

# Taxation Legislation Amendment Bill 2014

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Western Australia

LEGISLATIVE ASSEMBLY

## **Taxation Legislation Amendment Bill 2014**

**A Bill for**

**An Act to amend the following Acts —**

- **the *Duties Act 2008*;**
- **the *Land Tax Assessment Act 2002*;**
- **the *Pay-roll Tax Assessment Act 2002*;**
- **the *Taxation Administration Act 2003*.**

The Parliament of Western Australia enacts as follows:

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**Part 1 — Preliminary**

**1. Short title**

This is the *Taxation Legislation Amendment Act 2014*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the rest of the Act — on the day after assent day.

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**Part 2 — Duties Act 2008 amended**

**3. Act amended**

This Part amends the *Duties Act 2008*.

**4. Section 3 amended**

In section 3 insert in alphabetical order:

***political party*** means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Parliament of the Commonwealth, or to a Parliament of a State or Territory, of a candidate or candidates endorsed by it or by a body or organisation of which it forms part;

***professional association*** means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the interests of its members in any profession;

***promote trade, industry or commerce*** includes to carry out an undertaking a purpose of which includes the promotion of, or the advocacy for, trade, industry or commerce, whether generally or in respect of any particular kind of trade, industry or commerce;

***relevant body*** has the meaning given in section 96A;

***trade union*** means any of the following —

- (a) an organisation registered under the *Industrial Relations Act 1979* section 53;
- (b) an association of employees registered as an organisation, or recognised, under the *Fair Work (Registered Organisations) Act 2009* (Commonwealth);
- (c) an association of employees registered or recognised as a trade union (however

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- 1 described) under the law of another State or a  
2 Territory;  
3 (d) an association of employees a principal purpose  
4 of which is the protection and promotion of the  
5 employees' interests in matters concerning their  
6 employment;  
7

8 **5. Section 95 amended**

9 (1) In section 95 delete "Duty" and insert:  
10

11 (1) Duty  
12

13 (2) At the end of section 95 insert:  
14

15 (2) However, subsection (1) does not apply if the person  
16 liable to pay duty on the dutiable transaction is a  
17 relevant body, or is related to a relevant body as  
18 referred to in subsection (3), unless a beneficial body  
19 determination is in force for the purposes of this Act in  
20 respect of the relevant body.

21 (3) A person liable to pay duty on a dutiable transaction is  
22 related to a relevant body if —

23 (a) the person holds the dutiable property the  
24 subject of the transaction as trustee of a trust;  
25 and

26 (b) the relevant body is a beneficiary under the  
27 trust, whether the relevant body has a vested  
28 share or is contingently entitled or is a potential  
29 beneficiary under a discretionary trust.  
30

1   **6.       Sections 96A, 96B and 96C inserted**

2           After section 95 insert:

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4           **96A.    What is a relevant body**

5           A reference to a relevant body is to any of the  
6           following —

- 7           (a) a political party;
- 8           (b) a trade union;
- 9           (c) a professional association;
- 10          (d) a body, other than a body referred to in  
11           paragraph (a), (b), (c) or (e), that promotes  
12           trade, industry or commerce, unless the sole or  
13           dominant purpose of the body is —
- 14           (i) the relief of poverty; or
- 15           (ii) the advancement of education; or
- 16           (iii) the advancement of religion;
- 17          (e) a body that is a member of a class of bodies  
18           prescribed for the purposes of this paragraph;
- 19          (f) a body that —
- 20           (i) is a member of a group, as defined in  
21           the *Pay-roll Tax Assessment Act 2002*  
22           Glossary, of which a body referred to in  
23           another paragraph is also a member; or
- 24           (ii) is a related body corporate, as defined in  
25           the Corporations Act section 9, of a  
26           body referred to in another paragraph;  
27           or
- 28           (iii) has as its sole or dominant purpose or  
29           object the conferral of a benefit,  
30           whether financial or non-financial, on a  
31           body referred to in another paragraph.

