> s. 12	16 of 2020 (as amended 35 of 2020 s. 4)	20 Apr 2020	21 Apr 2022 (see s. 2(e))

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
assent day	2
emergency period	4(2)
jobkeeper payment	4(2)
jobkeeper subsidised exempt wages	4(2)
prescribed	4(2)
small business exempt wages	4(2)