

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:

3

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).

- 1 (10) A beneficial body determination continues in force
2 until the day on which notice of the revocation is
3 published in the *Gazette*, and different days may be
4 specified for each Act in respect of which the
5 determination is in force.
6

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.

- 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;

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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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