- 1           **96B. Application for a beneficial body determination**
- 2           (1) An application may be made to the Minister for a
- 3           determination under section 96C that a relevant body is
- 4           a beneficial body for the purposes of the taxation Acts
- 5           if —
- 6           (a) the Commissioner has decided (the *decision*)
- 7           that —
- 8           (i) a dutiable transaction is not an exempt
- 9           transaction under section 95; or
- 10           (ii) an acquisition is not exempt under
- 11           section 168(1) because the transfer
- 12           referred to in that section would not be
- 13           an exempt transaction under section 95;
- 14           and
- 15           (b) that decision is made solely on the ground that
- 16           the person liable to pay duty on the dutiable
- 17           transaction, or who would be liable to pay duty
- 18           on the transfer, is —
- 19           (i) a relevant body referred to in
- 20           section 96A(c), (d), (e) or (f); or
- 21           (ii) related to such a relevant body as
- 22           referred to in section 95(3).
- 23           (2) An application referred to in subsection (1) can be
- 24           made only if —
- 25           (a) an objection was made to the decision and the
- 26           objection and any subsequent review
- 27           proceedings are exhausted, discontinued or
- 28           finally determined; or
- 29           (b) under the Taxation Administration Act
- 30           section 34B —
- 31           (i) all rights of objection or review
- 32           conferred by that Act in respect of the
- 33           decision have been surrendered; or



- 1 (ii) an objection to the decision has been  
2 determined and all rights to take review  
3 proceedings on the Commissioner's  
4 decision on the objection have been  
5 surrendered.
- 6 (3) However, an application referred to in subsection (1)  
7 cannot be made if the decision was made, or  
8 confirmed, on a reassessment made on an application  
9 made by the taxpayer —
- 10 (a) under the Taxation Administration Act  
11 section 16(2)(b); and
- 12 (b) after the right to object to the original  
13 assessment had expired.
- 14 (4) An application referred to in subsection (1) must be  
15 made within 60 days after subsection (2) first applies in  
16 respect of the decision.

17 **96C. Beneficial body determination**

- 18 (1) On an application under section 96B the Minister, with  
19 the Treasurer's concurrence, may determine that a  
20 relevant body is a beneficial body for the purposes of  
21 the taxation Acts.
- 22 (2) The Minister, with the Treasurer's concurrence, may  
23 amend or revoke a beneficial body determination.
- 24 (3) The Minister may make, amend or revoke a beneficial  
25 body determination only if the Minister is of the  
26 opinion that it is in the public interest to do so and after  
27 considering any information that the Minister considers  
28 relevant.
- 29 (4) The Minister is to publish notice of the making,  
30 amendment or revocation of a beneficial body  
31 determination in the *Gazette*.

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- 1 (5) A beneficial body determination is subject to the  
2 conditions specified in the determination (if any).
- 3 (6) A beneficial body determination made under this  
4 section comes into force —
- 5 (a) for the purposes of this Act — on the day on  
6 which the determination is made; and
- 7 (b) for the purposes of the *Land Tax Assessment*  
8 *Act 2002* and the *Pay-roll Tax Assessment*  
9 *Act 2002* — on the day specified in the notice  
10 in respect of each Act.
- 11 (7) Despite subsection (6)(a), a beneficial body  
12 determination made under this section applies in  
13 relation to the relevant body in respect of —
- 14 (a) the dutiable transaction, or acquisition, that is  
15 the subject of the application under section 96B  
16 (the ***original transaction***); and
- 17 (b) any other transaction —
- 18 (i) that was entered into or occurred after  
19 the original transaction but before the  
20 determination was made; and
- 21 (ii) on which duty would not have been  
22 chargeable under section 95 (including  
23 for the purposes of section 168) had the  
24 determination been in force for the  
25 purposes of this Act in respect of the  
26 relevant body.
- 27 (8) The Commissioner is to reassess the liability to duty of  
28 each transaction in respect of which a beneficial body  
29 determination applies under subsection (7).
- 30 (9) The limitations as to time in the Taxation  
31 Administration Act section 17 do not apply in respect  
32 of a reassessment under subsection (8).

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- (10) A beneficial body determination continues in force until the day on which notice of the revocation is published in the *Gazette*, and different days may be specified for each Act in respect of which the determination is in force.

1 **Part 3 — *Land Tax Assessment Act 2002* amended**

2 **7. Act amended**

3 This Part amends the *Land Tax Assessment Act 2002*.

4 **8. Section 37 replaced**

5 Delete section 37 and insert:

6

7 **37. Land owned by public charitable or benevolent**  
8 **institutions, exemption for**

9 (1) In this section —

10 *public charitable or benevolent institution* does not  
11 include an institution that is a relevant body, unless a  
12 beneficial body determination is in force for the  
13 purposes of this Act in respect of the relevant body.

