

Taxation Legislation Amendment Bill 2014

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended in Committee)

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;

industrial association means any of the following —

- (a) an organisation registered under the *Industrial Relations Act 1979* section 53 or 54;
- (b) an association of employees, or an association of employers, 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 (ca) an association of employers registered or
4 recognised as such (however described) under
5 the law of another State or a Territory;
- 6 (d) an association of employees a principal purpose
7 of which is the protection and promotion of the
8 employees' interests in matters concerning their
9 employment;
- 10

11 **5. Section 95 amended**

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

13

14 (1) Duty

15

16 (2) At the end of section 95 insert:

17

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

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

26 (a) the person holds the dutiable property the
27 subject of the transaction as trustee of a trust;
28 and

29 (b) the relevant body is a beneficiary under the
30 trust, whether the relevant body has a vested
31 share or is contingently entitled or is a potential

- 1 beneficiary under a discretionary trust,
2 unless —
3 (i) the trust is a discretionary trust; and
4 (ii) the Commissioner decides in a
5 particular case that it would be
6 inequitable for the person to be treated
7 as related to the relevant body.

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

9 After section 95 insert:
10

11 **96A. What is a relevant body**

12 A reference to a relevant body is to any of the
13 following —

- 14 (a) a political party;
15 (b) an industrial association;
16 (c) a professional association;
17 (d) a body, other than a body referred to in
18 paragraph (a), (b), (c) or (e), that promotes
19 trade, industry or commerce, unless the main
20 purposes of the body are charitable purposes
21 that fall within the first 3 categories (being
22 relief of poverty, advancement of education and
23 advancement of religion) identified by Lord
24 Macnaghten in *Commissioners for Special*
25 *Purposes of Income Tax v Pemsel* [1891]
26 AC 531 as developed by the common law of
27 Australia from time to time;
28 (e) a body that is a member of a class of bodies
29 prescribed for the purposes of this paragraph;
30 (f) a body that —
31 (i) is a member of a group, as defined in
32 the *Pay-roll Tax Assessment Act 2002*

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- 1 Glossary, of which a body referred to in
2 another paragraph is also a member; or
3 (ii) is a related body corporate, as defined in
4 the Corporations Act section 9, of a
5 body referred to in another paragraph;
6 or
7 (iii) has as its sole or dominant purpose or
8 object the conferral of a benefit,
9 whether financial or non-financial, on a
10 body referred to in another paragraph.

11 **96B. Application for a beneficial body determination**

- 12 (1) An application may be made to the Minister for a
13 determination under section 96C that a relevant body is
14 a beneficial body for the purposes of the taxation Acts
15 if —
16 (a) the Commissioner has decided (the *decision*)
17 that —
18 (i) a dutiable transaction is not an exempt
19 transaction under section 95; or
20 (ii) an acquisition is not exempt under
21 section 168(1) because the transfer
22 referred to in that section would not be
23 an exempt transaction under section 95;
24 and
25 (b) that decision is made solely on the ground that
26 the person liable to pay duty on the dutiable
27 transaction, or who would be liable to pay duty
28 on the transfer, is —
29 (i) a relevant body referred to in
30 section 96A(c), (d), (e) or (f); or
31 (ii) related to such a relevant body as
32 referred to in section 95(3).

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

28 **96C. Beneficial body determination**

- 29 (1) On an application under section 96B the Minister, with
30 the Treasurer’s concurrence, may determine that a
31 relevant body is a beneficial body for the purposes of
32 the taxation Acts.

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- 1 (2) The Minister, with the Treasurer's concurrence, may
2 amend or revoke a beneficial body determination.
- 3 (3) The Minister may make, amend or revoke a beneficial
4 body determination only if the Minister is of the
5 opinion that it is in the public interest to do so and after
6 considering any information that the Minister considers
7 relevant.
- 8 (3A) The Minister must —
- 9 (a) provide written reasons to the applicant for a
10 decision in relation to an application under
11 section 96B; and
- 12 (b) provide written reasons for a decision to amend
13 or revoke a beneficial body determination to the
14 body in respect of which the determination is
15 made.
- 16 (4) The Minister is to publish notice of the making,
17 amendment or revocation of a beneficial body
18 determination in the *Gazette*.
- 19 (5) A beneficial body determination is subject to the
20 conditions specified in the determination (if any).
- 21 (6) A beneficial body determination made under this
22 section comes into force —
- 23 (a) for the purposes of this Act — on the day on
24 which the determination is made; and
- 25 (b) for the purposes of the *Land Tax Assessment*
26 *Act 2002* and the *Pay-roll Tax Assessment*
27 *Act 2002* — on the day specified in the notice
28 in respect of each Act.

