



Taxation Boards of Review (Transfer of Jurisdiction) Act 1986

No. 48 of 1986

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SCHEDULE



Taxation Boards of Review (Transfer of Jurisdiction) Act 1986

No. 48 of 1986

An Act to make provision in relation to the review of certain decisions relating to taxation, to repeal certain laws relating to taxation, and for related purposes

[Assented to 24 June 1986]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Taxation Boards of Review (Transfer of Jurisdiction) Act 1986*.

Commencement

2. (1) Subject to sub-section (2), this Act shall come into operation on 1 July 1986.

(2) Section 31 and Parts VII and VIII shall come into operation, or shall be deemed to have come into operation, immediately after the *Fringe Benefits Tax Assessment Act 1986* comes into operation.

**PART II—AMENDMENTS OF THE ADMINISTRATIVE APPEALS
TRIBUNAL ACT 1975**

Principal Act

3. The *Administrative Appeals Tribunal Act 1975*¹ is in this Part referred to as the Principal Act.

Divisions

4. Section 19 of the Principal Act is amended—

(a) by inserting after paragraph (2)(b) the following paragraph:

“(ba) Taxation Appeals Division;”; and

(b) by inserting after sub-section (3) the following sub-section:

“(3A) A member shall not be assigned to the Taxation Appeals Division unless the Minister has consulted with the Treasurer in relation to the assignment of the member.”.

**PART III—AMENDMENTS OF THE AUSTRALIAN CAPITAL
TERRITORY TAXATION (ADMINISTRATION) ACT 1969**

Principal Act

5. The *Australian Capital Territory Taxation (Administration) Act 1969*² is in this Part referred to as the Principal Act.

Interpretation

6. Section 4 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “Board of Review”; and

(b) by inserting after the definition of “third party insurance” in sub-section (1), the following definition:

“ ‘Tribunal’ means the Administrative Appeals Tribunal;”.

Secrecy

7. Section 7 of the Principal Act is amended by omitting paragraph (2) (a) and substituting the following paragraph:

“(a) the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration; or ”.

Review of revocation of authority

8. Section 21 of the Principal Act is amended by omitting “Administrative Appeals”.

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Objections to assessments and decisions

9. Section 74 of the Principal Act is amended—

- (a) by omitting from sub-sections (1) and (1A) “post to, or lodge with,” and substituting “lodge with”;
- (b) by omitting sub-sections (5), (6) and (7) and substituting the following sub-sections:

“(5) Where an assessment has been amended in any particular, the right of a person to object against the amended assessment is limited to a right to object against alterations or additions in respect of, or matters relating to, that particular.

“(6) Where a notice of assessment of duty or tax incorporates notice of one or more assessments of additional duty or additional tax, the assessments shall, for the purposes of this Part, be regarded as one assessment.”

10. Sections 75 and 76 of the Principal Act are repealed and the following sections are substituted:

Request for reference

“75. A person who is dissatisfied with a decision under section 74 on an objection by the person may, within 60 days after service on the person of notice of the decision, lodge with the Commissioner a request in writing to refer the decision to the Tribunal.

Applications for extension of time

“76. (1) Where the period for the lodgment by a person of an objection against a prescribed decision or an assessment has ended, the person may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by a person of a request under section 75 has ended, the person may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the person to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“76A. (1) The Commissioner shall consider each application made under sub-section 76 (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the person who made the application notice in writing of the decision on the application.

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“(3) A person who is dissatisfied with a decision under sub-section (1) in respect of an application made by the person may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 76 (1) has been granted, the person who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“76B. (1) Where the Commissioner receives an application under sub-section 76 (2), the Commissioner shall, as soon as practicable, send the application to the Tribunal.

“(2) The sending of an application to the Tribunal under sub-section (1) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the person concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The Tribunal may grant or refuse the application.

“(4) Where an application under sub-section 76 (2) has been granted, the person who made it shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal

“76C. (1) Where a person duly lodges, or is to be treated as having duly lodged, a request under section 75, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the person of an application to the Tribunal for review of the decision.

Notice to refer

“76D. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 75 in relation to a decision on an objection, the Commissioner does not comply with the request, the person who made the request may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 76 in relation to a request has been granted, the person who made the request is not entitled to give notice under sub-section (1) in relation to the request before the expiration of 60 days after the day on which the application was granted.

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“(3) If, within 60 days after receiving a request under section 75 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 76 in relation to a request has been granted, the Commissioner, by notice in writing served on the person who made the request, requires the person to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

Procedure on review

- “76E. In proceedings under this Part on a review before the Tribunal—
- (a) the person who requested the review is, unless the Tribunal otherwise orders, limited to the grounds stated in the objection; and
 - (b) the burden of proving that a prescribed decision is incorrect, or that an assessment is excessive, lies on the person who requested the review.

Implementation of decisions

“76F. (1) When a decision of the Tribunal under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment, if any, concerned, as may be necessary to give effect to the decision.

“(2) In determining, for the purposes of sub-section (1), when a decision of the Tribunal becomes final, if an appeal has been made to the Full Court of the Federal Court of Australia in relation to that decision but no application for special leave to appeal to the High Court in relation to that decision is made within 30 days after the determination of the first-mentioned appeal, the decision of the Federal Court of Australia shall be taken to have become final on the expiration of that period.”

Pending appeal or reference not to affect assessment, &c.

11. Section 77 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) The fact that a review or appeal is pending in relation to a prescribed decision or an assessment does not in the meantime interfere with, or affect, the decision or assessment and duty or tax may be recovered as if no review or appeal were pending.”

Adjustment of duty or tax after appeal

12. Section 78 of the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2);
- (b) by omitting from sub-section (3) “set aside on a reference or appeal” and substituting “varied or set aside on an objection or to give effect to a decision of the Tribunal or of a court”;
- (c) by omitting paragraph (4) (a); and

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(d) by omitting paragraph (4) (b) and substituting the following paragraph:

“(b) the variation, or the setting aside, of a prescribed decision on an objection or to give effect to a decision of the Tribunal or of a court,”.

Evidence of assessments

13. Section 79 of the Principal Act is amended by omitting “on a review of an assessment or on a reference or appeal relating to an assessment”.

Appearances by Commissioner and Registrar

14. Section 98 of the Principal Act is amended by omitting from sub-section (1) “Board of Review” and substituting “the Tribunal”.

**PART IV—AMENDMENTS OF THE BANK ACCOUNT DEBITS
TAX ADMINISTRATION ACT 1982**

Principal Act

15. The *Bank Account Debits Tax Administration Act 1982*² is in this Part referred to as the Principal Act.

Interpretation

16. Section 3 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “Board of Review”; and

(b) by inserting after the definition of “taxable debit” in sub-section (1), the following definition:

“‘Tribunal’ means the Administrative Appeals Tribunal.”.

Secrecy

17. Section 7 of the Principal Act is amended by omitting paragraph (4) (a) and substituting the following paragraph:

“(a) the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration; or”.

Interpretation

18. Section 20 of the Principal Act is amended by inserting before the definition of “prescribed decision” the following definition:

“ ‘objector’ means a person who has duly lodged, or is to be treated as having duly lodged, under section 22 an objection against a prescribed decision or an assessment;”.

Objections

19. Section 22 of the Principal Act is amended—

(a) by omitting from sub-section (1) “(in this Part referred to as the ‘objector’)”;

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- (b) by omitting from sub-section (1) “post to or”; and
- (c) by omitting sub-section (4) and substituting the following sub-sections:

“(4) Where an assessment has been amended in any particular, the right of a person to object against the amended assessment is limited to a right to object against alterations or additions in respect of, or matters relating to, that particular.

“(5) Where a notice of assessment of tax incorporates a notice of one or more assessments of additional tax, the assessments shall, for the purposes of this Part, be regarded as one assessment.”.

20. Sections 23, 24 and 25 of the Principal Act are repealed and the following sections are substituted:

Request for reference

“23. An objector who is dissatisfied with a decision under section 22 on an objection by the objector may, within 60 days after service on the objector of notice of the decision, lodge with the Commissioner, in writing, either—

- (a) a request to refer the decision to the Tribunal; or
- (b) a request to refer the decision to a specified Supreme Court.

Applications for extension of time

“24. (1) Where the period for the lodgment by a person of an objection against a prescribed decision or assessment has ended, the person may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by an objector of a request under section 23 has ended, the objector may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application by a person under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the person to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“25. (1) The Commissioner shall consider each application made under sub-section 24 (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the person who made the application notice in writing of the decision of the application.

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“(3) A person who is dissatisfied with a decision under sub-section (1) in respect of an application made by the person may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 24 (1) has been granted, the person who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“25A. (1) Where the Commissioner receives an application under sub-section 24 (2), the Commissioner shall, as soon as practicable—

- (a) if the application relates to a request to refer a decision to the Tribunal—send the application to the Tribunal; or
- (b) if the application relates to a request to refer a decision to a specified Supreme Court—send the application to that Supreme Court.

“(2) The sending of an application to the Tribunal under sub-section (1) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the person concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The sending of an application to a Supreme Court under paragraph (1) (b) constitutes the making by the person concerned of an application to that Court to extend the time within which the request concerned may be lodged with the Commissioner and the application shall be heard by that Court constituted by a single Judge.

“(4) The Tribunal or the Supreme Court, as the case may be, may grant or refuse the application.

“(5) Where an application under sub-section 24 (2) has been granted, the person shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal or Court

“25B. (1) Where an objector duly lodges, or is to be treated as having duly lodged, a request under section 23, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the objector of an application to the Tribunal for review of the decision.

“(3) The referral of a decision on an objection to a Supreme Court constitutes the instituting by the objector concerned of an appeal against the decision, and that appeal shall be heard by that Court constituted by a single Judge.

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Notice to refer

“25C. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 23 in relation to a decision on an objection, the Commissioner does not comply with the request, the objector may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 24 in relation to a request has been granted, the objector who made the request is not entitled to give notice under sub-section (1) of this section in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 23 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 24 in relation to a request has been granted, the Commissioner, by notice in writing served on the objector who made the request, requires the objector to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

Procedure on review or appeal

“25D. In proceedings under this Part on a review before the Tribunal or on appeal to a Supreme Court—

- (a) the objector is, unless the Tribunal or Court otherwise orders, limited to the grounds stated in the objection; and
- (b) the burden of proving that a prescribed decision is incorrect, or that an assessment is excessive, lies on the objector.

Review of remission decisions

“25E. Notwithstanding section 25 of the *Administrative Appeals Tribunal Act 1975*, the Tribunal does not have power to review decisions of the Commissioner relating to the remission of additional tax payable by way of penalty except decisions relating to the remission of additional tax payable under section 17.”.

Decision of Supreme Court

21. Section 26 of the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-section:

“(1) A Supreme Court hearing an appeal under this Part may make such order in relation to the decision to which the appeal relates as it thinks fit, including an order confirming or varying the decision.”; and

- (b) by omitting from sub-section (3) “(2)” and substituting “(1)”.

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Repeal of section 27

22. Section 27 of the Principal Act is repealed.

Appeals from Supreme Court and Federal Court

23. Section 28 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “or a decision of a Supreme Court on an appeal or reference under section 27”; and
- (b) by omitting paragraph (1) (a) and substituting the following paragraph:

“(a) to the Federal Court of Australia; or”.

Practice and procedure of Supreme Courts

24. Section 29 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) This section applies to a proceeding in a Supreme Court in respect of a decision on an objection against a prescribed decision or an assessment that has, under this Part, been referred to that Supreme Court.”.

25. Section 30 of the Principal Act is repealed and the following sections are substituted:

Implementation of decisions

“29A. (1) When a decision of the Tribunal or of a court under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment, if any, concerned, as may be necessary to give effect to that decision.

“(2) Where a decision may, by special leave of the High Court, be taken on appeal to that Court, then, in determining, for the purposes of sub-section (1), when that decision becomes final—

- (a) if that decision is a decision of a Supreme Court of a State or Territory and neither an appeal is made to the Federal Court of Australia within the period for lodging such an appeal nor an application made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of the later of those periods to expire; or
- (b) if that decision is a decision of the Federal Court of Australia and an application is not made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of that period.

“(3) In this section, ‘decision’, in relation to a court, includes the making of an order under sub-section 26 (1).”.

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Pending review or appeal not to affect assessment, &c.

“30. (1) The fact that a review or appeal is pending in relation to a prescribed decision or an assessment does not in the meantime interfere with, or affect, the decision or assessment and tax may be recovered as if no review or appeal were pending.

“(2) In sub-section (1), ‘tax’ includes additional tax under section 17 or 36.”.

Variation of prescribed decisions

26. Section 31 of the Principal Act is amended by omitting from sub-section (1) “on a reference or appeal” and substituting “on an objection or to give effect to a decision of the Tribunal or of a court”.

Repeal of section 32

27. Section 32 of the Principal Act is repealed.

Evidence

28. Section 33 of the Principal Act is amended by omitting “on a review of a prescribed decision or of an assessment or on a reference or appeal relating to a prescribed decision or to an assessment”.

**PART V—AMENDMENTS OF THE CRIMES (TAXATION
OFFENCES) ACT 1980**

Principal Act

29. The *Crimes (Taxation Offences) Act 1980⁴* is in this Part referred to as the Principal Act.

Application of Part I and Part II in relation to income tax

30. Section 13 of the Principal Act is amended by omitting from sub-section (3) “at the direction of a Board of Review or court” and substituting “to give effect to a decision of the Administrative Appeals Tribunal or a court”.

Application of Part I and Part II in relation to fringe benefits tax

31. Section 14 of the Principal Act is amended by omitting from sub-section (3) “at the direction of a Board of Review or court” and substituting “to give effect to a decision of the Administrative Appeals Tribunal or a court”.

**PART VI—AMENDMENTS OF THE ESTATE DUTY ASSESSMENT
ACT 1914**

Principal Act

32. The *Estate Duty Assessment Act 1914⁵* is in this Part referred to as the Principal Act.

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Interpretation

- 33.** Section 3 of the Principal Act is amended—
- (a) by omitting from sub-section (1) the definition of “Board of Review”; and
 - (b) by inserting after the definition of “Supreme Court” in sub-section (1), the following definition:
“ ‘Tribunal’ means the Administrative Appeals Tribunal.”.

Application of Part

- 34.** Section 9D of the Principal Act is amended—
- (a) by omitting from paragraph (8) (a) “30” and substituting “60”;
 - (b) by omitting paragraph (8) (b) and substituting the following paragraph:
“(b) if the administrator has objected to the assessment—
 - (i) where the administrator has not made a request under section 25—after the expiration of 60 days after service of notice of the decision of the Commissioner on the objection; or
 - (ii) where the administrator has made such a request—after the expiration of 60 days after the final determination by the Tribunal or court of the correctness of the decision of the Commissioner.”.

Values of shares and stock

- 35.** Section 16A of the Principal Act is amended by omitting from sub-section (2) “Any Board of Review or court” and substituting “The Tribunal or a court”.

Objections

- 36.** Section 24 of the Principal Act is amended—
- (a) by omitting from sub-section (1) “30” and substituting “60”;
 - (b) by omitting from sub-section (1) “post or”;
 - (c) by omitting the proviso;
 - (d) by adding after sub-section (1) the following sub-sections:
“(1AA) Where an assessment has been amended in any particular, the right of a person to object against the amended assessment is limited to a right to object against alterations or additions in respect of, or matters relating to, that particular.
“(1AB) Where a notice of assessment of duty incorporates notice of one or more assessments of additional duty, the assessments shall, for the purposes of this Part, be regarded as one assessment.”;
 - (e) by omitting from sub-section (1A) “the proviso to sub-section (1) of this section” and substituting “sub-section (1AA)”; and

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(f) by omitting sub-sections (4), (4A) and (5).

37. Sections 26 and 27 of the Principal Act are repealed and the following sections are substituted:

Request for reference

“25. (1) An administrator who is dissatisfied with a decision under section 24 on an objection by the administrator may, within 60 days after service on the administrator of notice of the decision, lodge with the Commissioner, in writing, either—

- (a) a request to refer the decision to the Tribunal; or
- (b) a request to refer the decision to a specified Supreme Court.

“(2) An administrator is not entitled to make a request under sub-section (1) in relation to an assessment that was based upon an assessment made under a law of a State unless the administrator has made an appeal (by whatever name called) under the law of the State in respect of the assessment made under the law of the State.