14 (2) Land is exempt for an assessment year if at midnight  
15 on 30 June in the previous financial year, the land is —

- 16 (a) owned by, vested in or held in trust for a public  
17 charitable or benevolent institution; and  
18 (b) used solely for the public charitable or  
19 benevolent purposes for which the institution  
20 was established.

21 (3) This section applies to an assessment year that  
22 commences on or after 1 July 2015.

23

1   **9.       Sections 38AA, 38AB and 38AC inserted**

2           After section 37 insert:

3

4           **38AA.   What is a relevant body**

5           A reference to a relevant body is to any of the  
6           following —

- 7           (a)   a political party;
- 8           (b)   a trade union;
- 9           (c)   a professional association;
- 10          (d)   a body, other than a body referred to in  
11              paragraph (a), (b), (c) or (e), that promotes  
12              trade, industry or commerce, unless the sole or  
13              dominant purpose of the body is —
- 14                  (i)   the relief of poverty; or
- 15                  (ii)  the advancement of education; or
- 16                  (iii) the advancement of religion;
- 17          (e)   a body that is a member of a class of bodies  
18              prescribed for the purposes of this paragraph;
- 19          (f)   a body that —
- 20                  (i)   is a member of a group, as defined in  
21                      the *Pay-roll Tax Assessment Act 2002*  
22                      Glossary, of which a body referred to in  
23                      another paragraph is also a member; or
- 24                  (ii)  is a related body corporate, as defined in  
25                      the *Corporations Act 2001*  
26                      (Commonwealth) section 9, of a body  
27                      referred to in another paragraph; or
- 28                  (iii) has as its sole or dominant purpose or  
29                      object the conferral of a benefit,  
30                      whether financial or non-financial, on a  
31                      body referred to in another paragraph.

- 1           **38AB. Application for a beneficial body determination**
- 2           (1) An application may be made to the Minister for a
- 3           determination under section 38AC that a relevant body
- 4           is a beneficial body for the purposes of the taxation
- 5           Acts if —
- 6               (a) the Commissioner has decided (the *decision*)
- 7               that land is not exempt under section 37; and
- 8               (b) that decision is made solely on the ground that
- 9               the land is owned by, vested in or held in trust
- 10              for a relevant body referred to in
- 11              section 38AA(c), (d), (e) or (f).
- 12           (2) An application referred to in subsection (1) can be
- 13           made only if —
- 14               (a) an objection was made to the decision and the
- 15               objection and any subsequent review
- 16               proceedings are exhausted, discontinued or
- 17               finally determined; or
- 18               (b) under the *Taxation Administration Act 2003*
- 19               section 34B —
- 20                   (i) all rights of objection or review
- 21                   conferred by that Act in respect of the
- 22                   decision have been surrendered; or
- 23                   (ii) an objection to the decision has been
- 24                   determined and all rights to take review
- 25                   proceedings on the Commissioner’s
- 26                   decision on the objection have been
- 27                   surrendered.
- 28           (3) However, an application referred to in subsection (1)
- 29           cannot be made if the decision was made, or
- 30           confirmed, on a reassessment made on an application
- 31           made by the taxpayer —
- 32               (a) under the *Taxation Administration Act 2003*
- 33               section 16(2)(b); and

- 1                   (b) after the right to object to the original  
2                   assessment had expired.
- 3           (4) An application referred to in subsection (1) must be  
4           made within 60 days after subsection (2) first applies in  
5           respect of the decision.

6           **38AC. Beneficial body determination**

- 7           (1) On an application under section 38AB the Minister,  
8           with the Treasurer's concurrence, may determine that a  
9           relevant body is a beneficial body for the purposes of  
10          the taxation Acts.
- 11          (2) The Minister, with the Treasurer's concurrence, may  
12          revoke or amend a beneficial body determination.
- 13          (3) The Minister may make, amend or revoke a beneficial  
14          body determination only if the Minister is of the  
15          opinion that it is in the public interest to do so and after  
16          considering any information that the Minister considers  
17          relevant.
- 18          (4) The Minister is to publish notice of the making,  
19          amendment or revocation of a beneficial body  
20          determination in the *Gazette*.
- 21          (5) A beneficial body determination is subject to the  
22          conditions specified in the determination (if any).
- 23          (6) A beneficial body determination made under this  
24          section comes into force —
- 25                  (a) for the purposes of this Act — on the day on  
26                  which the determination is made; and
- 27                  (b) for the purposes of the *Duties Act 2008* and the  
28                  *Pay-roll Tax Assessment Act 2002* — on the  
29                  day specified in the notice in respect of each  
30                  Act.

