

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

**Taxation Administration (Consequential
and Transitional Provisions) Bill 1998**

A BILL

FOR

**An Act to make certain transitional provisions, and to
amend certain Acts, in consequence of the enactment
of the *Taxation Administration Act 1998***

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

1. Short title

5 This Act may be cited as the *Taxation Administration (Consequential
and Transitional Provisions) Act 1998*.

2. Commencement

(1) Section 1 and this section commence on the day on which this Act is
notified in the *Gazette*.

10 (2) The remaining provisions commence on 1 March 1999.

3. Interpretation

(1) In this Act, unless the contrary intention appears—

“Administration Act” means the *Taxation Administration Act 1998*;

“former Act” means the *Taxation (Administration) Act 1987*.

5 (2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the Administration Act.

PART II—REPEAL

4. Acts repealed

The Acts specified in Schedule 1 are repealed.

10 **PART III—TRANSITIONAL PROVISIONS**

Division 1—Preservation of certain decisions and appointments

5. The Commissioner

15 The person who immediately before 1 March 1999 was the Commissioner under the former Act continues in office as Commissioner under the Administration Act as if appointed under the Administration Act.

6. Authorised officers and identity cards

(1) A person who immediately before 1 March 1999 was an authorised tax officer under the former Act is deemed to have been made an authorised officer under the Administration Act on that date.

20 (2) An identity card issued for the purposes of subsection 12 (3) of the former Act is deemed to be an identity card issued or recognised on 1 March 1999 under section 80 of the Administration Act.

7. Approvals to vary returns

25 A notice under subsection 12B (3) of the former Act that was in force immediately before 1 March 1999, varying the period in relation to which, or time within which a return is to be lodged, continues in force as if duly issued under subsection 40 (3) of the Administration Act.

8. Approvals to vary payments

30 (1) A permission under subsection 26 (4) of the former Act that was in force immediately before 1 March 1999, allowing further time for the payment of penalty tax, continues in force as if duly given under subsection 52 (1) of the Administration Act.

(2) A permission under subsection 26 (5) of the former Act that was in force immediately before 1 March 1999, allowing payment by instalments, continues in force as if duly given under subsection 52 (1) of the Administration Act.

5 **9. Group exemptions**

(1) An instrument under subsection 77 (2) of the former Act that was in force immediately before 1 March 1999, determining that a person is not a member of a group, continues in force as if duly issued under subsection 112 (2) of the Administration Act.

10 (2) Where an instrument referred to in subsection (1) could not have been made if the Administration Act had been in force at the time that it was made, the instrument ceases to be in force on 1 September 1999 if it does not cease to be in force on an earlier date.

10. Public officers

15 (1) Where a body corporate, immediately before 1 March 1999, was not exempted by the Commissioner from the requirement of having a public officer under subsection 82 (1) of the former Act, the Commissioner is deemed to have required the body, on that day, to have a public officer under subsection 117 (1) of the Administration Act.

20 (2) A person who immediately before 1 March 1999 was the public officer of a body corporate under the former Act continues as the public officer of the body under the Administration Act.

11. Determinations

25 (1) A determination made under section 99 of the former Act in relation to another Act continues in force as if made under section 139 of the Administration Act.

30 (2) A determination made under section 99 of the former Act in relation to subsection 66 (5) of the former Act continues in force as if made under section 139 of the Administration Act in relation to subsection 82 (5) of the Administration Act.

Division 2—Exceptions to section 38 of the Interpretation Act

12. Investigations and legal proceedings

Despite section 38 of the *Interpretation Act 1967*—

- 35 (a) an investigation in respect of a right, privilege, obligation or liability under the former Act shall be instituted or continued after 1 March 1999 in accordance with the Administration Act;
- (b) any document or other thing duly obtained or retained by the Commissioner under section 12 of the former Act shall be dealt with under sections 85 and 86 of the Administration Act; and

- (c) a legal proceeding in respect of a right, privilege, obligation or liability under the former Act that is commenced after 1 March 1999 shall be conducted in accordance with Division 5 of Part XI of the Administration Act.

5 **13. Interest and penalty tax**

Despite section 38 of the *Interpretation Act 1967*, where a tax default occurred before 1 March 1999 and continues in whole or in part after that date, the taxpayer shall be liable for interest or penalty tax in relation to the period beginning on that date in accordance with the Administration Act.