Applications for extension of time

“26. (1) Where the period for the lodgment by an administrator of an objection against an assessment has ended, the administrator may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by an administrator of a request under section 25 has ended, the administrator may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the administrator to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“27. (1) The Commissioner shall consider each application made under sub-section 26 (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the administrator who made the application notice in writing of the decision on the application.

“(3) An administrator who is dissatisfied with a decision under sub-section (1) in respect of an application made by the administrator may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 26 (1) has been granted, the administrator who made the application shall, for the purposes of this

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Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“27A. (1) Where the Commissioner receives an application under sub-section 26 (2), the Commissioner shall, as soon as practicable—

- (a) if the application relates to a request to refer a decision to the Tribunal—send the application to the Tribunal; or
- (b) if the application relates to a request to refer a decision to a specified Supreme Court—send the application to that Supreme Court.

“(2) The sending of an application to the Tribunal under paragraph (1) (a) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the administrator concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The sending of an application to a Supreme Court under paragraph (1) (b) constitutes the making by the administrator concerned of an application to that Court to extend the time within which the request may be lodged with the Commissioner and the application shall be heard by that Court constituted by a single Judge.

“(4) The Tribunal or the Supreme Court, as the case may be, may grant or refuse the application.

“(5) Where an application under sub-section 26 (2) has been granted, the administrator shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal or Court

“27B. (1) Where an administrator duly lodges, or is to be treated as having duly lodged, a request under section 25, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the administrator of an application to the Tribunal for review of the decision.

“(3) The referral of a decision on an objection to a Supreme Court constitutes the instituting by the administrator concerned of an appeal against the decision, and that appeal shall be heard by that Court constituted by a single Judge.

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Notice to refer

“27C. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 25 in relation to a decision on an objection, the Commissioner does not comply with the request, the administrator may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 26 in relation to a request has been granted, the administrator is not entitled to give notice under sub-section (1) of this section in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 25 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 26 in relation to a request has been granted, the Commissioner, by notice in writing served on the administrator, requires the administrator to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

Procedure on review or appeal

“27D. In proceedings under this Part on a review before the Tribunal or on appeal to a Supreme Court—

- (a) the administrator is, unless the Tribunal or Court otherwise orders, limited to the grounds stated in the objection; and
- (b) the burden of proving that an assessment is excessive lies on the administrator.

Powers of Supreme Court on appeal

“27E. (1) A Supreme Court hearing an appeal under this Part may make such order in relation to the decision to which the appeal relates as it thinks fit, including an order confirming or varying the decision.

“(2) An appeal does not lie from an order referred to in sub-section (1) except as provided in section 28.”.

Appeal from orders under section 27E

38. Section 28 of the Principal Act is amended—

- (a) by omitting “or the objector” and substituting “or the administrator”; and
- (b) by omitting “under section 27” and substituting “under section 27E”.

Case stated to Federal Court of Australia

39. Section 28A of the Principal Act is amended by omitting from sub-section (1) “section 27” and substituting “section 27E”.

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40. The Principal Act is amended by inserting after section 28AB the following section:

Implementation of decisions

“28AC. (1) When a decision of the Tribunal or of a court under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment concerned, as may be necessary to give effect to that decision.

“(2) Where a decision may, by special leave of the High Court, be taken on appeal to that Court, then, in determining, for the purposes of sub-section (1), when that decision becomes final—

- (a) if that decision is a decision of a Supreme Court of a State or Territory and neither an appeal is made to the Federal Court of Australia within the period for lodging such an appeal nor an application made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of the later of those periods to expire; or
- (b) if that decision is a decision of the Federal Court of Australia and an application is not made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of that period.

“(3) In this section, ‘decision’, in relation to a court, includes the making of an order under sub-section 27E (1).”.

Pending review or appeal not to affect assessment

41. Section 28B of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) The fact that a review or appeal is pending in relation to an assessment does not in the meantime interfere with, or affect, the assessment and duty may be recovered as if no review or appeal were pending.”.

Repeal of section 28C

42. Section 28C of the Principal Act is repealed.

Practice and procedure of Supreme Courts

43. Section 28D of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) This section applies to a proceeding in a Supreme Court in respect of a decision on an objection to an assessment that has, under this Part, been referred to that Supreme Court.”.

Release from liability for duty in cases of hardship

44. Section 48A of the Principal Act is amended—

- (a) by omitting from sub-section (3) “a Board of Review” and substituting “the Tribunal”; and

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- (b) by omitting sub-sections (4) and (4A) and substituting the following sub-section:

“(4) The President of the Tribunal shall designate the Registrar or a Deputy Registrar of the Tribunal to be a designated person—

- (a) for the purposes of dealing with the application; or
- (b) for the purposes of dealing with applications under this section included in a specified class of application.”.

**PART VII—AMENDMENTS OF THE FRINGE BENEFITS TAX
ASSESSMENT ACT 1986**

Principal Act

45. The *Fringe Benefits Tax Assessment Act 1986*⁶ is in this Part referred to as the Principal Act.

Secrecy

46. Section 5 of the Principal Act is amended by omitting from sub-section (5) all words from and including “to a person” and substituting “to—

- (a) the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration; or
- (b) a person performing, as an officer, duties arising under an Act of which the Commissioner has the general administration, or regulations under such an Act, for the purpose of enabling the person to perform those duties.”.

Arrangements to avoid or reduce fringe benefits tax

47. Section 67 of the Principal Act is amended by omitting from sub-section (6) “post to or”.

48. Part VI of the Principal Act is repealed and the following Part is substituted:

“PART VI—OBJECTIONS, REVIEWS AND APPEALS

Interpretation

“79. In this Part, ‘Supreme Court’ means—

- (a) the Supreme Court of a State; or
- (b) the Supreme Court of the Australian Capital Territory or the Supreme Court of the Northern Territory.

Transfer of proceedings

“79A. (1) A Supreme Court in which proceedings under this Part have been instituted (whether or not it has jurisdiction in the proceedings) may, if the Court thinks fit, upon the application of a party at any stage in the

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proceedings, by order, transfer the proceedings to another Supreme Court having jurisdiction under this Part.

“(2) Where proceedings are transferred from a Court pursuant to this section—

- (a) all documents of record filed in that Court shall be transmitted by the Registrar or other proper officer of that Court to the Registrar or other proper officer of the Court to which the proceedings are transferred; and
- (b) the Court to which the proceedings are transferred shall proceed as if the proceedings had been originally instituted in that Court and as if the same proceedings had been taken in that Court as had been taken in the Court from which the proceedings were transferred.

Objections

“80. (1) An employer who is dissatisfied with an assessment may, within 60 days after service of the notice of that assessment, lodge with the Commissioner an objection in writing against the assessment stating fully and in detail the grounds on which the employer relies.

“(2) The Commissioner shall consider the objection, and may either disallow it or allow it wholly or in part.

“(3) The Commissioner shall cause notice in writing of the Commissioner’s decision on the objection to be served on the employer.

“(4) Where an assessment has been amended in any particular, the right of an employer to object against the amended assessment is limited to a right to object against alterations or additions in respect of, or matters relating to, that particular.

“(5) Where a notice of assessment of tax incorporates notice of one or more assessments of additional tax, the assessments shall, for the purposes of this Part, be regarded as one assessment.

Request for reference

“81. An employer who is dissatisfied with a decision under section 80 on an objection by the employer may, within 60 days after service on the employer of notice of the decision, lodge with the Commissioner, in writing, either—

- (a) a request to refer the decision to the Tribunal; or
- (b) a request to refer the decision to a specified Supreme Court.

Applications for extension of time

“82. (1) Where the period for the lodgment by an employer of an objection against an assessment has ended, the employer may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

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“(2) Where the period for the lodgment by an employer of a request under section 81 has ended, the employer may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the employer to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“83. (1) The Commissioner shall consider each application made under sub-section 82 (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the employer who made the application notice in writing of the decision on the application.

“(3) An employer who is dissatisfied with a decision under sub-section (1) in respect of an application made by the employer may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 82 (1) has been granted, the employer who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“84. (1) Where the Commissioner receives an application under sub-section 82 (2), the Commissioner shall, as soon as practicable—

- (a) if the application relates to a request to refer a decision to the Tribunal—send the application to the Tribunal; or
- (b) if the application relates to a request to refer a decision to a specified Supreme Court—send the application to that Supreme Court.

“(2) The sending of an application to the Tribunal under paragraph (1) (a), shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the employer concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The sending of an application to a Supreme Court under paragraph (1) (b) constitutes the making by the employer concerned of an application to that Court to extend the time within which the request may be lodged with the Commissioner and the application shall be heard by that Court constituted by a single Judge.

“(4) The Tribunal or the Supreme Court, as the case may be, may grant or refuse the application.

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“(5) Where an application under sub-section 82 (2) has been granted, the employer shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal or Court

“85. (1) Where an employer duly lodges, or is to be treated as having duly lodged, a request under section 81, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the employer of an application to the Tribunal for review of the decision.

“(3) The referral of a decision on an objection to a Supreme Court constitutes the instituting by the employer concerned of an appeal against the decision, and that appeal shall be heard by that Court constituted by a single Judge.

Notice to refer

“86. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 81 in relation to a decision on an objection, the Commissioner does not comply with the request, the employer may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 82 in relation to a request has been granted, the employer is not entitled to give notice under sub-section (1) of this section in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 81 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 82 in relation to a request has been granted, the Commissioner, by notice in writing served on the employer, requires the employer to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

Procedure on review or appeal

“86A. In proceedings under this Part on a review before the Tribunal or on appeal to a Supreme Court—

- (a) the employer is, unless the Tribunal or Court otherwise orders, limited to the grounds stated in the objection; and
- (b) the burden of proving that an assessment is excessive lies on the employer.

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Case stated to Federal Court

“86B. (1) A Supreme Court hearing an appeal under this Part may, if it thinks fit, state a case in writing for the opinion of the Federal Court of Australia on a question of law arising on the appeal.

“(2) A Full Court of the Federal Court of Australia shall hear and, by order, determine the question and remit the case with its opinion to the Supreme Court, and may make such order as to the costs of the case stated as it thinks fit.

Powers of Supreme Court on appeal

“86C. (1) A Supreme Court hearing an appeal under this Part may make such order in relation to the decision to which the appeal relates as it thinks fit, including an order confirming or varying the decision.

“(2) An appeal does not lie from an order referred to in sub-section (1) except as provided in section 86D.

Appeals from Supreme Court and Federal Court

“86D. (1) The Commissioner or an employer may appeal against an order of a Supreme Court made under section 86C—

- (a) to the Federal Court of Australia; or
- (b) by special leave of the High Court—to that Court.

“(2) An appeal does not lie from a decision of the Federal Court of Australia in a matter under this Part unless the High Court gives special leave to appeal.

Implementation of decisions

“86E. (1) When a decision of the Tribunal or of a court under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment concerned, as may be necessary to give effect to the decision.

“(2) Where a decision may, by special leave of the High Court, be taken on appeal to that Court, then, in determining, for the purposes of sub-section (1), when that decision becomes final—

- (a) if that decision is a decision of a Supreme Court of a State or Territory and neither an appeal is made to the Federal Court of Australia within the period for lodging such an appeal nor an application made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of the later of those periods to expire; or
- (b) if that decision is a decision of the Federal Court of Australia and an application is not made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of that period.

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“(3) In this section, ‘decision’, in relation to a court, includes the making of an order under sub-section 86C (1).

Practice and procedure of Supreme Courts

“87. Until regulations have been made under this Act for or in relation to the practice and procedure of a Supreme Court in proceeding under this Part, and so far as regulations so made do not make adequate provision, the High Court Rules as in force under the *Judiciary Act 1903* immediately before the date of commencement of this Act apply, so far as practicable, *mutatis mutandis*, to and in relation to a proceeding under this Part in like manner as they would apply if the proceeding were a proceeding in the High Court.

Pending review or appeal not to affect assessment

“88. The fact that a review or appeal is pending in relation to an assessment does not, in the meantime, interfere with, or affect, the assessment, and tax, or additional tax under section 93 or Part VIII, may be recovered as if no review or appeal were pending.”

Where no administration of deceased employer’s estate

49. Section 98 of the Principal Act is amended by omitting from sub-section (4) “by the Commissioner, or by a Board of Review or by a court”.

Unregistered tax agents not to charge fees

50. Section 119 of the Principal Act is amended by omitting from sub-section (2) “before a board,” and substituting “before a board, a court or the Tribunal,”.

Preparation of returns, &c., on behalf of registered tax agents

51. Section 121 of the Principal Act is amended by omitting from sub-section (3) “before a board,” and substituting “before a board, a court or the Tribunal,”.

Evidence

52. Section 126 of the Principal Act is amended by omitting from sub-section (1) “, reference”.

Release of employers in cases of hardship

53. Section 133 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “a Board of Review” and substituting “the Tribunal”; and
- (b) by omitting sub-sections (4) and (5) and substituting the following sub-section:

“(4) The President of the Tribunal shall designate the Registrar or a Deputy Registrar of the Tribunal to be a designated person—

- (a) for the purposes of dealing with the application; or

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- (b) for the purposes of dealing with applications under this section included in a specified class of application.”.

Interpretation

54. Section 136 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “Board of Review”; and
- (b) by inserting in sub-section (1) after the definition of “travel diary” the following definition:
- “ ‘Tribunal’ means the Administrative Appeals Tribunal;”.

**PART VIII—AMENDMENT OF THE FRINGE BENEFITS TAX
(APPLICATION TO THE COMMONWEALTH) ACT 1986**

Principal Act

55. The *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*⁷ is in this Part referred to as the Principal Act.

Application of Assessment Act in relation to Commonwealth employment

56. Section 4 of the Principal Act is amended by omitting from paragraph (1) (d) “(other than section 80)” and substituting “(other than section 80 and sub-sections 82 (1) and (3) and 83 (1), (2) and (4))”.

**PART IX—AMENDMENTS OF THE GIFT DUTY ASSESSMENT
ACT 1941**

Principal Act

57. The *Gift Duty Assessment Act 1941*⁸ is in this Part referred to as the Principal Act.

Interpretation

58. Section 4 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “Board of Review”;
- (b) by inserting after the definition of “member of the family” in sub-section (1), the following definition:
- “ ‘objector’ means a person who has duly lodged, or is to be treated as having duly lodged, under section 31, an objection against an assessment;” and
- (c) by inserting after the definition of “Supreme Court” in sub-section (1), the following definition:
- “ ‘Tribunal’ means the Administrative Appeals Tribunal.”.

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Officers to observe secrecy

59. Section 10 of the Principal Act is amended by omitting paragraph (4) (b) and substituting the following paragraph:

“(b) the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration;”.

Value of gift

60. Section 18 of the Principal Act is amended by omitting from sub-section (3) “Any Board of Review or court” and substituting “The Tribunal or a court”.

Objections

61. Section 31 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “30” and substituting “60”;
- (b) by omitting from sub-section (1) “post or”;
- (c) by omitting the proviso; and
- (d) by omitting sub-sections (4) and (4A) and substituting the following sub-sections:

“(4) Where an assessment has been amended in any particular, the right of a person to object against the amended assessment is limited to a right to object against alterations or additions in respect of, or matters relating to, that particular.

“(4A) Where a notice of assessment of duty incorporates notice of one or more assessments of additional duty, the assessments shall, for the purposes of this Part, be regarded as one assessment.”.

62. Sections 33 and 34 of the Principal Act are repealed and the following sections are substituted:

Request for reference

“32. An objector who is dissatisfied with a decision under section 31 on an objection by the objector may, within 60 days after service on the objector of notice of the decision, lodge with the Commissioner, in writing, either—

- (a) a request to refer the decision to the Tribunal; or
- (b) a request to refer the decision to a specified Supreme Court.

Applications for extension of time

“33. (1) Where the period for the lodgment by a person of an objection to an assessment has ended, the person may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

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“(2) Where the period for the lodgment by a person of a request under section 32 has ended, the objector may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the person to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“34. (1) The Commissioner shall consider each application made under sub-section 33 (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the person who made the application notice in writing of the decision on the application.

“(3) A person who is dissatisfied with a decision under sub-section (1) in respect of an application made by the person may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 33 (1) has been granted, the person who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“34A. (1) Where the Commissioner receives an application under sub-section 33 (2), the Commissioner shall, as soon as practicable—

- (a) if the application relates to a request to refer a decision to the Tribunal—send the application to the Tribunal; or
- (b) if the application relates to a request to refer a decision to a specified Supreme Court—send the application to that Supreme Court.