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- 1           (7) Despite subsection (6)(a), a beneficial body  
2           determination made under this section applies in  
3           relation to the relevant body —
- 4               (a) for the assessment year in respect of which the  
5               application under section 38AB was made (the  
6               ***original assessment year***); and
- 7               (b) for any subsequent assessment year —
- 8                   (i) after the original assessment year up to,  
9                   and including, the assessment year  
10                  during which the determination was  
11                  made; and
- 12                  (ii) in respect of which land would have  
13                  been exempt under section 37 had the  
14                  determination been in force for the  
15                  purposes of this Act in respect of the  
16                  relevant body.
- 17           (8) The Commissioner is to reassess the land tax payable  
18           on land for each assessment year in respect of which a  
19           beneficial body determination applies under  
20           subsection (7).
- 21           (9) The limitations as to time in the *Taxation*  
22           *Administration Act 2003* section 17 do not apply in  
23           respect of a reassessment under subsection (8).
- 24           (10) A beneficial body determination continues in force  
25           until the day on which notice of the revocation is  
26           published in the *Gazette*, and different days may be  
27           specified for each Act in respect of which the  
28           determination is in force.  
29



1    **10.     Schedule 1 amended**

2           At the end of Schedule 1 insert:

3

4                           **Division 3 — Provisions for the *Taxation Legislation***  
5   ***Amendment Act 2014***

6           **3.       Terms used**

7                   In this Division —

8                   *new provisions* means sections 37, 38AA, 38AB and 38AC  
9                   as in force immediately after the commencement of the  
10                   amendments effected by the *Taxation Legislation*  
11                   *Amendment Act 2014* Part 3;

12                   *previously exempt land* means land that was exempt under  
13                   section 37 for the assessment year immediately before the  
14                   first assessment year to which the new provisions apply.

15           **4.       Previously exempt land: section 37**

16                   (1) If the Commissioner forms the preliminary view that  
17                   previously exempt land may not be exempt under the new  
18                   provisions, then the Commissioner is to give notice  
19                   (*preliminary notice about an exemption under section 37*)  
20                   to the person who would be liable to pay land tax on that  
21                   land informing the person —

22                           (a) that the Commissioner has formed such a  
23                           preliminary view; and

24                           (b) about the effect of this clause.

25                   (2) If preliminary notice about an exemption under section 37 is  
26                   given, the Commissioner is to decide whether or not the  
27                   previously exempt land will be exempt under the new  
28                   provisions.

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- 1 (3) The Commissioner is to give notice to the person who  
2 would be liable to pay land tax on the previously exempt  
3 land informing the person of —
- 4 (a) the Commissioner’s decision as to whether or not  
5 the previously exempt land will be exempt under  
6 the new provisions; and
- 7 (b) the grounds on which the decision is made.
- 8 (4) Despite the amendments effected by the *Taxation*  
9 *Legislation Amendment Act 2014* Part 3 —
- 10 (a) the new provisions do not apply in relation to  
11 previously exempt land until the assessment year  
12 following the financial year during which notice is  
13 given under subclause (3); and
- 14 (b) this Act as in force immediately before the  
15 commencement of those amendments continues to  
16 apply to that land until that time.
- 17 **5. Beneficial body determination: application may be made**
- 18 Despite clause 4(4), if the Commissioner makes a decision  
19 under clause 4 that previously exempt land will not be  
20 exempt under the new provisions solely on the ground that  
21 an institution is a relevant body referred to in  
22 section 38AA(c), (d), (e) or (f), then —
- 23 (a) an application may be made under section 38AB of  
24 the new provisions for a beneficial body  
25 determination in respect of the relevant body; and
- 26 (b) the new provisions apply to and in respect of that  
27 application, and any subsequent determination, as if  
28 a reference in section 38AB(1) to the decision were  
29 a reference to the decision of the Commissioner  
30 under clause 4.  
31

1     **11.     Glossary amended**

2             In the Glossary clause 1 insert in alphabetical order:

3  
4             ***political party*** means a body or organisation, whether  
5             incorporated or unincorporated, having as one of its objects  
6             or activities the promotion of the election to the Parliament  
7             of the Commonwealth, or to a Parliament of a State or  
8             Territory, of a candidate or candidates endorsed by it or by a  
9             body or organisation of which it forms part;