10 **14. Assessments and payments**

Despite section 38 of the *Interpretation Act 1967*, where a tax liability arose before 1 March 1999, that liability shall be dealt with under the Administration Act, in relation to any action taken or obligation arising after that date in relation to the liability, as if—

- 15 (a) an assessment duly made under sections 15 and 20 of the former Act had been duly made under sections 5 and 11 of the Administration Act;
- (b) an amended assessment duly made under section 22 of the former Act were a reassessment duly made under section 9 of the
20 Administration Act;
- (c) a compromise assessment duly made under section 22A of the former Act had been duly made under section 12 of the Administration Act;
- (d) any notice duly given under the former Act of, or of the
25 withdrawal of, an assessment referred to in paragraph (a), (b) or (c) had been duly given under the Administration Act;
- (e) a notice duly given to an agent of a non-resident under subsection 44 (1) of the former Act had been duly given under subsection 55 (2) of the Administration Act;
- 30 (f) a notice duly given to a debtor of a taxpayer under subsection 43 (1) of the former Act had been duly given under subsection 54 (2) of the Administration Act;
- (g) an objection duly lodged under Part XII of the former Act had been duly lodged under Part X of the Administration Act;
- 35 (h) a decision on an objection duly made under subsection 89 (3) of the former Act were a determination duly made under section 104 of the Administration Act;
- (i) a notice duly given under subsection 89 (3) of the former Act had been duly given under section 105 of the Administration Act; and

- (j) an application duly made to the Tribunal under section 91 of the former Act had been duly made under section 107 of the Administration Act.

PART III—CONSEQUENTIAL AMENDMENTS

5 **15. Consequential amendments of other Acts**

The Acts specified in Schedule 2 are amended as set out in that Schedule.

PART IV—MISCELLANEOUS

10 **16. Consequential and transitional regulations**

(1) The Executive may make regulations amending the provisions of this Act (other than this section), the Administration Act or any other Act in relation to any matter arising from, connected with or consequential upon the enactment of the Administration Act.

15 (2) Regulations made under subsection (1) may be expressed to have taken effect on a day earlier than the day on which they are notified in the *Gazette*, not being a day earlier than 1 March 1999.

(3) If regulations made under subsection (1) are expressed to take effect on a day earlier than the day on which they are notified in the *Gazette*, they do not operate so as to—

20 (a) affect, in a manner prejudicial to any person (other than the Territory or a Territory authority), the rights of that person existing at the day of notification; or

(b) impose liabilities on any person (other than the Territory or a Territory authority) in respect of any act or omission before the day
25 of notification.

(4) The Executive may only make regulations under subsection (1) during the period of 12 months commencing on 1 March 1999.

SCHEDULE 1

Section 4

ACTS REPEALED

- Taxation (Administration) Act 1987*
- Taxation (Administration) (Amendment) Act 1988*
- Taxation (Administration) (Amendment) Act (No. 2) 1988*
- Taxation (Administration) (Amendment) Act (No. 3) 1988*
- 5 *Taxation (Administration) (Amendment) Act (No. 4) 1988*
- Taxation (Administration) (Amendment) Act 1989*
- Taxation (Administration) (Amendment) Act 1990*
- Taxation (Administration) (Amendment) Act (No. 2) 1990*
- Taxation (Administration) (Amendment) Act (No. 3) 1990*
- 10 *Taxation (Administration) (Amendment) Act 1991*
- Taxation (Administration) (Amendment) Act (No. 2) 1991*
- Taxation (Administration) (Amendment) Act (No. 3) 1991*
- Taxation (Administration) (Amendment) Act 1993*
- Taxation (Administration) (Amendment) Act (No. 2) 1993*
- 15 *Taxation (Administration) (Amendment) Act 1994*
- Taxation (Administration) (Amendment) Act 1997*
- Taxation (Administration) (Amendment) Act 1998*

SCHEDULE 2

Section 15

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Administrative Decisions (Judicial Review) Act 1989

Schedule 1 (paragraph (c) (first occurring))—

5 Omit "*Taxation (Administration) Act 1987*", substitute "*Taxation Administration Act 1998*".

Ambulance Service Levy Act 1990

Section 3—

Omit the section, substitute the following section:

10 "3. **Incorporation of the Taxation Administration Act**

The *Taxation Administration Act 1998* is incorporated and shall be read as one with this Act."

Business Franchise (Liquor) Act 1993

Section 3 (definition of "Administration Act")—

15 Omit "*Taxation (Administration) Act 1987*", substitute "*Taxation Administration Act 1998*".

Section 3 (definitions of "determined amount" and "determined rate")—

Omit "subsection 99 (1)", substitute "section 139".

20 **Section 5—**

Omit the section, substitute the following section:

"5. **Incorporation of the Administration Act**

The Administration Act is incorporated and shall be read as one with this Act."

25 ***Debits Tax Act 1997***

Subsection 3 (1)—

Insert the following definition:

" 'Administration Act' means the *Taxation Administration Act 1998*;"

SCHEDULE 2—continued

Subsection 3 (1) (definition of “Taxation (Administration) Act”)—

Omit the definition.

Subsection 3 (4)—

5 Omit the subsection, substitute the following subsection:

“(4) For the purposes of this Act, tax or penalty tax payable under Part V of the Administration Act is due and payable at the expiration of the day by which the tax or penalty tax is required by this Act and Part VII of the Administration Act to be paid.”.

10 **Subsection 3 (5)—**

Omit “additional tax under this Act and Part IV of the Taxation (Administration) Act”, substitute “penalty tax under Part V of the Administration Act”.