“(2) The sending of an application to the Tribunal under paragraph (1) (a) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the objector concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The sending of an application to a Supreme Court under paragraph (1) (b) constitutes the making by the objector concerned of an application to that Court to extend the time within which the request may be lodged with the Commissioner and the application shall be heard by that Court constituted by a single Judge.

“(4) The Tribunal or the Supreme Court, as the case may be, may grant or refuse the application.

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“(5) Where an application under sub-section 33 (2) has been granted, the objector shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal or Court

“34B. (1) Where an objector duly lodges, or is to be treated as having duly lodged, a request under section 32, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the objector of an application to the Tribunal for review of the decision.

“(3) The referral of a decision on an objection to a Supreme Court constitutes the instituting by the objector concerned of an appeal against the decision, and that appeal shall be heard by that Court constituted by a single Judge.

Notice to refer

“34C. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 32 in relation to a decision on an objection, the Commissioner does not comply with the request, the objector may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 33 in relation to a request has been granted, the objector is not entitled to give notice under sub-section (1) of this section in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 32 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 33 in relation to a request has been granted, the Commissioner, by notice in writing served on the objector who made the request, requires the objector to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

Procedure on review or appeal

“34D. In proceedings under this Part on a review before the Tribunal or on appeal to a Supreme Court—

- (a) the objector is, unless the Tribunal or Court otherwise orders, limited to the grounds stated in the objection; and
- (b) the burden of proving that an assessment is excessive lies on the objector.

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Powers of Supreme Court on appeal

“34E. (1) A Supreme Court hearing an appeal under this Part may make such order in relation to the decision to which the appeal relates as it thinks fit, including an order confirming or varying the decision.

“(2) An appeal does not lie from an order referred to in sub-section (1) except as provided in section 35.”.

Appeals

63. Section 35 of the Principal Act is amended by omitting “under section 34” and substituting “under section 34E”.

Case stated to Federal Court of Australia

64. Section 36 of the Principal Act is amended by omitting from sub-section (1) “The Supreme Court in which an appeal is instituted in accordance with section 34,” and substituting “A Supreme Court hearing an appeal under this Part”.

65. The Principal Act is amended by inserting after section 36B the following section:

Implementation of decisions

“36C. (1) When a decision of the Tribunal or of a court under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment concerned, as may be necessary to give effect to that decision.

“(2) Where a decision may, by special leave of the High Court, be taken on appeal to that Court, then, in determining, for the purposes of sub-section (1), when that decision becomes final—

- (a) if that decision is a decision of a Supreme Court of a State or Territory and neither an appeal is made to the Federal Court of Australia within the period for lodging such an appeal nor an application made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of the later of those periods to expire; or
- (b) if that decision is a decision of the Federal Court of Australia and an application is not made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of that period.

“(3) In this section ‘decision’, in relation to a court, includes the making of an order under sub-section 34E (1).”.

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Pending review or appeal not to affect assessment

66. Section 37 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) The fact that a review or appeal is pending in relation to an assessment does not in the meantime interfere with, or affect, the assessment and duty may be recovered as if no review or appeal were pending.”.

Repeal of section 38

67. Section 38 of the Principal Act is repealed.

Practice and procedure of Supreme Courts

68. Section 38A of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) This section applies to a proceeding in a Supreme Court in respect of a decision on an objection to an assessment that has, under this Part, been referred to that Supreme Court.”.

**PART X—AMENDMENTS OF THE INCOME TAX ASSESSMENT
ACT 1936**

Principal Act

69. The *Income Tax Assessment Act 1936*⁹ is in this Part referred to as the Principal Act.

Interpretation

70. Section 6 of the Principal Act is amended by inserting in sub-section (1) after the definition of “trading stock” the following definition:

“‘Tribunal’ means the Administrative Appeals Tribunal;”.

Officers to observe secrecy

71. Section 16 of the Principal Act is amended by inserting after paragraph (4) (b) the following paragraph:

“(c) the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration;”.

Promoters recoupment tax

72. Section 78B of the Principal Act is amended by omitting from sub-section (5) “post to or”.

Tax benefit not allowable in respect of certain recouped expenditure

73. Section 82KL of the Principal Act is amended by omitting from sub-section (9) “post to or”.

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Reviews and appeals

74. Section 128P of the Principal Act is amended by omitting sub-section (2).

Consequential adjustments to assessable income and allowable deductions

75. Section 136AF of the Principal Act is amended by omitting from sub-section (6) “post to or”.

Reviews and appeals

76. Section 160AL of the Principal Act is amended by omitting paragraphs (1) (b) and (d).

Cancellation of tax benefits, &c.

77. Section 177F of the Principal Act is amended by omitting from sub-section (7) “post to or”.

Repeal of Division

78. Division 1 of Part V of the Principal Act is repealed.

Objections

79. Section 185 of the Principal Act is amended—

- (a) by omitting “post to or”;
- (b) by omitting the proviso; and
- (c) by adding at the end the following sub-sections:

“(2) Where an assessment has been amended in any particular, the right of a taxpayer to object against the amended assessment is limited to a right to object against alterations or additions in respect of, or matters relating to, that particular.

“(3) Where a notice of assessment of tax incorporates notice of one or more assessments of additional tax, the assessments shall, for the purposes of this Part, be regarded as one assessment.”.

80. Sections 187, 188 and 189 of the Principal Act are repealed and the following sections are substituted:

Request for reference

“187. A taxpayer who is dissatisfied with a decision under section 186 on an objection by the taxpayer may, within 60 days after service on the taxpayer of notice of the decision, lodge with the Commissioner, in writing, either—

- (a) a request to refer the decision to the Tribunal; or
- (b) a request to refer the decision to a specified Supreme Court.

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Applications for extension of time

“188. (1) Where the period for the lodgment by a taxpayer of an objection against an assessment has ended, the taxpayer may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by the taxpayer of a request under section 187 has ended, the taxpayer may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the taxpayer to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“188A. (1) The Commissioner shall consider each application made under sub-section 188 (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the taxpayer who made the application notice in writing of the decision on the application.

“(3) A taxpayer who is dissatisfied with a decision under sub-section (1) in respect of an application made by the taxpayer may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 188 (1) has been granted, the taxpayer who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“188B. (1) Where the Commissioner receives an application under sub-section 188 (2), the Commissioner shall, as soon as practicable—

- (a) if the application relates to a request to refer a decision to the Tribunal—send the application to the Tribunal; or
- (b) if the application relates to a request to refer a decision to a specified Supreme Court—send the application to that Supreme Court.

“(2) The sending of an application to the Tribunal under paragraph (1) (a) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the taxpayer concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

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“(3) The sending of an application to a Supreme Court under paragraph (1) (b) constitutes the making by the taxpayer concerned of an application to that Court to extend the time within which the request may be lodged with the Commissioner and the application shall be heard by that Court constituted by a single Judge.

“(4) The Tribunal or the Supreme Court, as the case may be, may grant or refuse the application.

“(5) Where an application under sub-section 188 (2) has been granted, the taxpayer shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal or Court

“189. (1) Where a taxpayer duly lodges, or is to be treated as having duly lodged, a request under section 187, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the taxpayer of an application to the Tribunal for review of the decision.

“(3) The referral of a decision on an objection to a Supreme Court constitutes the instituting by the taxpayer concerned of an appeal against the decision, and that appeal shall be heard by that Court constituted by a single Judge.

Notice to refer

“189A. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 187 in relation to a decision on an objection, the Commissioner does not comply with the request, the taxpayer may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 188 in relation to a request has been granted, the taxpayer who made the request is not entitled to give notice under sub-section (1) of this section in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 187 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 188 in relation to a request has been granted, the Commissioner, by notice in writing served on the taxpayer who made the request, requires the taxpayer to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.”.

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Grounds of objection and burden of proof

81. Section 190 of the Principal Act is amended—

- (a) by omitting “Upon every such reference or appeal” and substituting “In proceedings under this Part on a review before the Tribunal or on appeal to a Supreme Court”; and
- (b) by inserting in paragraph (a) “, unless the Tribunal or Court otherwise orders,” after “shall”.

Repeal of sections 191 and 192

82. Sections 191 and 192 of the Principal Act are repealed.

Powers of Tribunal

83. Section 193 of the Principal Act is amended—

- (a) by omitting sub-section (1);
- (b) by omitting from sub-section (2) “The Board” and substituting “Notwithstanding section 25 of the *Administrative Appeals Tribunal Act 1975*, the Tribunal”; and
- (c) by omitting from sub-section (3) “Board” and substituting “Tribunal”.

Repeal of sections 194, 195 and 196

84. Sections 194, 195 and 196 of the Principal Act are repealed.

Practice and procedure of Supreme Courts

85. Section 196A of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) This section applies to a proceeding in a Supreme Court in respect of a decision on an objection against an assessment that has, under this Part, been referred to that Supreme Court.”.

Repeal of section 197

86. Section 197 of the Principal Act is repealed.

Case stated to Federal Court of Australia

87. Section 198 of the Principal Act is amended by omitting from sub-section (1) “section 197” and substituting “sub-section 189 (3)”.

Order of Court on appeal

88. Section 199 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) A Supreme Court hearing an appeal under this Part may make such order in relation to the decision to which the appeal relates as it thinks fit, including an order confirming or varying the decision.”.

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89. The Principal Act is amended by inserting after section 200A the following section:

Implementation of decisions

“200B. (1) When a decision of the Tribunal or of a court under this Part becomes final, the Commissioner shall, not later than 60 days after the decision becomes final, take such action, including amending the assessment concerned, as may be necessary to give effect to that decision.

“(2) Where a decision may, by special leave of the High Court, be taken on appeal to that Court, then, in determining, for the purposes of sub-section (1), when that decision becomes final—

- (a) if that decision is a decision of a Supreme Court of a State or Territory and neither an appeal is made to the Federal Court of Australia within the period for lodging such an appeal nor an application made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of the later of those periods to expire; or
- (b) if that decision is a decision of the Federal Court of Australia and an application is not made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of that period.

“(3) In this section, ‘decision’, in relation to a court, includes the making of an order under sub-section 199 (1).”.

Pending review or appeal not to affect assessment

90. Section 201 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) The fact that a review or appeal is pending in relation to an assessment does not in the meantime interfere with, or affect, the assessment and income tax may be recovered as if no review or appeal were pending.”.

Repeal of section 202

91. Section 202 of the Principal Act is repealed.

Assessment where no administration

92. Section 220 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “post to or”;
- (b) by omitting from sub-section (3) “and appeals” and substituting “, reviews and appeals”;
- (c) by omitting from sub-section (4) “by the Commissioner, or by the Board of Review or by a Court”; and
- (d) by omitting from sub-section (7) “and appeals” and substituting “, reviews and appeals”.

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Review of decisions

93. Section 221U of the Principal Act is amended by omitting from sub-section (1) “post to, or lodge with,” and substituting “lodge with”.

Notification and review of decisions

94. Section 221YHT of the Principal Act is amended by omitting from sub-section (2) “post to, or lodge with,” and substituting “lodge with”.

Cancellation or suspension of registration of tax agents

95. Section 251K of the Principal Act is amended by omitting from sub-section (5) “Administrative Appeals”.

Unregistered tax agents not to charge fees

96. Section 251L of the Principal Act is amended by omitting from sub-section (4) “before a board” and substituting “before a board, the Tribunal or a court”.

Preparation of returns, &c., on behalf of registered tax agents

97. Section 251N of the Principal Act is amended by omitting from sub-section (3) “before a board” and substituting “before a board, the Tribunal or a court”.

Release of taxpayers from liability in cases of hardship

98. Section 265 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “a Board of Review” and substituting “the Tribunal”; and
- (b) by omitting sub-sections (4) and (4A) and substituting the following sub-section:

“(4) The President of the Tribunal shall designate the Registrar or a Deputy Registrar of the Tribunal to be a designated person—

- (a) for the purposes of dealing with the application; or
- (b) for the purposes of dealing with applications under this section included in a specified class of applications.”.

**PART XI—AMENDMENTS OF THE LOAN (DROUGHT BONDS)
ACT 1969**

Principal Act

99. The *Loan (Drought Bonds) Act 1969*¹⁰ is in this Part referred to as the Principal Act.

Interpretation

100. Section 4 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “Board of Review”; and

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(b) by inserting after the definition of “the Registrar” in sub-section (1), the following definition:

“‘Tribunal’ means the Administrative Appeals Tribunal;”.

Repeal of sections 15A, 25A and 25B

101. Sections 15A, 25A and 25B of the Principal Act are repealed.

Review by Tribunal

102. Section 26 of the Principal Act is amended by omitting sub-sections (3) to (10) (inclusive) and substituting the following sub-section:

“(3) An application may be made to the Tribunal for review of a decision in respect of which a notice has been given to a person under sub-section (1).”.

103. Section 27 of the Principal Act is repealed and the following section is substituted:

Notice of declarations

“27. The authorized person shall cause notice in writing of each declaration made under this Part to be given to—

- (a) the Registrar; and
- (b) the holder of the stock concerned,

and, if the declaration was made under section 20, to the person referred to in that section as the purchaser.”.

104. Sections 30 and 30A of the Principal Act are repealed and the following section is substituted:

Requests, &c., to be in writing

“30. A request, declaration or notice under this Part shall be in writing and, except in the case of a declaration made by the Tribunal, shall be signed by the person who made or gave it.”.

Regulations

105. Section 31 of the Principal Act is amended—

- (a) by adding at the end of paragraph (1) (a) “and”; and
- (b) by omitting paragraph (1) (aa).

**PART XII—AMENDMENTS OF THE MANAGEMENT AND
INVESTMENT COMPANIES ACT 1983**

Principal Act

106. The *Management and Investment Companies Act 1983*¹¹ is in this Part referred to as the Principal Act.

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Disclosure of information

107. Section 19 of the Principal Act is amended—

- (a) by omitting from sub-section (2) all words from and including “information” and substituting “information—
 - (a) to the Commissioner of Taxation; or
 - (b) to the Administrative Appeals Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration.”; and
- (b) by omitting the definition of “Board of Review” from sub-section (4).

**PART XIII—AMENDMENTS OF THE PAY-ROLL TAX
ASSESSMENT ACT 1941**

Principal Act

108. The *Pay-roll Tax Assessment Act 1941*¹² is in this Part referred to as the Principal Act.

Interpretation

109. Section 3 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “Board of Review”; and
- (b) by inserting after the definition of “the Commissioner” in sub-section (1), the following definition:
“‘Tribunal’ means the Administrative Appeals Tribunal;”.

Officers to observe secrecy

110. Section 11 of the Principal Act is amended—

- (a) by omitting from sub-section (4) “a Board of Review,” and substituting “the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration,”; and
- (b) by omitting from sub-section (5) “a Board of Review” and “Board” and substituting “the Tribunal” and “Tribunal”, respectively.

Alternative basis for rebate for 1968-69 because of currency devaluation

111. Section 16H of the Principal Act is amended—

- (a) by omitting from sub-section (9) “a Board of Review” and substituting “the Tribunal”;
- (b) by omitting from sub-section (11) “a Board of Review, and the Board of Review” and substituting “the Tribunal, which”;
- (c) by omitting from sub-section (12) “a Board of Review” and substituting “the Tribunal”;

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- (d) by omitting from sub-section (14) “a Board of Review” and substituting “the Tribunal”.

Review of base period export sales

112. Section 16Q of the Principal Act is amended—

- (a) by omitting from sub-section (4) “a Board of Review” and substituting “the Tribunal”;
- (b) by omitting from sub-section (5) “Board of Review” and substituting “Tribunal”;
- (c) by omitting from sub-section (6) “the Board of Review” and substituting “the Tribunal”; and
- (d) by omitting from sub-section (7) “a Board of Review” and substituting “the Tribunal”.

Review of amounts added to value of export sales for base period under section 16D

113. Section 16R of the Principal Act is amended—

- (a) by omitting from sub-section (4) “a Board of Review” and substituting “the Tribunal”;
- (b) by omitting from sub-section (5) “Board of Review” and substituting “Tribunal”;
- (c) by omitting from sub-section (6) “a Board of Review” and substituting “the Tribunal”; and
- (d) by omitting from sub-section (6) “the Board” and substituting “the Tribunal”.