10            ***professional association*** means a body or organisation,  
11            whether incorporated or unincorporated, having as one of its  
12            objects or activities the promotion of the interests of its  
13            members in any profession;

14            ***promote trade, industry or commerce*** includes to carry out  
15            an undertaking a purpose of which includes the promotion  
16            of, or the advocacy for, trade, industry or commerce,  
17            whether generally or in respect of any particular kind of  
18            trade, industry or commerce;

19            ***relevant body*** has the meaning given in section 38AA;

20            ***trade union*** means any of the following —

- 21            (a) an organisation registered under the *Industrial*  
22            *Relations Act 1979* section 53;
- 23            (b) an association of employees registered as an  
24            organisation, or recognised, under the *Fair Work*  
25            *(Registered Organisations) Act 2009*  
26            (Commonwealth);
- 27            (c) an association of employees registered or  
28            recognised as a trade union (however described)  
29            under the law of another State or a Territory;
- 30            (d) an association of employees a principal purpose of  
31            which is the protection and promotion of the  
32            employees' interests in matters concerning their  
33            employment;
- 34

1 **Part 4 — *Pay-roll Tax Assessment Act 2002* amended**

2 **12. Act amended**

3 This Part amends the *Pay-roll Tax Assessment Act 2002*.

4 **13. Section 41 amended**

5 (1) At the beginning of section 41 insert:

6

7 (1A) A charitable body or organisation is exempt under this  
8 section from liability to pay-roll tax if —

9 (a) an exemption given by the Commissioner under  
10 subsection (2) is in force in respect of the body  
11 or organisation; or

12 (b) it is a relevant body in respect of which a  
13 beneficial body determination is in force for the  
14 purposes of this Act.

15

16 (2) After section 41(2) insert:

17

18 (3A) However, a charitable body or organisation that is a  
19 relevant body cannot be given an exemption by the  
20 Commissioner under subsection (2).

21

22 (3) In section 41(3) and (4) delete “The exemption” and insert:

23

24 An exemption given by the Commissioner under subsection (2)

25

26 (4) After section 41(4) insert:

27

28 (5) The day on which an exemption given by the  
29 Commissioner under subsection (2) comes into

- 1 operation under subsection (4) cannot be earlier  
2 than —
- 3 (a) if the charitable body or organisation is  
4 registered, or has at any time been registered,  
5 the commencement of the assessment year  
6 during which the application for the exemption  
7 was made; or
- 8 (b) otherwise, the commencement of the  
9 assessment year that is 5 years before the  
10 assessment year in which the charitable body or  
11 organisation was first found by the  
12 Commissioner to be liable to pay-roll tax.  
13

- 14 (5) In section 41(6) delete “The exemption” and insert:  
15

16 An exemption given by the Commissioner under subsection (2)  
17

- 18 (6) In section 41(7) delete “the exemption” and insert:  
19

20 an exemption given under subsection (2)  
21

22 **14. Sections 42A, 42B and 42C inserted**

23 After section 41 insert:  
24

25 **42A. What is a relevant body**

26 A reference to a relevant body is to any of the  
27 following —

- 28 (a) a political party;  
29 (b) a trade union;  
30 (c) a professional association;

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- 1 (d) a body, other than a body referred to in  
2 paragraph (a), (b), (c) or (e), that promotes  
3 trade, industry or commerce, unless the sole or  
4 dominant purpose of the body is —  
5 (i) the relief of poverty; or  
6 (ii) the advancement of education; or  
7 (iii) the advancement of religion;  
8 (e) a body that is a member of a class of bodies  
9 prescribed for the purposes of this paragraph;  
10 (f) a body that —  
11 (i) is a member of a group of which a body  
12 referred to in another paragraph is also a  
13 member; or  
14 (ii) is a related body corporate of a body  
15 referred to in another paragraph; or  
16 (iii) has as its sole or dominant purpose or  
17 object the conferral of a benefit,  
18 whether financial or non-financial, on a  
19 body referred to in another paragraph.