- 1 (7) Despite subsection (6)(a), a beneficial body
2 determination made under this section applies in
3 relation to the relevant body in respect of —
- 4 (a) the dutiable transaction, or acquisition, that is
5 the subject of the application under section 96B
6 (the *original transaction*); and
- 7 (b) any other transaction —
- 8 (i) that was entered into or occurred after
9 the original transaction but before the
10 determination was made; and
- 11 (ii) on which duty would not have been
12 chargeable under section 95 (including
13 for the purposes of section 168) 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 liability to duty of
18 each transaction in respect of which a beneficial body
19 determination applies under subsection (7).
- 20 (9) The limitations as to time in the Taxation
21 Administration Act section 17 do not apply in respect
22 of a reassessment under subsection (8).
- 23 (10) A beneficial body determination continues in force
24 until the day on which notice of the revocation is
25 published in the *Gazette*, and different days may be
26 specified for each Act in respect of which the
27 determination is in force.
28

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) an industrial association;
- 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 main
13 purposes of the body are charitable purposes
14 that fall within the first 3 categories (being
15 relief of poverty, advancement of education and
16 advancement of religion) identified by Lord
17 Macnaghten in *Commissioners for Special*
18 *Purposes of Income Tax v Pemsel* [1891]
19 AC 531 as developed by the common law of
20 Australia from time to time;
- 21 (e) a body that is a member of a class of bodies
22 prescribed for the purposes of this paragraph;
- 23 (f) a body that —
- 24 (i) is a member of a group, as defined in
25 the *Pay-roll Tax Assessment Act 2002*
26 Glossary, of which a body referred to in
27 another paragraph is also a member; or
- 28 (ii) is a related body corporate, as defined in
29 the *Corporations Act 2001*
30 (Commonwealth) section 9, of a body
31 referred to in another paragraph; or

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- 1 (iii) has as its sole or dominant purpose or
2 object the conferral of a benefit,
3 whether financial or non-financial, on a
4 body referred to in another paragraph.

5 **38AB. Application for a beneficial body determination**

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

- 1 (3) However, an application referred to in subsection (1)
2 cannot be made if the decision was made, or
3 confirmed, on a reassessment made on an application
4 made by the taxpayer —
- 5 (a) under the *Taxation Administration Act 2003*
6 section 16(2)(b); and
- 7 (b) after the right to object to the original
8 assessment had expired.
- 9 (4) An application referred to in subsection (1) must be
10 made within 60 days after subsection (2) first applies in
11 respect of the decision.

12 **38AC. Beneficial body determination**

- 13 (1) On an application under section 38AB the Minister,
14 with the Treasurer's concurrence, may determine that a
15 relevant body is a beneficial body for the purposes of
16 the taxation Acts.
- 17 (2) The Minister, with the Treasurer's concurrence, may
18 revoke or amend a beneficial body determination.
- 19 (3) The Minister may make, amend or revoke a beneficial
20 body determination only if the Minister is of the
21 opinion that it is in the public interest to do so and after
22 considering any information that the Minister considers
23 relevant.
- 24 (3A) The Minister must —
- 25 (a) provide written reasons to the applicant for a
26 decision in relation to an application under
27 section 38AB; and
- 28 (b) provide written reasons for a decision to amend
29 or revoke a beneficial body determination to the
30 body in respect of which the determination is
31 made.