Provision for payment of tax by executors and administrators

114. Section 33 of the Principal Act is amended—

- (a) by omitting from sub-section (6) “forty-two days” and substituting “60 days”;
- (b) by omitting from sub-section (6) “post to or”;
- (c) by inserting in sub-section (6) “, reviews and” after “objections”;
- (d) by omitting from sub-section (7) “by the Commissioner or by a Board of Review or by a court”;
- (e) by omitting from sub-section (10) “forty-two” and substituting “60”;
- and
- (f) by omitting from sub-section (10) “and the Commissioner shall consider such objection and shall make such amendment (if any) as he considers necessary” and substituting “and thereupon the provisions of this Act relating to objections, reviews and appeals apply as if the objection had been made by the deceased person”.

Repeal of section 38

115. Section 38 of the Principal Act is repealed.

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Objections

116. Section 39 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “forty-two” and substituting “60”;
- (b) by omitting from sub-section (1) “post to, or lodge with” and substituting “lodge with”; and
- (c) by omitting sub-section (4).

117. Sections 40 and 40A of the Principal Act are repealed and the following sections are substituted:

Request for reference

“40. An employer who is dissatisfied with a decision under section 39 on an objection by the employer may, within 60 days after service on the employer of notice of the decision, lodge with the Commissioner a request in writing to refer the decision to the Tribunal.

Applications for extension of time

“40A. (1) Where the period for the lodgment by an employer of an objection has ended, the employer may, notwithstanding that that period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by an employer of a request under section 40 has ended, the employer may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the person to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“40B. (1) The Commissioner shall consider each application made under sub-section 40A (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the employer who made the application notice in writing of the decision on the application.

“(3) An employer who is dissatisfied with a decision under sub-section (1) in respect of an application made by the employer may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 40A (1) has been granted, the employer who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“40C. (1) Where the Commissioner receives an application under sub-section 40A (2), the Commissioner shall, as soon as practicable, send the application to the Tribunal.

“(2) The sending of an application to the Tribunal under sub-section (1) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the employer concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The Tribunal may grant or refuse the application.

“(4) Where an application under sub-section 40A (1) has been granted, the employer shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal

“40D. (1) Where an employer duly lodges, or is to be treated as having duly lodged, a request under section 40 in relation to a decision on an objection, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the employer of an application to the Tribunal for review of the decision.

Notice to refer

“40E. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 40 in relation to a decision on an objection, the Commissioner does not comply with the request, the employer who made the request may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 40A in relation to a request has been granted, the employer who made the request is not entitled to give notice under sub-section (1) in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 40 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 40A in relation to a request has been granted, the Commissioner, by notice in writing served on the employer who made the request, requires the employer to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

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Procedure on review

- “40F. In proceedings under this Part on a review before the Tribunal—
- (a) the person who requested the review is, unless the Tribunal otherwise orders, limited to the grounds stated in the objection; and
 - (b) the burden of proving that an assessment is excessive, or a decision or determination is incorrect, lies on the person who requested the review.

Implementation of decisions

“40G. (1) When a decision of the Tribunal under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment concerned as may be necessary to give effect to that decision.

“(2) In determining, for the purposes of sub-section (1), when a decision of the Tribunal becomes final, if an appeal has been made to the Full Court of the Federal Court of Australia in relation to that decision but no application for special leave to appeal to the High Court in relation to that decision is made within 30 days after the determination of the first-mentioned appeal, the decision of the Federal Court of Australia shall be taken to have become final on the expiration of that period.”

Pending review or appeal not to affect assessment, &c.

118. Section 41 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) The fact that a review or appeal is pending in relation to an assessment, determination or decision does not in the meantime interfere with, or affect, the assessment, determination or decision and tax or additional tax may be recovered as if no review or appeal were pending.”; and

- (b) by omitting sub-section (2).

Release of employers in cases of hardship

119. Section 70 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “a Board of Review” and substituting “the Tribunal”; and
- (b) by omitting sub-sections (4) and (4A) and substituting the following sub-section:

“(4) The President of the Tribunal shall designate the Registrar or a Deputy Registrar of the Tribunal to be a designated person—

- (a) for the purposes of dealing with the application; or
- (b) for the purposes of dealing with applications under this section included in a specified class of applications.”

**PART XIV—AMENDMENTS OF THE PAY-ROLL TAX
(TERRITORIES) ASSESSMENT ACT 1971**

Principal Act

120. The *Pay-roll Tax (Territories) Assessment Act 1971*¹³ is in this Part referred to as the Principal Act.

Interpretation

121. Section 4 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “Board of Review”; and
- (b) by inserting after the definition of “the *Pay-roll Tax Assessment Act 1941*” in sub-section (1), the following definition:
“‘Tribunal’ means the Administrative Appeals Tribunal;”.

Secrecy

122. Section 8 of the Principal Act is amended by omitting paragraph (4) (a) and substituting the following paragraph:

- “(a) the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration;”.

Where no administration of estate of deceased employer

123. Section 34 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “post to or”;
- (b) by inserting in sub-section (3) “, reviews” after “objections”; and
- (c) by omitting from sub-section (7) “and the Commissioner shall consider any such objection and shall make such amendment, if any, as he considers necessary” and substituting “and the provisions of this Act relating to objections, reviews and appeals apply in relation to such an objection as if the person were the employer”.

Repeal of sections 37A and 38

124. Sections 37A and 38 of the Principal Act are repealed.

Objections

125. Section 39 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-sections:

“(1) An employer who is dissatisfied with an assessment or determination made by the Commissioner under this Act, or a decision made by the Commissioner under this Act by which the employer’s liability to pay tax is affected, may, within 60 days after service on the employer of notice in writing of the assessment, determination or decision, lodge with the Commissioner an objection

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in writing against the assessment, determination or decision, stating fully and in detail the grounds on which the employer relies.

“(1A) Where a notice of assessment of tax incorporates notice of one or more assessments of additional tax, the assessment shall, for the purposes of this Part, be regarded as one assessment.”; and

(b) by omitting sub-section (4).

126. Sections 40 and 40A of the Principal Act are repealed and the following sections are substituted:

Request for reference

“40. An employer who is dissatisfied with a decision under section 39 on an objection by the employer may, within 60 days after service on the employer of notice of the decision, lodge with the Commissioner a request in writing to refer the decision to the Tribunal.

Applications for extension of time

“40A. (1) Where the period for the lodgment by an employer of an objection has ended, the employer may, notwithstanding that that period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by an employer of a request under section 40 has ended, the employer may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the person to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“40B. (1) The Commissioner shall consider each application made under sub-section 40A (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the employer who made the application notice in writing of the decision on the application.

“(3) An employer who is dissatisfied with a decision under sub-section (1) in respect of an application made by the employer may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 40A (1) has been granted, the employer who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

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Consideration of applications for extension of time for lodging requests for reference

“40C. (1) Where the Commissioner receives an application under sub-section 40A (2), the Commissioner shall, as soon as practicable, send the application to the Tribunal.

“(2) The sending of an application to the Tribunal under sub-section (1) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the employer concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The Tribunal may grant or refuse the application.

“(4) Where an application under sub-section 40A (2) has been granted, the employer shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal

“40D. (1) Where an employer duly lodges, or is to be treated as having duly lodged, a request under section 40, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the employer of an application to the Tribunal for review of the decision.

Notice to refer

“40E. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 40 in relation to a decision on an objection, the Commissioner does not comply with the request, the employer who made the request may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 40A in relation to a request has been granted, the employer who made the request is not entitled to give notice under sub-section (1) in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 40 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 40A in relation to a request has been granted, the Commissioner, by notice in writing served on the employer who made the request, requires the employer to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

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Procedure on review

- “40F. In proceedings under this Part on a review before the Tribunal—
- (a) the person who requested the review is, unless the Tribunal otherwise orders, limited to the grounds stated in the objection; and
 - (b) the burden of proving that an assessment is excessive, or a decision or determination is incorrect, lies on the person who requested the review.

Implementation of decisions

“40G. (1) When a decision of the Tribunal under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment concerned, as maybe necessary to give effect to that decision.

“(2) In determining, for the purposes of sub-section (1), when a decision of the Tribunal becomes final, if an appeal has been made to the Full Court of the Federal Court of Australia in relation to that decision but no application for special leave to appeal to the High Court in relation to that decision is made within 30 days after the determination of the first-mentioned appeal, the decision of the Federal Court of Australia shall be taken to have become final on the expiration of that period.”

Pending review or appeal not to affect assessment, &c.

127. Section 41 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) The fact that a review or appeal is pending in relation to an assessment, determination or decision does not in the meantime interfere with, or affect, the assessment, determination or decision and tax may be recovered as if no review or appeal were pending.”; and

- (b) by omitting sub-sections (2) and (3).

Repeal of section 41A

128. Section 41A of the Principal Act is repealed.

Release of employers in cases of hardship

129. Section 69 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “a Board of Review” and substituting “the Tribunal”; and
- (b) by omitting sub-sections (4) and (4A) and substituting the following sub-section:

“(4) The President of the Tribunal shall designate the Registrar or a Deputy Registrar of the Tribunal to be a designated person—

- (a) for the purposes of dealing with the application; or

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- (b) for the purposes of dealing with applications under this section included in a specified class of applications.”.

Regulations

130. Section 70 of the Principal Act is amended by omitting paragraph (1) (a).

**PART XV—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 1) 1930**

Principal Act

131. The *Sales Tax Assessment Act (No. 1) 1930*¹⁴ is in this Part referred to as the Principal Act.

Interpretation

132. Section 3 of the Principal Act is amended—

- (a) by inserting after the definition of “Arrangement” in sub-section (1) the following definition:

“‘assessment’ means—

- (a) the ascertainment of the sale value of goods and of the sales tax payable on that sale value; or
(b) the ascertainment of additional tax payable under Part VIII;”;

- (b) by omitting from sub-section (1) the definition of “Board of Review”; and

- (c) by inserting after the definition of “the Commissioner” in sub-section (1) the following definition:

“‘Tribunal’ means the Administrative Appeals Tribunal;”.

Officers to observe secrecy

133. Section 10 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:

“(4) Notwithstanding anything contained in any other provision of this section, the Commissioner may communicate—

- (a) to the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration; or
(b) to the Comptroller-General of Customs,

any matter that comes to the knowledge of the Commissioner in the performance of the Commissioner’s official duties.”.

Further tax

134. Section 25 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (2), (2A), (3) and (4) and substituting the following sub-sections:

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“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where, under sub-section 18 (3A) or (4) or 18A (5) or (6), the sale value of any goods has been altered, the Commissioner shall make an assessment in relation to those goods.

“(2A) Where—

- (a) a person makes default in furnishing a return;
- (b) the Commissioner is not satisfied with a return furnished by a person; or
- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(3) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

- (b) by omitting from sub-section (5) “and calculation”.

135. The Principal Act is amended by inserting after section 25 the following sections:

Special assessments

“25AA. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of a specified act done, or a specified transaction or operation effected, by the taxpayer.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the act was done or the transaction or operation was effected or within such further time as the Commissioner allows.

“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“25AB. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

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Provision for payment of tax by executors, &c.

136. Section 35 of the Principal Act is amended—

- (a) by omitting sub-sections (3) and (4) and substituting the following sub-section:
- “(3) Where—
- (a) the executors or administrators of a deceased taxpayer are unable or refuse or fail to furnish a return; or
- (b) probate has not been granted, or letters of administration have not been taken out, in respect of the estate of a deceased taxpayer, within 6 months of the taxpayer’s death, the Commissioner may make an assessment in relation to the deceased.”;
- (b) by omitting from sub-section (6) “42” and substituting “60”;
- (c) by omitting from sub-section (6) “post to or”;
- (d) by omitting from sub-section (6) “objections and appeals shall thereupon apply in relation to the objection as if” and substituting “objections, reviews and appeals shall thereupon apply in relation to the objection as if the objection had been lodged under sub-section 40 (1) and”;
- (e) by omitting sub-section (7);
- (f) by omitting from sub-section (10) “(7),”;
- (g) by omitting from sub-section (10) “42” and substituting “60”; and
- (h) by omitting from sub-section (10) “objections and appeals shall thereupon apply in relation to the objection as if” and substituting “objections, reviews and appeals shall thereupon apply in relation to the objection as if the objection had been lodged under sub-section 40 (1) and”.

Repeal of section 39

137. Section 39 of the Principal Act is repealed.

138. Section 39A of the Principal Act is repealed and the following section is substituted:

Interpretation

“39A. In this Part, unless the contrary intention appears—

‘objector’, in relation to an assessment, refund decision or reviewable decision, means a person who has duly lodged, or is to be treated as having duly lodged, under section 35 or 40, an objection to that assessment, refund decision or reviewable decision;

‘refund decision’ means a decision made on or after 1 July 1986 in respect of an application—

- (a) for action to be taken under section 26; or
- (b) under the Sales Tax Regulations for the refund or payment of an amount of money to prevent double taxation or for the purpose of effectuating an exemption from sales tax;

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'reviewable decision' means a decision made under sub-section 11 (3B), (8A) or (11), 15A (1) or (5) or 16 (3);

'Supreme Court' means—

- (a) a Supreme Court of a State; or
- (b) the Supreme Court of the Australian Capital Territory or the Supreme Court of the Northern Territory.”.

139. Sections 40, 41 and 42 of the Principal Act are repealed and the following sections are substituted:

Objections against assessments, &c.

“40. (1) A taxpayer who is dissatisfied with an assessment may, within 60 days after service on the taxpayer of notice of the assessment, lodge with the Commissioner an objection in writing against the assessment.

“(2) An applicant for a refund decision who is dissatisfied with a decision made on the application may, within 60 days after service on the applicant of notice of the decision, lodge with the Commissioner an objection in writing against the decision.

“(3) Sub-section (2) does not apply in relation to a refund decision unless the application for the refund or payment to which the decision relates was lodged with the Commissioner within 60 days after the transaction, act or operation (not being the payment of tax) that is claimed to entitle the applicant to the refund or payment or within such further time as the Commissioner allows.

“(4) A person affected by a reviewable decision who is dissatisfied with that reviewable decision may, within 60 days after service on the person of notice of the decision, lodge with the Commissioner an objection in writing against the reviewable decision.

“(5) An objection under this section shall state fully and in detail the grounds on which the objection is made.

“(6) The Commissioner shall consider each objection and may either disallow it or allow it wholly or in part.

“(7) The Commissioner shall cause notice in writing of the Commissioner's decision on each objection to be served on the objector.

“(8) Where an assessment has been amended in any particular, the right of a taxpayer to object against the amended assessment is limited to a right to object against alterations or additions in respect of, or matters relating to, that particular.

“(9) Where a notice incorporates notice of more than one assessment, whether of tax or of additional tax, the assessments shall, for the purposes of this Part, be regarded as one assessment.

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Request for reference

“41. An objector who is dissatisfied with a decision under section 40 on an objection by the objector may, within 60 days after service on the objector of notice of the decision, lodge with the Commissioner, in writing, either—

- (a) a request to refer the decision to the Tribunal; or
- (b) a request to refer the decision to a specified Supreme Court.

Applications for extension of time

“42. (1) Where the period for the lodgment by a person of an objection has ended, the person may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by an objector of a request under section 41 has ended, the objector may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the person to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“42A. (1) The Commissioner shall consider each application made under sub-section 42 (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the person who made the application notice in writing of the decision on the application.

“(3) A person who is dissatisfied with a decision under sub-section (1) in respect of an application made by the person may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 42 (1) has been granted, the person who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“42B. (1) Where the Commissioner receives an application under sub-section 42 (2), the Commissioner shall, as soon as practicable—

- (a) if the application relates to a request to refer a decision to the Tribunal—send the application to the Tribunal; or

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(b) if the application relates to a request to refer a decision to a specified Supreme Court—send the application to that Supreme Court.

“(2) The sending of an application to the Tribunal under paragraph (1) (a) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the objector concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The sending of an application to a Supreme Court under paragraph (1) (b) constitutes the making by the objector concerned of an application to that Court to extend the time within which the request may be lodged with the Commissioner and the application shall be heard by that Court constituted by a single Judge.

“(4) The Tribunal or the Supreme Court, as the case may be, may grant or refuse the application.