20 **42B. Application for a beneficial body determination**

- 21 (1) An application may be made to the Minister for a  
22 determination under section 42C that a relevant body is  
23 a beneficial body for the purposes of the taxation Acts  
24 if —  
25 (a) the Commissioner has (the *decision*) —  
26 (i) refused to give an exemption under  
27 section 41(2); or  
28 (ii) revoked an exemption under  
29 section 41(7);  
30 and  
31 (b) that decision is made solely on the ground that  
32 the applicant for the exemption, or the subject

- 1                               of the revoked exemption, is a relevant body  
2                               referred to in section 42A(c), (d), (e) or (f).
- 3               (2) An application referred to in subsection (1) can be  
4               made only if —
- 5                       (a) an objection was made to the decision and the  
6                       objection and any subsequent review  
7                       proceedings are exhausted, discontinued or  
8                       finally determined; or
- 9                       (b) under the *Taxation Administration Act 2003*  
10                      section 34B —
- 11                       (i) all rights of objection or review  
12                       conferred by that Act in respect of the  
13                       decision have been surrendered; or
- 14                       (ii) an objection to the decision has been  
15                       determined and all rights to take review  
16                       proceedings on the Commissioner’s  
17                       decision on the objection have been  
18                       surrendered.
- 19               (3) However, an application referred to in subsection (1)  
20               cannot be made if the decision was made, or  
21               confirmed, on a reassessment made on an application  
22               made by the taxpayer —
- 23                       (a) under the *Taxation Administration Act 2003*  
24                       section 16(2)(b); and
- 25                       (b) after the right to object to the original  
26                       assessment had expired.
- 27               (4) An application referred to in subsection (1) must be  
28               made within 60 days after subsection (2) first applies in  
29               respect of the decision.

30       **42C. Beneficial body determination**

- 31               (1) On an application under section 42B the Minister, with  
32               the Treasurer’s concurrence, may determine that a

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- 1 relevant body is a beneficial body for the purposes of  
2 the taxation Acts.
- 3 (2) The Minister, with the Treasurer's concurrence, may  
4 amend or revoke a beneficial body determination.
- 5 (3) The Minister may make, amend or revoke a beneficial  
6 body determination only if the Minister is of the  
7 opinion that it is in the public interest to do so and after  
8 considering any information that the Minister considers  
9 relevant.
- 10 (4) The Minister is to publish notice of the making,  
11 amendment or revocation of a beneficial body  
12 determination in the *Gazette*.
- 13 (5) A beneficial body determination is subject to the  
14 conditions specified in the determination (if any).
- 15 (6) A beneficial body determination made under this  
16 section comes into force —
- 17 (a) for the purposes of this Act — on the day on  
18 which the determination is made; and
- 19 (b) for the purposes of the *Duties Act 2008* and the  
20 *Land Tax Assessment Act 2002* — on the day  
21 specified in the notice in respect of each Act.
- 22 (7) Despite subsection (6)(a), a beneficial body  
23 determination made under this section applies —
- 24 (a) on and from the day specified by the Minister  
25 in the determination, and section 41(5) applies  
26 in relation to specifying that day as if it were  
27 the day on which an exemption under  
28 section 41(2) comes into operation; and
- 29 (b) in relation to any liability to pay-roll tax in  
30 respect of which the relevant body would have  
31 been exempt under section 41 had a beneficial  
32 body determination been in force for the



- 1 purposes of this Act in respect of the relevant  
2 body.
- 3 (8) The Commissioner is to reassess the liability to  
4 pay-roll tax of a relevant body for the period in respect  
5 of which a beneficial body determination applies in  
6 respect of the body under subsection (7).
- 7 (9) The limitations as to time in the *Taxation*  
8 *Administration Act 2003* section 17 do not apply in  
9 respect of a reassessment under subsection (8).
- 10 (10) A beneficial body determination continues in force  
11 until the day on which notice of the revocation is  
12 published in the *Gazette*, and different days may be  
13 specified for each Act in respect of which the  
14 determination is in force.  
15

16 **15. Schedule 1 amended**

17 At the end of Schedule 1 insert:

18  
19 **Division 4 — Provisions for the *Taxation Legislation***  
20 ***Amendment Act 2014***

21 **10. Terms used**

22 In this Division —

23 ***commencement day*** means the day on which the *Taxation*  
24 *Legislation Amendment Act 2014* Part 4 comes into  
25 operation;

26 ***exemption*** means an exemption under section 41;

27 ***new provisions*** means sections 41, 42A, 42B and 42C as in  
28 force immediately after commencement day;

29 ***previously exempt charitable body or organisation*** means a  
30 charitable body or organisation in respect of which an  
31 exemption was in force immediately before commencement  
32 day.