Section 4—

15 Omit the section, substitute the following section:

“4 Incorporation of the Administration Act

The Administration Act is incorporated and shall be read as one with this Act.”.

Paragraph 12 (1) (b)—

20 Omit “to which an assessment made under section 20 of the Taxation (Administration) Act relates shall be paid not later than the day specified in a”, substitute “in relation to which a notice of assessment or reassessment has been issued under section 14 of the Administration Act shall be paid not later than the day specified in the”.

25 **Subsection 12 (2)—**

Omit the subsection.

Subsection 13 (3)—

Omit “Taxation (Administration) Act”, substitute “Administration Act”.

30 ***Financial Institutions Duty Act 1987***

Subsection 3 (1) (definition of “Commissioner”)—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1998*”.

SCHEDULE 2—continued

Gaming Machine Act 1987

Section 3A—

Omit the section, substitute the following section:

“3A. Incorporation of the Administration Act

5 The Administration Act is incorporated and shall be read as one with this Act.”.

Section 4—

Insert the following definition:

“ ‘Administration Act’ means the *Taxation Administration Act 1998*;”.

10 **Section 4 (definition of “Commissioner”)—**

Omit the definition, substitute the following definition:

“ ‘Commissioner’ has the same meaning as in the *Taxation (Administration) Act 1998*;”.

15 **Section 4 (definitions of “Taxation (Administration) Act” and “tax law”)—**

Omit the definitions.

Paragraph 15 (1) (a)—

Omit “subsection 18 (1) or (2) of the *Taxation (Administration) Act*”, substitute “section 82 of the *Administration Act*”.

20 **Subsection 23 (6)—**

Omit “*Taxation (Administration) Act*”, substitute “*Administration Act*”.

Paragraph 25A (2) (b)—

25 Omit “*Taxation (Administration) Act*”, substitute “*Administration Act*”.

Insurance Levy Act 1998

Section 3—

Omit the section, substitute the following section:

“3. Incorporation of the Taxation Administration Act—

30 The *Taxation Administration Act 1998* is incorporated and shall be read as one with this Act.”.

SCHEDULE 2—continued

Interactive Gambling Act 1998

Section 3 (definitions of “authorised tax officer” and “Commissioner”)—

Omit the definitions, substitute the following definitions:

5 “ ‘authorised tax officer’ means an authorised officer under the *Taxation Administration Act 1998*;

‘Commissioner’ has the same meaning as in the *Taxation (Administration) Act 1998*.”

Section 3 (definition of “tax law”)—

10 Omit the definition.

Section 7—

Omit the section, substitute the following section:

“7. Incorporation of the Taxation Administration Act

15 The *Taxation Administration Act 1998* is incorporated and shall be read as one with this Act.”

Paragraph 139 (2) (b)—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1998*”.

Liquor Act 1975

20 **Subsection 4 (1) (definition of “Commissioner”)—**

Omit the definition, substitute the following definition:

“ ‘Commissioner’ has the same meaning as in the *Taxation (Administration) Act 1998*.”

Payroll Tax Act 1987

25 **Section 2A—**

Omit the section, substitute the following section:

“2A. Incorporation of the Taxation Administration Act

The *Taxation Administration Act 1998* is incorporated and shall be read as one with this Act.”

SCHEDULE 2—continued

Subsection 3 (1) (definition of “determined rate”)—

Omit “section 99 of the *Taxation (Administration) Act 1987*”, substitute “section 139 of the *Taxation Administration Act 1998*”.

Subsection 14 (1)—

5 Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1998*”.

Subsection 16 (1)—

Omit “section 99 of the *Taxation (Administration) Act 1987*”, substitute “section 139 of the *Taxation Administration Act 1998*”.

10 ***Rates and Land Tax Act 1926***

Subsection 4 (1) (definition of “Commissioner”)—

Omit the definition, substitute the following definition:

“ ‘Commissioner’ has the same meaning as in the *Taxation (Administration) Act 1998*;”.

15 ***Subsidies (Liquor and Diesel) Act 1998***

Subsection 3 (1) (definition of “subsidy officer”, paragraph (a))—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1998*”.

20 **Paragraphs 19 (1) (b) and 40 (1) (b)—**

Omit the paragraphs, substitute the following paragraph:

“(b) at the interest rate set for the purposes of the *Taxation Administration Act 1998*; and”.

Tobacco Licensing Act 1984

25 **Section 2—**

Omit the section, substitute the following section:

“2. Incorporation of the Administration Act—

The Administration Act is incorporated and shall be read as one with this Act.”.

SCHEDULE 2—continued

Subsection 3 (1) (definition of “Administration Act”)—

Omit “*Taxation (Administration) Act 1987*”, substitute “*Taxation Administration Act 1998*”.

Paragraph 26 (1) (b)—

5 Omit “section 18”, substitute “section 82”.

Subsection 35A (1)—

Omit “section 18”, substitute “section 82”.

Paragraph 36 (1) (b)—

Omit “section 18”, substitute “section 82”.

10 **Section 39—**

Omit “section 96”, substitute “section 57”.