“(5) Where an application under sub-section 42 (2) has been granted, the objector shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal or Court

“42C. (1) Where an objector duly lodges, or is to be treated as having duly lodged, a request under section 41, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the objector of an application to the Tribunal for review of the decision concerned.

“(3) The referral of a decision on an objection to a Supreme Court constitutes the instituting by the objector concerned of an appeal against the decision, and that appeal shall be heard by that Court constituted by a single Judge.

Notice to refer

“42D. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 41 in relation to a decision on an objection, the Commissioner does not comply with the request, the objector who made the request may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 42 in relation to a request has been granted, the objector who made the request is not entitled to give notice under sub-section (1) in relation to the request before the expiration of 60 days after the day on which the application was granted.

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“(3) If, within 60 days after receiving a request under section 41 in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 42 in relation to a request has been granted, the Commissioner, by notice in writing served on the objector who made the request, requires the objector to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

Procedure on review or appeal

“42E. In proceedings under this Part on a review before the Tribunal or on appeal to a Supreme Court—

- (a) the objector is, unless the Tribunal or Court otherwise orders, limited to the grounds stated in the objection; and
- (b) the burden of proving that an assessment is excessive, or a refund decision or a reviewable decision is incorrect, lies on the objector.

Powers of Tribunal in relation to remission decisions

“42F. Notwithstanding section 25 of the *Administrative Appeals Tribunal Act 1975*, the Tribunal does not have power to review decisions of the Commissioner relating to the remission of additional tax except decisions relating to the remission of additional tax under Part VIII where the additional tax payable, after the making by the Commissioner of the decision, exceeds—

- (a) in the case of additional tax payable under sub-section 45 (1) because of a refusal or failure to furnish a return or information in respect of goods—the amount calculated, in respect of the period commencing on the last day allowed for furnishing the return or information, as the case may be, and ending on—
 - (i) the day on which the return or information is furnished; or
 - (ii) the day on which the assessment of additional tax is made, whichever first happens, at a rate of 20% per year of the tax properly payable in respect of those goods;
- (b) in the case of additional tax payable under sub-section 45 (2) because of the making of a false or misleading statement—the amount calculated, in respect of the period commencing on the day the amount of the excess referred to in that sub-section became due and payable and ending on the day on which the assessment of additional tax is made, at the rate of 20% per year of that excess;
- (c) in the case of additional tax payable under section 46 in consequence of an alteration in sale value of goods—the amount calculated, in respect of the period commencing on the day the amount of the difference referred to in that section became due and payable and ending on the day on which the assessment of additional tax is

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made, at the rate of 20% per year of the amount of that difference;
or

- (d) if the amount ascertained in accordance with paragraph (a), (b) or (c) is less than \$20—\$20.

Proceedings on appeal to Court

“42G. (1) A Supreme Court hearing an appeal under this Part may, if it thinks fit, state a case in writing for the opinion of the Federal Court of Australia on a question of law arising on the appeal.

“(2) A Full Court of the Federal Court of Australia shall hear and, by order, determine the question, and remit the case with its opinion to the Supreme Court, and may make such order as to the costs of the case stated as it thinks fit.

“(3) A Supreme Court hearing an appeal under this Part may make such order in relation to the decision to which the appeal relates as it thinks fit, including an order confirming or varying the decision.

“(4) An appeal does not lie from an order under sub-section (3) except—

- (a) to the Federal Court of Australia; or
(b) by special leave of the High Court—to that Court.

“(5) An appeal does not lie from a decision of the Federal Court of Australia in a matter under this Part unless the High Court gives special leave to appeal.

Implementation of decisions

“42H. (1) When a decision of the Tribunal or of a court on an objection under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment, if any, concerned, as may be necessary to give effect to that decision.

“(2) Where a decision may, by special leave of the High Court, be taken on appeal to that Court, then, in determining, for the purposes of sub-section (1), when that decision becomes final—

- (a) if that decision is a decision of a Supreme Court of a State or Territory and neither an appeal is made to the Federal Court of Australia within the period for lodging such an appeal nor an application made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of the later of those periods to expire; or
(b) if that decision is a decision of the Federal Court of Australia and an application is not made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision will become final upon the expiration of that period.

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“(3) In this section ‘decision’, in relation to a court, includes the making of an order under sub-section 42G (3).

Pending review or appeal not to affect assessment, &c.

140. Section 43 of the Principal Act is amended by omitting sub-sections (1), (2) and (3) and substituting the following sub-section:

“(1) The fact that a review or appeal is pending in relation to an assessment or refund decision does not in the meantime interfere with, or affect, the assessment or refund decision and sales tax may be recovered as if no review or appeal were pending.”.

Repeal of section 44

141. Section 44 of the Principal Act is repealed.

Practice and procedure of Supreme Courts

142. Section 44A of the Principal Act is amended—

- (a) by omitting from sub-section (1) “in proceedings to which this section applies” and substituting “in proceedings under this Part”;
- (b) by omitting from sub-section (1) “to and in relation to a proceeding to which this section applies” and substituting “in relation to a proceeding under this Part”; and
- (c) by omitting sub-section (2).

Repeal of section 44B

143. Section 44B of the Principal Act is repealed.

Penalty tax where certain anti-avoidance provisions apply

144. Section 46 of the Principal Act is amended—

- (a) by omitting “for the purposes of sub-section 25 (2), the Commissioner has calculated the further tax that is payable by a person” and substituting “under sub-section 25 (2), the Commissioner has made an assessment in relation to a person”; and
- (b) by omitting “further tax” and substituting “difference between the tax properly payable and the tax that would have been payable if the sale value concerned had not been altered”.

145. The Principal Act is amended by inserting in Part X before section 68 the following sections:

Judicial notice

“66. All courts and tribunals, and all judges and persons acting judicially or authorised by law or consent of parties to hear, receive and examine evidence, shall take judicial notice of the signature of a person who holds or has held the office of the Commissioner, a Second Commissioner or a Deputy Commissioner attached or appended to an official document in connection with this Act.

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Evidence

“67. (1) The mere production of—

- (a) a notice of an assessment or of the making of a refund decision; or
- (b) a document signed by the Commissioner, a Second Commissioner or a Deputy Commissioner and purporting to be a copy of a notice of an assessment or of the making of a refund decision,

is conclusive evidence—

- (c) of the due making of the assessment or the refund decision;
- (d) in the case of a notice of an assessment—except in proceedings under Part VII on a review or an appeal relating to the assessment, that the amounts and all of the particulars of the assessment are correct; and
- (e) in the case of a notice of a refund decision—except in proceedings under Part VII on a review or appeal relating to the decision, that the decision is correct.

“(2) The mere production of a document signed by the Commissioner, a Second Commissioner or a Deputy Commissioner and purporting to be a copy of a document issued or served by the Commissioner, a Second Commissioner or a Deputy Commissioner is *prima facie* evidence that the second-mentioned document was so issued or served.

“(3) The mere production of a document signed by the Commissioner, a Second Commissioner or a Deputy Commissioner and purporting to be a copy of, or an extract from, a return, a notice of assessment or of a notice of the making of a refund decision, is evidence of the matter set out in the document to the same extent as the original return or notice, as the case may be, would be if it were produced.

“(4) The mere production of a certificate in writing signed by the Commissioner, a Second Commissioner or a Deputy Commissioner certifying that a sum specified in the certificate was, at the date of the certificate, due and payable by a person in respect of an amount of tax is *prima facie* evidence of the matters stated in the certificate.

“(5) The mere production of a *Gazette* containing a notice purporting to have been issued by the Commissioner is *prima facie* evidence that the notice was so issued.

“(6) In this section, ‘refund decision’ has the same meaning as it has for the purposes of Part VII.”.

Regulations

146. Section 73 of the Principal Act is amended by omitting from paragraph (ab) “to which section 44A applies” and substituting “to which Part VII applies”.

**PART XVI—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 2) 1930**

Principal Act

147. The *Sales Tax Assessment Act (No. 2) 1930*¹⁵ is in this Part referred to as the Principal Act.

Further tax

148. Section 10 of the Principal Act is amended—

(a) by omitting sub-sections (1), (2), (2A), (3) and (4) and substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where, under sub-section 4 (1) or (4) or 4A (5) or (6), the sale value of any goods has been altered, the Commissioner shall make an assessment in relation to those goods.

“(2A) Where—

- (a) a person makes default in furnishing a return;
- (b) the Commissioner is not satisfied with a return furnished by a person; or
- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(3) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

(b) by omitting from sub-section (5) “and calculation”.

149. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of a specified act done, or a specified transaction or operation effected, by the taxpayer.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the act was done or the transaction or operation was effected or within such further period as the Commissioner allows.

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“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“10B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

150. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “39” and substituting “38”; and
- (b) by inserting after paragraph (1) (c) the following paragraph:

“(ca) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 of this Act or sub-section 26 (3A) of that Act as so applied;”.

**PART XVII—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 3) 1930**

Principal Act

151. The *Sales Tax Assessment Act (No. 3) 1930*¹⁶ is in this Part referred to as the Principal Act.

Further tax

152. Section 10 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (2), (2A), (3) and (4) and substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where, under sub-section 4 (1) or (4) or 4A (5) or (6), the sale value of any goods has been altered, the Commissioner shall make an assessment in relation to those goods.

“(2A) Where—

- (a) a person makes default in furnishing a return;
- (b) the Commissioner is not satisfied with a return furnished by a person; or
- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

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the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(3) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

(b) by omitting from sub-section (5) “and calculation”.

153. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of a specified act done, or a specified transaction or operation effected, by the taxpayer.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the act was done or the transaction or operation was effected or within such further period as the Commissioner allows.

“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“10B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”

Application of provisions of Sales Tax Assessment Act (No. 1)

154. Section 12 of the Principal Act is amended—

(a) by omitting from sub-section (1) “39” and substituting “38”; and

(b) by inserting after paragraph (1) (c) the following paragraph:

“(ca) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 of this Act or sub-section 26 (3A) of that Act as so applied;”.

**PART XVIII—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 4) 1930**

Principal Act

155. The *Sales Tax Assessment Act (No. 4) 1930*¹⁷ is in this Part referred to as the Principal Act.

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Further tax

156. Section 10 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (1AA), (1A), (2) and (3) substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where, under sub-section 4 (5) or 4A (5) or (6), the sale value of any goods has been altered, the Commissioner shall make an assessment in relation to those goods.

“(2A) Where—

- (a) a person makes default in furnishing a return;
- (b) the Commissioner is not satisfied with a return furnished by a person; or
- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(2B) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

- (b) by omitting from sub-section (4) “and calculation”.

157. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of specified goods applied by the taxpayer to the taxpayer’s own use.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the goods were so applied or within such further period as the Commissioner allows.

“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

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Amended assessments

“10B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

158. Section 12 of the Principal Act is amended—

(a) by omitting from sub-section (1) “39” and substituting “38”; and

(b) by inserting after paragraph (1) (c) the following paragraph:

“(ca) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 of this Act or sub-section 26 (3A) of that Act as so applied;”.

**PART XIX—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 5) 1930**

Principal Act

159. The *Sales Tax Assessment Act (No. 5) 1930*¹⁸ is in this Part referred to as the Principal Act.

Further tax

160. Section 10 of the Principal Act is amended—

(a) by omitting sub-sections (1), (2) and (3) and substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

(b) by omitting from sub-section (4) “and calculation”.

161. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10AA. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of specified imported goods that are entered by the taxpayer for home consumption.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the goods were so entered or within such further period as the Commissioner allows.

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“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“10AB. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

162. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “39” and substituting “38”;
- (b) by omitting from paragraph (1) (b) “and”; and
- (c) by adding at the end of sub-section (1) the following word and paragraph:
 - “; and (d) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 or 11B of this Act.”.

**PART XX—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 6) 1930**

Principal Act

163. The *Sales Tax Assessment Act (No. 6) 1930*¹⁹ is in this Part referred to as the Principal Act.

Further tax

164. Section 10 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (2), (2A), (3) and (4) and substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where, under sub-section 4 (1) or (2) or 4A (5), the sale value of any goods has been altered, the Commissioner shall make an assessment in relation to those goods.

“(2A) Where—

- (a) a person makes default in furnishing a return;
- (b) the Commissioner is not satisfied with a return furnished by a person; or

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- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(3) As soon as conveniently may be after after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

- (b) by omitting from sub-section (5) “and calculation”.

165. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of a specified act done, or a specified transaction or operation effected, by the taxpayer.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the act was done or the transaction or operation was effected or within such further period as the Commissioner allows.

“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“10B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

166. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “39” and substituting “38”; and

- (b) by inserting after paragraph (1) (c) the following paragraph:

“(ca) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 of this Act or sub-section 26 (3A) of that Act as so applied;”.

**PART XXI—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 7) 1930**

Principal Act

167. The *Sales Tax Assessment Act (No. 7) 1930*²⁰ is in this Part referred to as the Principal Act.

Further tax

168. Section 10 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (2), (2A), (3) and (4) and substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where, under sub-section 4 (1) or (2) or 4A (5), the sale value of any goods has been altered, the Commissioner shall make an assessment in relation to those goods.

“(2A) Where—

- (a) a person makes default in furnishing a return;
(b) the Commissioner is not satisfied with a return furnished by a person; or
(c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(3) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

- (b) by omitting from sub-section (5) “and calculation”.

169. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of a specified act done, or a specified transaction or operation effected, by the taxpayer.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the act was done or the transaction or operation was effected or within such further period as the Commissioner allows.

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“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“10B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

170. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “39” and substituting “38”; and
- (b) by inserting after paragraph (1) (c) the following paragraph:

“(ca) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 of this Act or sub-section 26 (3A) of that Act as so applied;”.

**PART XXII—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 8) 1930**

Principal Act

171. The *Sales Tax Assessment Act (No. 8) 1930*²¹ is in this Part referred to as the Principal Act.

Further tax

172. Section 10 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (1AA), (1A), (2) and (3) and substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where, under sub-section 4 (2) or 4A (5), the sale value of any goods has been altered, the Commissioner shall make an assessment in relation to those goods.

“(2A) Where—

- (a) a person makes default in furnishing a return;
- (b) the Commissioner is not satisfied with a return furnished by a person; or
- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

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the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(2B) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

(b) by omitting from sub-section (4) “and calculation”.

173. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of specified imported goods that are applied by the taxpayer to the taxpayer’s own use.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the goods were so applied or within such further period as the Commissioner allows.

“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“10B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

174. Section 12 of the Principal Act is amended—

(a) by omitting from sub-section (1) “39” and substituting “38”; and

(b) by inserting after paragraph (1) (c) the following paragraph:

“(ca) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 of this Act or sub-section 26 (3A) of that Act as so applied;”.

**PART XXIII—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 9) 1930**

Principal Act

175. The *Sales Tax Assessment Act (No. 9) 1930*²² is in this Part referred to as the Principal Act.

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Further tax

176. Section 10 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (1A), (2) and (3) and substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax or further tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where—

- (a) a person makes default in furnishing a return;
- (b) the Commissioner is not satisfied with a return furnished by a person; or
- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(2A) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax or further tax.”; and

- (b) by omitting from sub-section (4) “and calculation”.

177. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of specified goods leased by the taxpayer to another person.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the goods were so leased or within such further period as the Commissioner allows.

“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

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Amended assessments

“10B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

178. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “39” and substituting “38”;
- (b) by omitting from paragraph (1) (b) “and”; and
- (c) by adding at the end of sub-section (1) the following word and paragraph:
 - “; and (d) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 of this Act.”.

**PART XXIV—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 10) 1985**

Principal Act

179. The *Sales Tax Assessment Act (No. 10) 1985*²³ is in this Part referred to as the Principal Act.

Further tax

180. Section 10 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (2), (3) and (4) and substituting the following sub-sections:

“(1) Where the Commissioner finds in any case that tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where—

- (a) a person makes default in furnishing a return;
- (b) the Commissioner is not satisfied with a return furnished by a person; or
- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished a return) is liable to pay sales tax,

the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(3) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax.”; and

- (b) by omitting from sub-section (5) “and calculation”.

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181. The Principal Act is amended by inserting after section 10 the following sections:

Special assessments

“10A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of specified goods deemed to be sold by the taxpayer.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the specified goods were deemed to have been sold or within such further period as the Commissioner allows.

“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“10B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

182. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “39” and substituting “38”;
- (b) by omitting from paragraph (1) (c) “and”; and
- (c) by adding at the end of sub-section (1) the following word and paragraph:
 - “; and (e) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 11 of this Act.”.