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- 1           **11. Exemptions currently held by relevant bodies may be**  
2           **revoked**
- 3           (1) If the Commissioner forms the preliminary view that a  
4           previously exempt charitable body or organisation may be a  
5           relevant body then the Commissioner is to give notice  
6           (*preliminary notice about an exemption under section 41*)  
7           to that body or organisation informing it —
- 8                 (a) that the Commissioner has formed such a  
9                 preliminary view; and
- 10                (b) that the exemption may be revoked under this  
11                clause; and
- 12                (c) that if the exemption is revoked under this clause,  
13                the revocation will have effect on and from the day  
14                specified in the notice, being a day that is at least  
15                2 months after the day on which the notice is given  
16                (*the specified day*).
- 17           (2) If preliminary notice about an exemption under section 41 is  
18           given the Commissioner is to decide whether or not the  
19           previously exempt charitable body or organisation is a  
20           relevant body.
- 21           (3) If the Commissioner decides that the previously exempt  
22           charitable body or organisation is a relevant body, the  
23           Commissioner, by notice given to the body or organisation,  
24           is to —
- 25                 (a) revoke the exemption; and
- 26                 (b) inform the previously exempt charitable body or  
27                 organisation of the grounds on which the decision to  
28                 revoke the exemption was made.
- 29           (4) The revocation of an exemption under this clause has  
30           effect —
- 31                 (a) on and from the specified day; and
- 32                 (b) for the purposes of an application under  
33                 section 42B, as if the revocation were made under  
34                 section 41(7).

- 1           (5) If the Minister makes a determination under section 42C of  
2           the new provisions that the previously exempt charitable  
3           body or organisation in respect of which an exemption was  
4           revoked is a beneficial body for the purposes of the taxation  
5           Acts, then the new provisions apply in relation to that  
6           determination as if —
- 7                   (a) a reference in section 42C(6)(a) to the day on which  
8                   the determination comes into force for the purposes  
9                   of this Act were a reference to the specified day;  
10                  and
- 11                  (b) a reference in section 42C(7) to the day on and from  
12                  which the beneficial body determination applies  
13                  were a reference to the specified day.
- 14           **12. Exemptions for periods before the commencement of the**  
15           ***Taxation Legislation Amendment Act 2014 Part 4***
- 16           (1) This clause applies to a charitable body or organisation if,  
17           after commencement day —
- 18                   (a) the charitable body or organisation becomes  
19                   registered and applies for an exemption; and
- 20                   (b) the Commissioner decides that the charitable body  
21                   or organisation is a relevant body.
- 22           (2) Despite section 41(3A), the Commissioner may give an  
23           exemption under section 41(2) to a charitable body or  
24           organisation to which this clause applies but such an  
25           exemption —
- 26                   (a) does not apply to the period on and after  
27                   commencement day; and
- 28                   (b) is to be taken to have been revoked immediately  
29                   before that day.

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- 1           **13.       A body or organisation given an exemption under**  
2           **clause 12 may apply for a beneficial body determination**
- 3           (1) If the Commissioner makes a decision under clause 12(1)(b)  
4           solely on the ground that the charitable body or organisation  
5           is a relevant body referred to in section 42A(c), (d), (e) or (f)  
6           (the *relevant body*), then —
- 7                   (a) an application may be made under section 42B for a  
8                   beneficial body determination in respect of the  
9                   relevant body; and
- 10                   (b) the new provisions apply to and in respect of that  
11                   application, and any subsequent determination, as if  
12                   a reference in section 42B(1) to the decision were a  
13                   reference to the decision of the Commissioner under  
14                   clause 12(1)(b).
- 15           (2) If the Minister makes a beneficial body determination under  
16           section 42C in respect of a relevant body, then the new  
17           provisions apply in relation to that determination as if —
- 18                   (a) a reference in section 42C(6)(a) to the day on which  
19                   the determination comes into force for the purposes  
20                   of this Act were a reference to commencement day;  
21                   and
- 22                   (b) a reference in section 42C(7) to the day on and from  
23                   which the beneficial body determination applies  
24                   were a reference to commencement day.  
25
- 26           **16.       Glossary amended**
- 27           In the Glossary clause 1 insert in alphabetical order:
- 28
- 29                   *political party* means a body or organisation, whether  
30                   incorporated or unincorporated, having as one of its objects  
31                   or activities the promotion of the election to the Parliament  
32                   of the Commonwealth, or to a Parliament of a State or  
33                   Territory, of a candidate or candidates endorsed by it or by a  
34                   body or organisation of which it forms part;