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- 1 (4) The Minister is to publish notice of the making,
2 amendment or revocation of a beneficial body
3 determination in the *Gazette*.
- 4 (5) A beneficial body determination is subject to the
5 conditions specified in the determination (if any).
- 6 (6) A beneficial body determination made under this
7 section comes into force —
- 8 (a) for the purposes of this Act — on the day on
9 which the determination is made; and
- 10 (b) for the purposes of the *Duties Act 2008* and the
11 *Pay-roll Tax Assessment Act 2002* — on the
12 day specified in the notice in respect of each
13 Act.
- 14 (7) Despite subsection (6)(a), a beneficial body
15 determination made under this section applies in
16 relation to the relevant body —
- 17 (a) for the assessment year in respect of which the
18 application under section 38AB was made (the
19 ***original assessment year***); and
- 20 (b) for any subsequent assessment year —
- 21 (i) after the original assessment year up to,
22 and including, the assessment year
23 during which the determination was
24 made; and
- 25 (ii) in respect of which land would have
26 been exempt under section 37 had the
27 determination been in force for the
28 purposes of this Act in respect of the
29 relevant body.
- 30 (8) The Commissioner is to reassess the land tax payable
31 on land for each assessment year in respect of which a
32 beneficial body determination applies under
33 subsection (7).

- 1 (9) The limitations as to time in the *Taxation*
2 *Administration Act 2003* section 17 do not apply in
3 respect of a reassessment under subsection (8).
- 4 (10) A beneficial body determination continues in force
5 until the day on which notice of the revocation is
6 published in the *Gazette*, and different days may be
7 specified for each Act in respect of which the
8 determination is in force.
- 9

10 **10. Schedule 1 amended**

11 At the end of Schedule 1 insert:

12

13 **Division 3 — Provisions for the *Taxation Legislation***
14 ***Amendment Act 2014***

15 **3. Terms used**

16 In this Division —

17 *new provisions* means sections 37, 38AA, 38AB and 38AC
18 as in force immediately after the commencement of the
19 amendments effected by the *Taxation Legislation*
20 *Amendment Act 2014* Part 3;

21 *previously exempt land* means land that was exempt under
22 section 37 for the assessment year immediately before the
23 first assessment year to which the new provisions apply.

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

- 25 (1) If the Commissioner forms the preliminary view that
26 previously exempt land may not be exempt under the new
27 provisions, then the Commissioner is to give notice
28 (*preliminary notice about an exemption under section 37*)
29 to the person who would be liable to pay land tax on that
30 land informing the person —
- 31 (a) that the Commissioner has formed such a
32 preliminary view; and
- 33 (b) about the effect of this clause.

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- 1 (2) If preliminary notice about an exemption under section 37 is
2 given, the Commissioner is to decide whether or not the
3 previously exempt land will be exempt under the new
4 provisions.
- 5 (3) The Commissioner is to give notice to the person who
6 would be liable to pay land tax on the previously exempt
7 land informing the person of —
- 8 (a) the Commissioner’s decision as to whether or not
9 the previously exempt land will be exempt under
10 the new provisions; and
- 11 (b) the grounds on which the decision is made.
- 12 (4) Despite the amendments effected by the *Taxation*
13 *Legislation Amendment Act 2014* Part 3 —
- 14 (a) the new provisions do not apply in relation to
15 previously exempt land until the assessment year
16 following the financial year during which notice is
17 given under subclause (3); and
- 18 (b) this Act as in force immediately before the
19 commencement of those amendments continues to
20 apply to that land until that time.

21 **5. Beneficial body determination: application may be made**

- 22 Despite clause 4(4), if the Commissioner makes a decision
23 under clause 4 that previously exempt land will not be
24 exempt under the new provisions solely on the ground that
25 an institution is a relevant body referred to in
26 section 38AA(c), (d), (e) or (f), then —
- 27 (a) an application may be made under section 38AB of
28 the new provisions for a beneficial body
29 determination in respect of the relevant body; and
- 30 (b) the new provisions apply to and in respect of that
31 application, and any subsequent determination, as if
32 a reference in section 38AB(1) to the decision were
33 a reference to the decision of the Commissioner
34 under clause 4.
- 35

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 ***industrial association*** means any of the following —

- 21 (a) an organisation registered under the *Industrial*
22 *Relations Act 1979* section 53 or 54;
- 23 (b) an association of employees, or an association of
24 employers, registered as an organisation, or
25 recognised, under the *Fair Work (Registered*
26 *Organisations) Act 2009* (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 (ca) an association of employers registered or recognised
31 as such (however described) under the law of
32 another State or a Territory;
- 33 (d) an association of employees a principal purpose of
34 which is the protection and promotion of the
35 employees' interests in matters concerning their
36 employment;
- 37