**PART XXV—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 11) 1985**

Principal Act

183. The *Sales Tax Assessment Act (No. 11) 1985*²⁴ is in this Part referred to as the Principal Act.

Further tax

184. Section 14 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (2), (3) and (4) and substituting the following sub-sections:

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“(1) Where the Commissioner finds in any case that tax is payable by a person, the Commissioner may make an assessment in relation to the person.

“(2) Where—

- (a) a person makes default in furnishing or lodging a return;
- (b) the Commissioner is not satisfied with a return furnished or lodged by a person; or
- (c) the Commissioner has reason to believe or suspect that a person (although not having furnished or lodged a return) is liable to pay sales tax,

the Commissioner may determine an amount to be the amount upon which, in the opinion of the Commissioner, sales tax should be paid and may make an assessment in relation to the person.

“(3) As soon as conveniently may be after an assessment has been made, the Commissioner shall cause notice in writing of the assessment to be served on the person liable to pay the tax.”; and

- (b) by omitting from sub-section (5) “and calculation”.

185. The Principal Act is amended by inserting after section 14 the following sections:

Special assessments

“14A. (1) A taxpayer may request the Commissioner, in accordance with this section, to make an assessment in respect of a specified act done, or a specified transaction or operation effected, by the taxpayer.

“(2) A request under sub-section (1) shall be in writing and shall be lodged with the Commissioner not later than 21 days after the close of the month within which the act was done or the transaction or operation was effected or within such further period as the Commissioner allows.

“(3) The Commissioner shall comply with each request made under sub-section (1).

“(4) As soon as practicable after the assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on the taxpayer who made the request under sub-section (1).

Amended assessments

“14B. Except as otherwise provided, where an assessment has been amended, the amended assessment is an assessment for all the purposes of this Act.”.

Application of provisions of Sales Tax Assessment Act (No. 1)

186. Section 16 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “39” and substituting “38”; and
- (b) by omitting from paragraph (1) (b) “and”; and

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(c) by adding at the end of paragraph (1) (c) the following word and paragraph:

“; and (d) the reference in section 39A of that Act as so applied to section 26 shall be read as a reference to section 15 of this Act.”.

**PART XXVI—AMENDMENTS OF THE SALES TAX PROCEDURE
ACT 1934**

Principal Act

187. The *Sales Tax Procedure Act 1934*²⁵ is in this Part referred to as the Principal Act.

188. Section 10 of the Principal Act is repealed and the following section is substituted:

Recovery of tax

“10. (1) Any sales tax unpaid may be sued for and recovered in any court of competent jurisdiction by the Commissioner or a Deputy Commissioner suing in his or her official name.

“(2) Notwithstanding anything contained in any Sales Tax Assessment Act, in any proceedings for the recovery of sales tax it is not necessary to prove under which of the Sales Tax Assessment Acts the sales tax became payable.

“(3) In any proceedings for the recovery of sales tax—

(a) the mere production of—

(i) a notice of an assessment or a notice of the making of a refund decision; or

(ii) a document signed by the Commissioner, a Second Commissioner or a Deputy Commissioner and purporting to be a copy of a notice of an assessment or of the making of a refund decision,

is conclusive evidence—

(iii) of the due making of the assessment or the decision, as the case may be;

(iv) in the case of a notice of an assessment—that the amounts and all of the particulars of the assessment are correct; and

(v) in the case of a notice of a refund decision—that the decision is correct; and

(b) the mere production of a certificate in writing signed by the Commissioner, a Second Commissioner or a Deputy Commissioner certifying that a sum specified in the certificate was, at the date of the certificate, due and payable by a person in respect of an amount of sales tax is *prima facie* evidence of the matters stated in the certificate.

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“(4) The mere production of a document signed by the Commissioner, a Second Commissioner or a Deputy Commissioner and purporting to be a copy of a document issued or served by the Commissioner, a Second Commissioner or a Deputy Commissioner is *prima facie* evidence that the second-mentioned document was so issued or served.

“(5) In this section—

‘assessment’ has the same meaning—

- (a) in relation to the *Sales Tax Assessment Act (No. 1) 1930*—
as is specified in section 3 of that Act; and
- (b) in relation to any other Sales Tax Assessment Act—as is specified in that section as it is applied for the purposes of that other Sales Tax Assessment Act;

‘refund decision’ means a decision made on or after 1 July 1986 in respect of an application—

- (a) for action to be taken under section 26 of the *Sales Tax Assessment Act (No. 1) 1930*, section 11 or 11B of the *Sales Tax Assessment Act (No. 5) 1930*, section 15 of the *Sales Tax Assessment Act (No. 11) 1985* or section 11 of another Sales Tax Assessment Act; or
- (b) under the Sales Tax Regulations for the refund or payment of an amount of money to prevent double taxation or for the purpose of effectuating an exemption from sales tax;

‘sales tax’ includes—

- (a) further tax; and
- (b) additional tax,

under a Sales Tax Assessment Act.”.

Refunds of tax

189. Section 12C of the Principal Act is amended by adding at the end the following sub-section:

“(3) Where a person makes a claim in writing for a refund or other payment under a Sales Tax Assessment Act and the Commissioner is satisfied that—

- (a) part only of the amount claimed is refundable or payable; or
- (b) no part of the amount claimed is refundable or payable,

the Commissioner shall cause notice in writing of the decision to be served on the person.”.

PART XXVII—AMENDMENTS OF THE TAXATION ADMINISTRATION ACT 1953

Principal Act

190. The *Taxation Administration Act 1953*²⁶ is in this Part referred to as the Principal Act.

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Interpretation

191. Section 2 of the Principal Act is amended by inserting after the definition of “tax liability” the following definition:

“‘Tribunal’ means the Administrative Appeals Tribunal.”

Interpretation

192. Section 14A of the Principal Act is amended by omitting the definitions of “Board of Review” and “Supreme Court”.

Objections

193. Section 14G of the Principal Act is amended—

- (a) by omitting from sub-section (1) “post to or”; and
- (b) by omitting sub-sections (3) and (4) and substituting the following sub-section:

“(3) The Commissioner shall give to the applicant for the tax clearance certificate notice in writing of the decision on the objection.”

194. Sections 14H and 14HB of the Principal Act are repealed and the following sections are substituted:

Request for reference

“14H. An applicant for a tax clearance certificate who is dissatisfied with a decision under section 14G on an objection by the applicant may, within 60 days after service on the applicant of notice of the decision, lodge with the Commissioner a request in writing to refer the decision to the Tribunal.

Applications for extension of time

“14HA. (1) Where the period for the lodgment by an applicant for a tax clearance certificate of an objection against the refusal of the certificate has ended, the applicant may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by an applicant for a tax clearance certificate of a request under section 14H for review has ended, the applicant may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the person to lodge the objection or request as required by this Act.

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Consideration of applications for extension of time for lodging objections

“14HB. (1) The Commissioner shall consider each application made under sub-section 14HA (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the applicant for a tax clearance certificate who made the application notice in writing of the decision on the application.

“(3) An applicant for a tax clearance certificate who is dissatisfied with a decision under sub-section (1) in respect of an application made by the applicant may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 14HA (1) has been granted, the person who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“14HC. (1) Where the Commissioner receives an application under sub-section 14HA (2), the Commissioner shall send, as soon as practicable, the application to the Tribunal.

“(2) The sending of an application to the Tribunal under sub-section (1) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the applicant for the tax clearance certificate of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The Tribunal may grant or refuse the application.

“(4) Where an application under sub-section 14HA (2) has been granted, the applicant for the tax clearance certificate shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

Reference to Tribunal

“14HD. (1) Where a person duly lodges, or is to be treated as having duly lodged, a request under section 14H, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the person of an application to the Tribunal for review of the decision.

Notice to refer

“14HE. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 14H in relation to a decision on an objection, the Commissioner does not comply with the request, the person who made the request may give notice in writing to the Commissioner

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requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 14HA in relation to a request has been granted, the applicant for the tax clearance certificate who made the request is not entitled to give notice under sub-section (1) in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 14H in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 14HA in relation to a request has been granted, the Commissioner, by notice in writing served on the applicant for the tax clearance certificate who made the request, requires the applicant to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

Procedure on review

“14HF. In proceedings on a review before the Tribunal—

- (a) the applicant for the tax clearance certificate is, unless the Tribunal otherwise orders, limited to the grounds stated in the objection; and
- (b) the burden of proving that the decision to refuse to issue the tax clearance certificate is incorrect lies on the applicant for the tax clearance certificate.

Implementation of decisions

“14HG. (1) When a decision of the Tribunal under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action as may be necessary to give effect to that decision.

“(2) In determining, for the purposes of sub-section (1), when a decision of the Tribunal becomes final, if an appeal has been made to the Full Court of the Federal Court of Australia in relation to that decision but no application for special leave to appeal to the High Court in relation to that decision is made within 30 days after the determination of the first-mentioned appeal, the decision of the Federal Court of Australia shall be taken to have become final on the expiration of that period.”.

Repeal of section 14P

195. Section 14P of the Principal Act is repealed.

196. The Principal Act is amended by inserting after Part IVA the following Part:

“PART IVB—REVIEW OF DECISIONS BY ADMINISTRATIVE APPEALS TRIBUNAL

Interpretation

“14ZB. In this Part, unless the contrary intention appears—

‘extension of time application’ means an application under a relevant enactment to have a request to refer an objection decision under that enactment to the Tribunal for review, being a request that was not lodged within the period specified in the enactment, treated as if it had been duly lodged;

‘extension of time decision’ means a decision of the Commissioner under a relevant enactment, being a decision refusing to treat an objection lodged under that relevant enactment as having been duly lodged;

‘objection decision’ means a decision of the Commissioner under a relevant enactment—

- (a) on an objection as defined by section 3 of the *Taxation (Interest on Overpayments) Act 1983*;
- (b) on an objection under sub-section 40 (2) of the *Sales Tax Assessment Act (No. 1) 1930* or that sub-section as it is applied for the purposes of any other Act providing for the assessment of sales tax; or
- (c) on an objection under the *Pay-roll Tax Assessment Act 1941*,

being a decision that a person may request the Commissioner to refer to the Tribunal;

‘relevant enactment’ means an Act referred to in a paragraph of the definition of objection in section 3 of the *Taxation (Interest on Overpayments) Act 1983* or the *Pay-roll Tax Assessment Act 1941*.

Provisions of Administrative Appeals Tribunal Act apply subject to modifications

“14ZC. The provisions of the *Administrative Appeals Tribunal Act 1975* apply in relation to the review of objection decisions, extension of time decisions and extension of time applications subject to the modifications set out in sections 14ZD to 14ZK, inclusive.

Sections 27, 28, 29, 41 and 44A of the Administrative Appeals Tribunal Act not to apply to certain decisions

“14ZD. (1) Sections 27 and 41 of the *Administrative Appeals Tribunal Act 1975* do not apply in relation to an objection decision or an extension of time decision.

“(2) Sections 28, 29 and 44A of the *Administrative Appeals Tribunal Act 1975* do not apply in relation to an objection decision.

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“(3) Section 29 of the *Administrative Appeals Tribunal Act 1975* does not apply in relation to a decision on an objection against a reviewable decision as defined by section 39A of the *Sales Tax Assessment Act (No. 1) 1930* or a decision on an objection against a decision that is a reviewable decision under another Act providing for the assessment of sales tax.

Modification of section 30 of Administrative Appeals Tribunal Act

“14ZE. Section 30 of the *Administrative Appeals Tribunal Act 1975* has effect in relation to proceedings for the review of an objection decision or an extension of time decision as if it read as follows:

Parties to proceeding before Tribunal

‘30. (1) Where, at the request of a person, the Commissioner of Taxation refers an objection decision to the Tribunal for review or a person makes application to the Tribunal for review of an extension of time decision, the parties to the proceeding before the Tribunal for review of that decision are—

- (a) the person who requested that the objection decision be referred or who has applied for review of the extension of time decision;
- (b) the Commissioner of Taxation;
- (c) if the Attorney-General intervenes in the proceeding under section 30A—the Attorney-General; and
- (d) any other person who has been made a party to the proceeding by the Tribunal on application by the person in accordance with sub-section (2).

‘(2) Where an objection decision has, at the request of a person, been referred to the Tribunal for review or an application has been made to the Tribunal by a person for review of an extension of time decision, any other person whose interests are affected by the decision may apply, in writing, to the Tribunal to be made a party to the proceeding and the Tribunal may, in its discretion, by order, if it is satisfied that the person requesting the referral or making the application for review consents to the order, make that person a party to the proceeding.

‘(3) A person who is a party to a proceeding before the Tribunal—

- (a) by reason of a decision made by that person in the performance of the duties of an office or appointment; or
- (b) by reason of the operation of sub-section 25 (7),

shall be described in the proceeding by that person’s official name.’

Application of section 35 of Administrative Appeals Tribunal Act

“14ZF. Notwithstanding section 35 of the *Administrative Appeals Tribunal Act 1975*, the hearing of a proceeding before the Tribunal for the review of an objection decision or an extension of time decision or on an extension of time application shall not be in public unless the party who

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requested the review or made the application requests that the proceeding be heard in public.

Modification of section 37 of Administrative Appeals Tribunal Act

“14ZG. (1) Section 37 of the *Administrative Appeals Tribunal Act 1975* has effect in relation to the review of an objection decision that is, under a relevant enactment, referred to the Tribunal for review as if it read as follows:

Lodging of material documents with Tribunal

‘37. (1) Where, at the request of a person, the Commissioner of Taxation, under a relevant enactment, refers an objection decision to the Tribunal, the Commissioner shall lodge with the Tribunal such number of copies as is prescribed for the purposes of this section of—

- (a) in the case of an objection decision referred to the Tribunal before 1 July 1988—
 - (i) a statement containing—
 - (A) the name and address of the person who made the request;
 - (B) full details of that person’s objection; and
 - (C) the Commissioner’s reasons for disallowing that objection; and
 - (ii) every other document or part of a document that is included in a class of documents that it was the practice of the Commissioner to give to a Board of Review, as constituted under Division 1 of Part V of the *Income Tax Assessment Act 1936* as in force immediately before 1 July 1986, where the Commissioner referred a decision on an objection to such a Board of Review; and
- (b) in the case of an objection decision referred to the Tribunal on or after that day—
 - (i) a statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the objection decision; and
 - (ii) every other document or part of a document that is in the possession of the Commissioner or under the Commissioner’s control and that is considered by the Commissioner to be relevant to the review of the objection decision by the Tribunal.

‘(2) Where the Tribunal is of the opinion that particular other documents or that other documents included in a particular class of documents may be relevant to the review of an objection decision that has been referred to the Tribunal on or after 1 July 1988, the Tribunal may cause to be served on the Commissioner a notice, in writing, stating that the Tribunal is of that

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opinion and requiring the Commissioner to lodge with the Tribunal, within a time specified in the notice, the prescribed number of copies of each of those other documents that is in the possession or under the control of the Commissioner, and the Commissioner shall comply with the notice.

‘(3) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the production of documents.

‘(4) Regulations prescribing the number of copies of statements or other documents that are to be lodged under sub-section (1) may prescribe different numbers of copies in relation to different classes of statements or other documents or in relation to different classes of objection decisions.’

Application of section 38 of Administrative Appeals Tribunal Act

“14ZH. Section 38 of the *Administrative Appeals Tribunal Act 1975* has effect in relation to the review of an objection decision that is, under a relevant enactment, referred to the Tribunal for review as if the reference in that section to paragraph 37 (1) (a) were a reference to sub-paragraph (1) (b) (i) of section 37 of the *Administrative Appeals Tribunal Act 1975* as that section has effect in accordance with section 14ZG.

Modification of section 41 of Administrative Appeals Tribunal Act

“14ZJ. Where application is made for the review of a decision on an objection against a reviewable decision as defined in the *Sales Tax Assessment Act (No. 1) 1930*, section 41 of the *Administrative Appeals Tribunal Act 1975* has effect as if the reference in that section to the decision to which the relevant proceeding relates were a reference both to the decision under review and to the reviewable decision.