- 1                    **professional association** means a body or organisation,  
2                    whether incorporated or unincorporated, having as one of its  
3                    objects or activities the promotion of the interests of its  
4                    members in any profession;
- 5                    **promote trade, industry or commerce** includes to carry out  
6                    an undertaking a purpose of which includes the promotion  
7                    of, or the advocacy for, trade, industry or commerce,  
8                    whether generally or in respect of any particular kind of  
9                    trade, industry or commerce;
- 10                  **relevant body** has the meaning given in section 42A;
- 11                  **trade union** means any of the following —
- 12                    (a)    an organisation registered under the *Industrial*  
13                    *Relations Act 1979* section 53;
- 14                    (b)    an association of employees registered as an  
15                    organisation, or recognised, under the *Fair Work*  
16                    *(Registered Organisations) Act 2009*  
17                    (Commonwealth);
- 18                    (c)    an association of employees registered or  
19                    recognised as a trade union (however described)  
20                    under the law of another State or a Territory;
- 21                    (d)    an association of employees a principal purpose of  
22                    which is the protection and promotion of the  
23                    employees' interests in matters concerning their  
24                    employment;
- 25

1 **Part 5 — Taxation Administration Act 2003 amended**

2 **17. Act amended**

3 This Part amends the *Taxation Administration Act 2003*.

4 **18. Sections 34A and 34B inserted**

5 At the end of Part 4 Division 1 insert:

6

7 **34A. Beneficial body determinations**

8 (1) A decision to make, or not to make, or to revoke or  
9 amend, a beneficial body determination is final and not  
10 subject to objection or review under this Act or to any  
11 other form of appeal or review.

12 (2) No action can be brought in any court or tribunal to  
13 compel the Minister to make a beneficial body  
14 determination.

15 **34B. Surrender of right of objection or review**

16 (1) This section applies to a decision in respect of which  
17 an application may be made for a beneficial body  
18 determination.

19 (2) If a taxpayer gives written notice in respect of a  
20 decision to which this section applies to the  
21 Commissioner to the effect that —

22 (a) the taxpayer surrenders all rights of objection or  
23 review conferred by this Act in respect of the  
24 decision, then the decision is not subject to  
25 objection or review under this Act or to any  
26 other form of appeal or review; or

27 (b) an objection to the decision having been  
28 determined, the taxpayer surrenders all  
29 subsequent rights of review conferred by this  
30 Act in respect of the decision, then the decision

1                                   is not subject to review under this Act or to any  
2                                   other form of appeal or review.

- 3           (3) Notice about a decision cannot be given —
- 4                   (a) under subsection (2)(a) after the right to object  
5                   to the decision under this Act has expired; or
- 6                   (b) under subsection (2)(b) after the right to take  
7                   review proceedings in respect of the decision  
8                   has expired.
- 9

10 **19. Section 34 amended**

11           After section 34(2)(ca) insert:

12

- 13                   (cb) a decision to make, or not to make, or to revoke  
14                   or amend, a beneficial body determination;
- 15                   (cc) a decision which, under section 34B(2)(a), is  
16                   not subject to objection under this Act;
- 17

18 **20. Section 40 amended**

19           After section 40(2) insert:

20

- 21           (3) Subsection (1) does not apply to, or in respect of, a  
22           decision if this Act expressly provides that the decision  
23           is not subject to review under this Act.
- 24

25 **21. Glossary amended**

26           In the Glossary clause 1 insert in alphabetical order:

27

28                   ***beneficial body determination*** means a determination that a  
29                   relevant body is a beneficial body for the purposes of the  
30                   taxation Acts made under any of the following —

- 31                   (a) the *Duties Act 2008* section 96C;

**Taxation Legislation Amendment Bill 2014**

**Part 5** Taxation Administration Act 2003 amended

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- 1 (b) the *Land Tax Assessment Act 2002* section 38AC;  
2 (c) the *Pay-roll Tax Assessment Act 2002* section 42C;  
3 ***objection*** means an objection under Part 4;

4

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