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) an industrial association;
- 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 main
4 purposes of the body are charitable purposes
5 that fall within the first 3 categories (being
6 relief of poverty, advancement of education and
7 advancement of religion) identified by Lord
8 Macnaghten in *Commissioners for Special
9 Purposes of Income Tax v Pemsel* [1891]
10 AC 531 as developed by the common law of
11 Australia from time to time;
- 12 (e) a body that is a member of a class of bodies
13 prescribed for the purposes of this paragraph;
- 14 (f) a body that —
- 15 (i) is a member of a group of which a body
16 referred to in another paragraph is also a
17 member; or
- 18 (ii) is a related body corporate of a body
19 referred to in another paragraph; or
- 20 (iii) has as its sole or dominant purpose or
21 object the conferral of a benefit,
22 whether financial or non-financial, on a
23 body referred to in another paragraph.

24 **42B. Application for a beneficial body determination**

- 25 (1) An application may be made to the Minister for a
26 determination under section 42C that a relevant body is
27 a beneficial body for the purposes of the taxation Acts
28 if —
- 29 (a) the Commissioner has (the *decision*) —
- 30 (i) refused to give an exemption under
31 section 41(2); or

- 1 (ii) revoked an exemption under
2 section 41(7);
- 3 and
- 4 (b) that decision is made solely on the ground that
5 the applicant for the exemption, or the subject
6 of the revoked exemption, is a relevant body
7 referred to in section 42A(c), (d), (e) or (f).
- 8 (2) An application referred to in subsection (1) can be
9 made only if —
- 10 (a) an objection was made to the decision and the
11 objection and any subsequent review
12 proceedings are exhausted, discontinued or
13 finally determined; or
- 14 (b) under the *Taxation Administration Act 2003*
15 section 34B —
- 16 (i) all rights of objection or review
17 conferred by that Act in respect of the
18 decision have been surrendered; or
- 19 (ii) an objection to the decision has been
20 determined and all rights to take review
21 proceedings on the Commissioner’s
22 decision on the objection have been
23 surrendered.
- 24 (3) However, an application referred to in subsection (1)
25 cannot be made if the decision was made, or
26 confirmed, on a reassessment made on an application
27 made by the taxpayer —
- 28 (a) under the *Taxation Administration Act 2003*
29 section 16(2)(b); and
- 30 (b) after the right to object to the original
31 assessment had expired.

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- 1 (4) An application referred to in subsection (1) must be
2 made within 60 days after subsection (2) first applies in
3 respect of the decision.
- 4 **42C. Beneficial body determination**
- 5 (1) On an application under section 42B the Minister, with
6 the Treasurer's concurrence, may determine that a
7 relevant body is a beneficial body for the purposes of
8 the taxation Acts.
- 9 (2) The Minister, with the Treasurer's concurrence, may
10 amend or revoke a beneficial body determination.
- 11 (3) The Minister may make, amend or revoke a beneficial
12 body determination only if the Minister is of the
13 opinion that it is in the public interest to do so and after
14 considering any information that the Minister considers
15 relevant.
- 16 (3A) The Minister must —
- 17 (a) provide written reasons to the applicant for a
18 decision in relation to an application under
19 section 42B; and
- 20 (b) provide written reasons for a decision to amend
21 or revoke a beneficial body determination to the
22 body in respect of which the determination is
23 made.
- 24 (4) The Minister is to publish notice of the making,
25 amendment or revocation of a beneficial body
26 determination in the *Gazette*.
- 27 (5) A beneficial body determination is subject to the
28 conditions specified in the determination (if any).

- 1 (6) A beneficial body determination made under this
2 section comes into force —
- 3 (a) for the purposes of this Act — on the day on
4 which the determination is made; and
- 5 (b) for the purposes of the *Duties Act 2008* and the
6 *Land Tax Assessment Act 2002* — on the day
7 specified in the notice in respect of each Act.
- 8 (7) Despite subsection (6)(a), a beneficial body
9 determination made under this section applies —
- 10 (a) on and from the day specified by the Minister
11 in the determination, and section 41(5) applies
12 in relation to specifying that day as if it were
13 the day on which an exemption under
14 section 41(2) comes into operation; and
- 15 (b) in relation to any liability to pay-roll tax in
16 respect of which the relevant body would have
17 been exempt under section 41 had a beneficial
18 body determination been in force for the
19 purposes of this Act in respect of the relevant
20 body.
- 21 (8) The Commissioner is to reassess the liability to
22 pay-roll tax of a relevant body for the period in respect
23 of which a beneficial body determination applies in
24 respect of the body under subsection (7).
- 25 (9) The limitations as to time in the *Taxation*
26 *Administration Act 2003* section 17 do not apply in
27 respect of a reassessment under subsection (8).
- 28 (10) A beneficial body determination continues in force
29 until the day on which notice of the revocation is
30 published in the *Gazette*, and different days may be
31 specified for each Act in respect of which the
32 determination is in force.
33