Application of section 43 of Administrative Appeals Tribunal Act

“14ZK. Section 43 of the *Administrative Appeals Tribunal Act 1975* applies to the review of an objection decision or an extension of time decision or to an extension of time application as if there were added after sub-section (2B) the following sub-sections:

‘(2C) The Tribunal shall ensure, so far as it is practicable to do so, where a proceeding for the review of a decision that is an objection decision or an extension of time decision or a proceeding on an extension of time application is not conducted in public, that the Tribunal’s reasons for its decision on the proceeding (including findings on material questions of fact and references to the evidence or other material on which those findings were based) are framed so as not to disclose the identity of the person who requested the review of the objection decision or applied for the review of the extension of time decision, or is to be taken to have made the application, as the case may be, or the identity of any other person who has been made a party to the proceeding, or enabling the identity of that person readily to be ascertained.

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‘(2D) The fact that a proceeding for review of a decision that is an objection decision or an extension of time decision or a proceeding on an extension of time application is not held in public shall not be taken to prevent the publication of the reasons given by the Tribunal for its decision on the review or application.’”.

197. The Principal Act is amended by inserting after section 17 the following section:

Powers of Federal Court in respect of taxation matters

“17A. The Federal Court of Australia shall not, in relation to a review by the Court of a decision of the Tribunal in connection with proceedings under a taxation law, exercise a power conferred on it by section 15, or paragraph 16 (1) (d), (2) (b) or (3) (c) or sub-section 16 (4), of the *Administrative Decisions (Judicial Review) Act 1977* so as to prevent or restrain the recovery, under that law, of tax or duty, further tax or further duty or additional tax or additional duty.”.

Regulations

198. Section 18 of the Principal Act is amended by omitting paragraph (a).

**PART XXVIII—AMENDMENTS OF THE TAXATION (INTEREST
ON OVERPAYMENTS) ACT 1983**

Principal Act

199. The *Taxation (Interest on Overpayments) Act 1983*²⁷ is in this Part referred to as the Principal Act.

Interpretation

200. Section 3 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “Board of Review”;
- (b) by omitting paragraphs (b), (c) and (d) of the definition of “decision to which this Act applies” in sub-section (1) and substituting the following paragraphs:
 - “(b) a decision of the Tribunal in relation to an objection;
 - (c) a decision of a court in relation to—
 - (i) an objection; or
 - (ii) a decision of the kind referred to in paragraph (b);”;
- (c) by omitting all words in the definition of “decision to which this Act applies” after paragraph (e) of that definition;
- (d) by omitting from paragraph (h) of the definition of “objection” in sub-section (1) “41 (1)” and substituting “40 (1)”; and
- (e) by inserting after the definition of “Second Commissioner” in sub-section (1) the following definition:
 - “‘Tribunal’ means the Administrative Appeals Tribunal;”.

**PART XXIX—AMENDMENTS OF THE TAXATION (UNPAID
COMPANY TAX) ASSESSMENT ACT 1982**

Principal Act

201. The *Taxation (Unpaid Company Tax) Assessment Act 1982*²⁸ is in this Part referred to as the Principal Act.

Interpretation

202. Section 3 of the Principal Act is amended by omitting “post to or” from the definition of “object” in sub-section (1).

Application of Assessment Act

203. Section 4 of the Principal Act is amended—

(a) by omitting paragraphs (7) (a) to (h) (inclusive) and substituting the following paragraphs:

“(a) the reference in paragraph 187 (b) to a specified Supreme Court were a reference to the Federal Court of Australia;

(b) the reference in paragraph 188B (1) (b) to a specified Supreme Court were a reference to the Federal Court of Australia;

(c) the reference in sub-sections 188B (3) and (4) to a Supreme Court were a reference to the Federal Court of Australia;

(d) the reference in sub-section 189 (3) to a Supreme Court were a reference to the Federal Court of Australia;”;

(b) by omitting paragraph (7) (k);

(c) by omitting from sub-section (1) of the section set out in paragraph (7) (m) “section 197” and substituting “sub-section 189 (3)”;

(d) by omitting paragraph (7) (n) and substituting the following paragraph:

“(n) the reference in sub-section 199 (1) to a Supreme Court were a reference to the Federal Court of Australia;”;

(e) by omitting from paragraph (7) (o) “and”; and

(f) by adding at the end of sub-section (7) the following paragraphs:

“(q) the reference in paragraph 200B (2) (a) of that Act to the Supreme Court of a State or Territory were a reference to the Federal Court of Australia; and

(r) the references in paragraphs 200B (2) (a) and (b) of that Act to the Federal Court of Australia were references to a Full Court of the Federal Court of Australia.”.

**PART XXX—AMENDMENTS OF THE WOOL TAX
(ADMINISTRATION) ACT 1964**

Principal Act

204. The *Wool Tax (Administration) Act 1964*²⁹ is in this Part referred to as the Principal Act.

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Interpretation

205. Section 4 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “Board of Review”; and
- (b) by inserting after the definition of “the Commissioner” in sub-section (1), the following definition:
 “‘Tribunal’ means the Administrative Appeals Tribunal;”.

Secrecy

206. Section 8 of the Principal Act is amended by omitting paragraph (4) (b) and substituting the following paragraph:

- “(b) the Tribunal in connection with proceedings under an Act of which the Commissioner has the general administration;”.

Where no administration of deceased person’s estate

207. Section 51 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “post to or”;
- (b) by omitting from sub-section (4) “by the Commissioner, a Board of Review or a Court”; and
- (c) by omitting from sub-section (7) “post to or”.

Repeal of sections 55A and 55C

208. Sections 55A and 55C of the Principal Act are repealed.

Objections

209. Section 56 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “post to or”; and
- (b) by omitting sub-section (4) and substituting the following sub-section:

“(4) Where a notice of assessment of tax incorporates notice of one or more assessments of additional tax, the assessments shall, for the purposes of this Part, be regarded as one assessment.”.

210. Sections 57, 58 and 59 of the Principal Act are repealed and the following sections are substituted:

Request for reference

“56A. A person who is dissatisfied with a decision under section 56 on an objection by the person may, within 60 days after service on the person of notice of the decision, lodge with the Commissioner a request in writing to refer the decision to the Tribunal.

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Applications for extension of time

“56B. (1) Where the period for the lodgment by a person of an objection against an assessment has ended, the person may, notwithstanding that the period has ended, send the objection to the Commissioner together with an application in writing requesting the Commissioner to treat the objection as having been duly lodged.

“(2) Where the period for the lodgment by a person of a request under section 56A has ended, the person may, notwithstanding that the period has ended, send the request to the Commissioner together with an application in writing asking that the request be treated as having been duly lodged.

“(3) An application under sub-section (1) or (2) shall state fully and in detail the circumstances concerning, and the reasons for, the failure by the person to lodge the objection or request as required by this Act.

Consideration of applications for extension of time for lodging objections

“56C. (1) The Commissioner shall consider each application made under sub-section 56B (1) and may grant or refuse the application.

“(2) The Commissioner shall give to the person who made the application notice in writing of the decision on the application.

“(3) A person who is dissatisfied with a decision under sub-section (1) in respect of an application made by the person may apply to the Tribunal for review of the decision.

“(4) Where an application under sub-section 56B (1) has been granted, the person who made the application shall, for the purposes of this Part, be treated as having duly lodged the objection to which the application relates.

Consideration of applications for extension of time for lodging requests for reference

“56D. (1) Where the Commissioner receives an application under sub-section 56B (2), the Commissioner shall, as soon as practicable, send the application to the Tribunal.

“(2) The sending of an application to the Tribunal under sub-section (1) shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the person concerned of an application to the Tribunal to extend the time within which the request may be lodged with the Commissioner.

“(3) The Tribunal may grant or refuse the application.

“(4) Where an application under sub-section 56B (2) has been granted, the person shall, for the purposes of this Part, be treated as having duly lodged the request to which the application relates.

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Reference to Tribunal

“57. (1) Where a person duly lodges, or is to be treated as having duly lodged, a request under section 56A, the Commissioner shall comply with the request.

“(2) The referral of a decision on an objection to the Tribunal shall, for the purposes of the *Administrative Appeals Tribunal Act 1975*, be deemed to constitute the making by the person of an application to the Tribunal for review of the decision.

Notice to refer

“57A. (1) Subject to sub-sections (2) and (3), if, within 60 days after receiving a request under section 56A in relation to a decision on an objection, the Commissioner does not comply with the request, the person who made the request may give notice in writing to the Commissioner requiring the Commissioner to do so and the Commissioner shall, within 60 days after receiving the notice, comply with the request.

“(2) Where an application under section 56B in relation to a request has been granted, the person who made the request is not entitled to give notice under sub-section (1) in relation to the request before the expiration of 60 days after the day on which the application was granted.

“(3) If, within 60 days after receiving a request under section 56A in relation to a decision on an objection or, in a case to which sub-section (2) of this section applies, within 60 days after an application under section 56B in relation to a request has been granted, the Commissioner, by notice in writing served on the person who made the request, requires the person to give information relating to the objection, the Commissioner is not required to comply with the request until the expiration of 60 days after the receipt by the Commissioner of that information.

Procedure on review

“58. In proceedings under this Part on a review before the Tribunal—

- (a) the person who requested the review is, unless the Tribunal otherwise orders, limited to the grounds stated in the objection; and
- (b) the burden of proving that an assessment is excessive lies on the person who requested the review.

Implementation of decisions

“59. (1) When a decision of the Tribunal under this Part becomes final, the Commissioner shall, not later than 60 days after that decision becomes final, take such action, including amending the assessment concerned, as may be necessary to give effect to that decision.

“(2) In determining, for the purposes of sub-section (1), when a decision of the Tribunal becomes final, if an appeal has been made to the Full Court of the Federal Court of Australia in relation to that decision but no

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application for special leave to appeal to the High Court in relation to that decision is made within 30 days after the determination of the first-mentioned appeal, the decision of the Federal Court of Australia shall be taken to have become final on the expiration of that period.”.

Pending review or appeal not to affect assessment

211. Section 60 of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-section:

“(1) The fact that a review or appeal is pending in relation to an assessment does not in the meantime interfere with, or affect, the assessment and tax may be recovered as if no review or appeal were pending.”; and

(b) by omitting sub-sections (2) and (3).

Repeal of section 60A

212. Section 60A of the Principal Act is repealed.

PART XXXI—TRANSITIONAL AND REPEALS

Interpretation

213. In this Part—

“Board of Review” means a Board of Review constituted under Division 1 of Part V of the *Income Tax Assessment Act 1936* as in force immediately before 1 July 1986;

“relevant tax law” means—

- (a) the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (b) the *Bank Accounts Debits Tax Administration Act 1982*;
- (c) the *Estate Duty Assessment Act 1914*;
- (d) the *Fringe Benefits Tax Assessment Act 1986*;
- (e) the *Gift Duty Assessment Act 1941*;
- (f) the *Loan (Drought Bonds) Act 1969*;
- (g) the *Income Tax Assessment Act 1936*;
- (h) the *Pay-roll Tax Assessment Act 1941*;
- (j) the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (k) an Act providing for the assessment of sales tax;
- (m) the *Taxation Administration Act 1953*;
- (n) the *Taxation (Unpaid Company Tax) Assessment Act 1982*;
- (o) the *Trust Recoupment Tax Assessment Act 1985*; and
- (p) the *Wool Tax (Administration) Act 1964*;

“Tribunal” means the Administrative Appeals Tribunal.

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Transfer of members of Boards

214. (1) A person who, immediately before 1 July 1986, held office as a Chairman or a member of a Board of Review shall, by force of this sub-section, hold office on and after that day as a full-time senior member of the Tribunal as if the person had been appointed to that office by the Governor-General under the *Administrative Appeals Tribunal Act 1975*.

(2) A person who holds office by virtue of sub-section (1) is, by force of this sub-section, assigned to the Taxation Appeals Division of the Tribunal as if the Governor-General had so assigned that person under the *Administrative Appeals Tribunal Act 1975*.

(3) Sub-sections (1) and (2) do not apply in relation to a person if, before 1 July 1986, the person had given notice in writing to the Governor-General to the effect that the person does not wish those sub-sections so to apply.

(4) Sub-sections (1) and (2) do not prevent—

(a) the appointment, under the *Administrative Appeals Tribunal Act 1975*, of a person mentioned in those sub-sections to an office under that Act; or

(b) the assignment, or the variation of an assignment, under the *Administrative Appeals Tribunal Act 1975*, of a person mentioned in those sub-sections to another Division of the Tribunal.

Remuneration and allowances

215. (1) A person who holds office by virtue of sub-section 214 (1) and who, immediately before 1 July 1986 held office as Chairman of a Board of Review shall, if the regulations so provide, be paid, during the period during which the person holds that first-mentioned office, instead of the remuneration and expenses of office allowance, if any, otherwise payable in respect of that first-mentioned office, remuneration and an expenses of office allowance at the respective rates, if any, as are specified in, or ascertained in accordance with, the regulations.

(2) Where the regulations made for the purposes of sub-section (1) provide for the payment to a person—

(a) of remuneration; or

(b) of remuneration and an expenses of office allowance,

the regulations have effect only if—

(c) in a case to which paragraph (a) applies—the rate of remuneration payable in accordance with the regulations exceeds—

(i) if remuneration but no expenses of office allowance, would, but for this section, be payable in respect of the office first-mentioned in sub-section (1)—the rate of that remuneration; or

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- (ii) if both remuneration and an expenses of office allowance would, but for this section, be payable in respect of the office first-mentioned in sub-section (1)—the sum of the rate of that remuneration and the rate of that expenses of office allowance; and
- (d) in a case to which paragraph (b) applies—the sum of the rate of remuneration and the rate of expenses of office allowance payable in accordance with the regulations exceeds—
 - (i) if the remuneration but no expenses of office allowance, would, but for this section, be payable in respect of the office first-mentioned in sub-section (1)—the rate of that remuneration; or
 - (ii) if both remuneration and an expenses of office allowance would, but for this section, be payable in respect of the office first-mentioned in sub-section (1)—the sum of the rate of that remuneration and the rate of that expenses of office allowance.

(3) The rate at which travelling allowance is payable to a person referred to in sub-section (1) is the rate payable to the person holding the office prescribed by regulations for the purposes of this sub-section.

Amendments concerning additional tax assessments

216. Each of the following provisions, that is to say:

- (a) sub-section 74 (6) of the *Australian Capital Territory Taxation (Administration) Act 1969*;
 - (b) sub-section 22 (5) of the *Bank Account Debits Tax Administration Act 1982*;
 - (c) sub-section 24 (1AB) of the *Estate Duty Assessment Act 1914*;
 - (d) sub-section 31 (4A) of the *Gift Duty Assessment Act 1941*;
 - (e) sub-section 185 (3) of the *Income Tax Assessment Act 1936*;
 - (f) the last-mentioned sub-section in its application for the purposes of any other Act of which the Commissioner has the general administration;
 - (g) sub-section 39 (1A) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
 - (h) sub-section 40 (9) of the *Sales Tax Assessment Act (No. 1) 1930*;
 - (j) the last-mentioned sub-section in its application for the purposes of any other Act providing for the assessment of sales tax;
 - (k) sub-section 56 (4) of the *Wool Tax (Administration) Act 1964*,
- as in force on 1 July 1986, does not apply in relation to a notice of assessment served before that day.

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Sales Tax objections and requests for reference

217. (1) Where—

- (a) notice of an assessment or decision made under the *Sales Tax Assessment Act (No. 1) 1930* as in force before 1 July 1986, or under that Act as so in force as it is applied for the purposes of any other Act providing for the assessment of sales tax, is served before that day; or
- (b) notice of an assessment made under section 35 of the *Sales Tax Assessment Act (No. 1) 1930* as in force before 1 July 1986, or under that provision as so in force as it is applied for the purposes of any other Act providing for the assessment of sales tax, is published before that day,

a person shall be entitled to object against the assessment or decision on or after that day in respect, and only in respect, of matters concerning which, but for the amendments made by this Act, that person would have been entitled to object against the assessment or decision before that day.

(2) Section 41 of the *Sales Tax Assessment Act (No. 1) 1930* as in force on 1 July 1986, so far as that section relates to a reviewable decision within the meaning of that Act, and that section as it so relates in its application for the purposes of any other Act providing for the assessment of sales tax, do not apply in relation to a decision on an objection, being a decision made before 1 July 1986.

(3) Section 44B of the *Sales Tax Assessment Act (No. 1) 1930* as in force immediately before 1 July 1986, and that section as so in force in its application for the purposes of any other Act providing for the assessment of sales tax, continue to apply, notwithstanding the repeal of that first-mentioned section, in relation to a reviewable decision where the decision on the objection against the reviewable decision was made before that day.