1 **15. Schedule 1 amended**

2 At the end of Schedule 1 insert:

3

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

6 **10. Terms used**

7 In this Division —

8 *commencement day* means the day on which the *Taxation*
9 *Legislation Amendment Act 2014* Part 4 comes into
10 operation;

11 *exemption* means an exemption under section 41;

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

14 *previously exempt charitable body or organisation* means a
15 charitable body or organisation in respect of which an
16 exemption was in force immediately before commencement
17 day.

18 **11. Exemptions currently held by relevant bodies may be**
19 **revoked**

20 (1) If the Commissioner forms the preliminary view that a
21 previously exempt charitable body or organisation may be a
22 relevant body then the Commissioner is to give notice
23 (*preliminary notice about an exemption under section 41*)
24 to that body or organisation informing it —

25 (a) that the Commissioner has formed such a
26 preliminary view; and

27 (b) that the exemption may be revoked under this
28 clause; and

29 (c) that if the exemption is revoked under this clause,
30 the revocation will have effect on and from the day
31 specified in the notice, being a day that is at least
32 2 months after the day on which the notice is given
33 (the *specified day*).

- 1 (2) If preliminary notice about an exemption under section 41 is
2 given the Commissioner is to decide whether or not the
3 previously exempt charitable body or organisation is a
4 relevant body.
- 5 (3) If the Commissioner decides that the previously exempt
6 charitable body or organisation is a relevant body, the
7 Commissioner, by notice given to the body or organisation,
8 is to —
- 9 (a) revoke the exemption; and
10 (b) inform the previously exempt charitable body or
11 organisation of the grounds on which the decision to
12 revoke the exemption was made.
- 13 (4) The revocation of an exemption under this clause has
14 effect —
- 15 (a) on and from the specified day; and
16 (b) for the purposes of an application under
17 section 42B, as if the revocation were made under
18 section 41(7).
- 19 (5) If the Minister makes a determination under section 42C of
20 the new provisions that the previously exempt charitable
21 body or organisation in respect of which an exemption was
22 revoked is a beneficial body for the purposes of the taxation
23 Acts, then the new provisions apply in relation to that
24 determination as if —
- 25 (a) a reference in section 42C(6)(a) to the day on which
26 the determination comes into force for the purposes
27 of this Act were a reference to the specified day;
28 and
29 (b) a reference in section 42C(7) to the day on and from
30 which the beneficial body determination applies
31 were a reference to the specified day.

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

- 1 of this Act were a reference to commencement day;
2 and
3 (b) a reference in section 42C(7) to the day on and from
4 which the beneficial body determination applies
5 were a reference to commencement day.
6

7 **16. Glossary amended**

8 In the Glossary clause 1 insert in alphabetical order:

9
10 ***political party*** means a body or organisation, whether
11 incorporated or unincorporated, having as one of its objects
12 or activities the promotion of the election to the Parliament
13 of the Commonwealth, or to a Parliament of a State or
14 Territory, of a candidate or candidates endorsed by it or by a
15 body or organisation of which it forms part;

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

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

25 ***relevant body*** has the meaning given in section 42A;

26 ***industrial association*** means any of the following —

- 27 (a) an organisation registered under the *Industrial*
28 *Relations Act 1979* section 53 or 54;
29 (b) an association of employees, or an association of
30 employers, registered as an organisation, or
31 recognised, under the *Fair Work (Registered*
32 *Organisations) Act 2009* (Commonwealth);
33 (c) an association of employees registered or
34 recognised as a trade union (however described)
35 under the law of another State or a Territory;

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- 1 (ca) an association of employers registered or recognised
2 as such (however described) under the law of
3 another State or a Territory;
- 4 (d) an association of employees a principal purpose of
5 which is the protection and promotion of the
6 employees' interests in matters concerning their
7 employment;
8

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

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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;

- 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