Extended periods for lodging objections

218. (1) Each of the following provisions, that is to say:

- (a) sub-section 24 (1) of the *Estate Duty Assessment Act 1914*;
- (b) sub-section 31 (1) of the *Gift Duty Assessment Act 1941*;
- (c) sub-sections 33 (6) and (10) and 39 (1) of the *Pay-roll Tax Assessment Act 1941*;
- (d) sub-sections 35 (6) and (10) and 40 (1) of the *Sales Tax Assessment Act (No. 1) 1930*;
- (e) the last-mentioned provisions in their application for the purposes of any other Act providing for the assessment of sales tax,

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as in force on 1 July 1986, does not apply in relation to an assessment if the period within which, apart from the amendments made by this Act, an objection against the assessment could have been lodged with the Commissioner had ended before that day.

(2) Nothing in sub-section (1) shall be taken to imply that an objection may be lodged after 1 July 1986 in respect of an assessment notice of which was published or served before that day under a provision of the *Sales Tax Assessment Act (No. 1) 1930* as in force before that day, or under that provision as so in force as it is applied for the purposes of any other Act providing for the assessment of sales tax, in respect of a matter other than a matter referred to in section 217.

Amended assessments

219. (1) Each of the following provisions, that is to say:

- (a) sub-section 74 (5) of the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (b) sub-section 22 (4) of the *Bank Account Debits Tax Administration Act 1982*;
- (c) sub-section 24 (1AA) of the *Estate Duty Assessment Act 1914*;
- (d) sub-section 31 (4) of the *Gift Duty Assessment Act 1941*;
- (e) sub-section 185 (2) of the *Income Tax Assessment Act 1936*;
- (f) the last-mentioned sub-section in its application for the purposes of any other Act of which the Commissioner has the general administration;
- (g) sub-section 40 (8) of the *Sales Tax Assessment Act (No. 1) 1930*;
- (h) the last-mentioned sub-section in its application to any other Act providing for the assessment of sales tax,

as in force on 1 July 1986, does not apply in relation to an amended assessment notice of which was served before that day.

(2) The provisions of the Acts mentioned in sub-section (1), as in force before 1 July 1986, being provisions that, but for this Act, would have had effect to restrict a right of a person to object to an amended assessment, continue to have effect in relation to amended assessments under those Acts, other than amended assessments to which sub-section (1) applies.

Period for requesting reference

220. Each of the following provisions, that is to say:

- (a) section 25 of the *Estate Duty Assessment Act 1914*;
- (b) section 32 of the *Gift Duty Assessment Act 1941*;
- (c) section 40 of the *Pay-roll Tax Assessment Act 1941*;
- (d) section 41 of the *Sales Tax Assessment Act (No. 1) 1930*;

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- (e) the last-mentioned section as it so relates in its application for the purposes of any other Act providing for the assessment of sales tax,

as in force on 1 July 1986, does not apply in relation to a decision on an objection if the period within which, apart from the amendments made by this Act, a request of the kind mentioned in that provision could have been lodged with the Commissioner had ended before that day.

Extensions of time for lodging objections or requests for reference

221. Each of the following provisions, that is to say:

- (a) sub-sections 76 (1) and (2) of the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (b) sub-sections 24 (1) and (2) of the *Bank Account Debits Tax Administration Act 1982*;
- (c) sub-sections 26 (1) and (2) of the *Estate Duty Assessment Act 1914*;
- (d) sub-sections 33 (1) and (2) of the *Gift Duty Assessment Act 1941*;
- (e) sub-sections 188 (1) and (2) of the *Income Tax Assessment Act 1936*;
- (f) the last-mentioned sub-sections in their application for the purposes of any other Act administered by the Commissioner of Taxation;
- (g) sub-sections 40A (1) and (2) of the *Pay-roll Tax Assessment Act 1941*;
- (h) sub-sections 40A (1) and (2) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (j) sub-sections 42 (1) and (2) of the *Sales Tax Assessment Act (No. 1) 1930*;
- (k) the last-mentioned sub-sections in their application for the purposes of any other Act providing for the assessment of sales tax;
- (m) sub-sections 14HA (1) and (2) of the *Taxation Administration Act 1953*;
- (n) sub-sections 56B (1) and (2) of the *Wool Tax (Administration) Act 1964*,

as in force on 1 July 1986 does not apply in relation to an assessment, decision or determination if the period within which, apart from the amendments made by this Act, an objection or request, as the case may be, of the kind mentioned in that section could have been lodged with the Commissioner in relation to the assessment, decision or determination had ended before that day.

Requests made but not referred before 1 July 1986

222. Where, under a relevant tax law as in force immediately before 1 July 1986, the Commissioner of Taxation had been requested to refer a decision to a Board of Review but had not done so, the request so to refer

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that decision shall, with effect from that day, be treated as if it were a request, under the relevant tax law as in force on that day, to refer the decision to the Tribunal.

Hearings

223. (1) Where, under a relevant tax law as in force immediately before 1 July 1986, the Commissioner of Taxation had referred a decision or request to a Board of Review but no decision had been given by the Board before that day in relation to the reference—

- (a) the reference shall, with effect from that day, be treated as if the decision of the Commissioner to which the reference relates had been referred to the Tribunal under the relevant tax law as in force after that day;
- (b) proceedings on the reference shall, with effect from that day, be continued before the Tribunal;
- (c) if, before 1 July 1986, the Board of Review had started to take evidence in relation to the reference, the President of the Tribunal shall, for the purpose (where necessary) of continuing proceedings on that reference and for the purpose of making a decision on the reference, cause the Tribunal to be constituted by one or more of the persons who, immediately before 1 July 1986, constituted the Board of Review to which the reference was made; and
- (d) a record of all evidence given, and all documents produced, to the Board of Review before that day in connection with the reference shall be made available to the Tribunal for the purposes of the deliberations of the Tribunal and the evidence and documents shall be taken to have been given or produced, respectively, to the Tribunal.

(2) In any case where the President is not able, for the purpose of completing a review of a decision under a relevant tax law, to constitute the Tribunal of one or more of the persons who previously constituted the Board of Review for the purpose of that review, the matter shall be dealt with as if it were a new matter for review duly referred to the Tribunal under that tax law.

(3) Where any difficulty arises in the application to a particular matter of the provisions of this Part, or of a relevant tax law because of the operation of this Part, the President may give directions not inconsistent with the *Administrative Appeals Tribunal Act 1975* or this Part to resolve the difficulty.

Appeal rights

224. (1) Where—

- (a) a Board of Review to which a reference had been made before 1 July 1986 had started to take evidence in relation to the reference before that day;

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- (b) the Tribunal before which proceedings on the reference are continued by virtue of this Part is constituted by one or more of the persons who, immediately before that day, constituted the Board of Review to which the reference was made; and
 - (c) the members of the Tribunal constituting the Tribunal for the purposes of that reference do not include a presidential member,
- the person who requested the review has, subject to sub-section (2), instead of the right of appeal provided for by the *Administrative Appeals Tribunal Act 1975*, the same right of appeal that the person would have had if this Act had not been passed.

(2) Where an appeal provided for by sub-section (1) lies to a court other than the Federal Court of Australia, the appeal lies instead to the Federal Court of Australia.

(3) In the case other than a case to which sub-section (1) applies, the rights of appeal in respect of decisions of the Tribunal on that reference are the rights provided for by the *Administrative Appeals Tribunal Act 1975*.

Other references to Boards of Review

225. Any reference to a Board of Review in a provision of a law, being a provision that was repealed or omitted before the commencement of this Act, shall, for the purposes of the continuing application of that provision, be read as a reference to the Administrative Appeals Tribunal.

Supreme Court appeals

226. (1) Where under a relevant tax law as in force immediately before 1 July 1986, the Commissioner of Taxation had received a request to treat an objection as an appeal but the request had not been forwarded to a Supreme Court before that day, the request shall, with effect from that day, be treated as a request to refer the decision on the objection to a Supreme Court.

(2) Each of the following provisions, that is to say:

- (a) sub-section 26 (1) of the *Bank Account Debits Tax Administration Act 1982*;
- (b) sub-section 27E (1) of the *Estate Duty Assessment Act 1914*;
- (c) sub-section 34E (1) of the *Gift Duty Assessment Act 1941*;
- (d) sub-section 199 (1) of the *Income Tax Assessment Act 1936*,

as in force on 1 July 1986, does not apply in relation to an appeal if, before that day, the appeal had been forwarded to a Supreme Court.

(3) Where a provision of an Act does not apply in relation to an appeal by reason of the operation of sub-section (2), the provision of that Act, as in force before 1 July 1986, that, but for this Act, would relate to the making of an order by a Supreme Court in relation to that appeal continues to have effect in relation to that appeal.

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Evidentiary provisions in respect of sales tax assessments

227. Where notice of an assessment had been served before 1 July 1986 under the *Sales Tax Assessment Act (No. 1) 1930* or under any other Act providing for the assessment of sales tax—

- (a) sub-section 35 (7) and section 39 of the *Sales Tax Assessment Act (No. 1) 1930* as in force immediately before that day or those provisions as so in force as they are applied for the purposes of that other Act, as the case requires, and section 10 of the *Sales Tax Procedure Act 1934* continue so to apply in relation to that assessment on and after that day as if they had not been repealed; and
- (b) section 67 of the *Sales Tax Assessment Act (No. 1) 1930* as in force on that day or that section as so in force as it is applied for the purpose of that other Act and sub-section 10 (3) of the *Sales Tax Procedure Act 1934* do not apply in relation to that assessment.

Relief Boards

228. Where, under—

- (a) section 48A of the *Estate Duty Assessment Act 1914*;
- (b) section 265 of the *Income Tax Assessment Act 1936*;
- (c) section 70 of the *Pay-roll Tax Assessment Act 1941*; or
- (d) section 69 of the *Pay-roll Tax (Territories) Assessment Act 1971*,

as in force immediately before 1 July 1986, a designated person under that section had started to examine a person in relation to an application under that section but had not submitted a report as required by that section, the designated person may, notwithstanding the amendments effected by this Act, continue and complete the examination, and report, as if the amendments of that section made by this Act had not been made.

Refund of fees

229. (1) Where—

- (a) a person has paid a fee of \$2.00 in connection with a request to refer a decision on an objection to a Board of Review or to forward an objection to a court;
- (b) the proceeding on the reference of that decision to the Board of Review or on the reference of that objection to the court has not become final at the time of commencement of this Act; and
- (c) the person is not otherwise entitled to a refund of the fee,

the Commissioner shall refund the amount of the fee to the first-mentioned person.

(2) Sub-section (1) shall be taken to be a provision of a taxation law to which sub-section 16 (1) of the *Taxation Administration Act 1953* applies.

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Repeal of certain laws

230. The Acts specified in the Schedule are repealed.

Continued application of certain secrecy provisions

231. Notwithstanding the repeal of the Acts specified in the Schedule—

(a) section 8 of the *Export Incentive Grants Act 1971*; and

(b) section 21 of the *States Receipts Duties (Administration) Act 1970*, continue to apply, on and after 1 July 1986, as if those sections had not been repealed.

Regulations

232. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE

Section 230

ACTS REPEALED

Export Incentive Grants Act 1971

Export Incentive Grants Act 1973

States Grants (Receipts Duty) Act 1970

States Receipts Duty Act (No. 1) 1970

States Receipts Duty Act (No. 2) 1970

States Receipts Duty Act (No. 3) 1970

States Receipts Duties (Administration) Act 1970

States Receipts Duties (Exemption) Act 1970

NOTES

1. No. 91, 1975, as amended. For previous amendments, see Nos. 60, 89, 91, 157, 162, 163 and 209, 1976; Nos. 30, 57, 58 and 111, 1977; Nos. 65 and 109, 1978; Nos. 19 and 143, 1979; No. 110, 1980; Nos. 19 and 61, 1981; Nos. 26 and 80, 1982; No. 91, 1983; Nos. 63 and 72, 1984; and Nos. 65 and 193, 1985.
2. No. 42, 1969, as amended. For previous amendments, see No. 216, 1973; Nos. 61, 92 and 127, 1981; No. 127, 1982; No. 39, 1983; No. 123, 1984; and Nos. 123 and 168, 1985.
3. No. 142, 1982, as amended. For previous amendments, see Nos. 39 and 110, 1983; Nos. 102 and 123, 1984; and Nos. 65 and 123, 1985.
4. No. 156, 1980, as amended. For previous amendments, see No. 123, 1984; and No. 47, 1985.

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NOTES—continued

5. No. 22, 1914, as amended. For previous amendments, see No. 29, 1916; No. 34, 1922; No. 47, 1928; No. 12, 1940; No. 18, 1942; No. 16, 1947; No. 80, 1950; Nos. 1 and 52, 1953; No. 94, 1956; No. 60, 1957; No. 97, 1962; No. 72, 1963; Nos. 32 and 138, 1965; Nos. 53 and 93, 1966; No. 40, 1967; No. 9, 1970; No. 95, 1972; No. 216, 1973; No. 130, 1974; No. 169, 1976; No. 22, 1978; Nos. 19 and 60, 1979; No. 92, 1981; No. 39, 1983; No. 123, 1984; and No. 65, 1985.
6. No. 39, 1986.
7. No. 42, 1986.
8. No. 52, 1941, as amended. For previous amendments, see No. 17, 1942; No. 14, 1947; No. 80, 1950; No. 1, 1953; No. 57, 1957; No. 73, 1963; No. 93, 1966; No. 41, 1967; No. 97, 1972; No. 216, 1973; No. 24, 1978; Nos. 19 and 61, 1979; Nos. 61 and 92, 1981; No. 39, 1983; No. 123, 1984; and No. 65, 1985 (as amended by No. 193, 1985); and No. 123, 1985.
9. No. 27, 1936, as amended. For previous amendments, see No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58, 124, 133, 134 and 159, 1980; Nos. 61, 92, 108, 109, 110, 111, 154 and 175, 1981; Nos. 29, 38, 39, 76, 80, 106 and 123, 1982; Nos. 14, 25, 39, 49, 51, 54 and 103, 1983; Nos. 14, 42, 47, 63, 76, 115, 124, 165 and 174, 1984; No. 123, 1984 (as amended by No. 65, 1985); Nos. 47, 49, 104, 123, 168 and 173, 1985; and Nos. 00 and 00, 1986.
10. No. 99, 1969, as amended. For previous amendments, see No. 216, 1973; No. 207, 1976; No. 19, 1979; and No. 173, 1984.
11. No. 123, 1983, as amended. For previous amendments, see No. 72, 1984; and No. 65, 1985.
12. No. 2, 1941, as amended. For previous amendments, see No. 48, 1942; Nos. 1 and 40, 1953; No. 37, 1954; No. 68, 1957; No. 28, 1961; No. 41, 1962; No. 33, 1963; Nos. 114 and 148, 1965; Nos. 54 and 93, 1966; Nos. 20 and 88, 1967; No. 61, 1968; Nos. 19, 163 and 216, 1973; No. 91, 1976; No. 36, 1978; and No. 63, 1979.
13. No. 77, 1971, as amended. For previous amendments, see No. 66, 1972; No. 216, 1973; No. 172, 1976; Nos. 55 and 62, 1978; Nos. 10, 19 and 64, 1979; Nos. 11 and 134, 1980; No. 69, 1981; Nos. 122 and 128, 1982; No. 39, 1983; No. 123, 1984; and Nos. 47, 65 and 123, 1985.
14. No. 25, 1930, as amended. For previous amendments, see No. 62, 1930; No. 25, 1931; Nos. 39 and 64, 1932; Nos. 17 and 47, 1933; Nos. 16 and 29, 1934; Nos. 8, 45 and 61, 1935; No. 78, 1936; Nos. 30 and 64, 1940; No. 54, 1942; No. 1, 1953;

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NOTES—continued

- No. 40, 1962; No. 93, 1966; No. 216, 1973; No. 197, 1978; No. 19, 1979; No. 134, 1980; Nos. 51 and 122, 1982; No. 39, 1983; No. 123, 1984; and Nos. 47, 123 and 144, 1985.
15. No. 27, 1930, as amended. For previous amendments, see No. 64, 1930; No. 27, 1931; Nos. 40 and 64, 1932; Nos. 17 and 48, 1933; Nos. 16 and 30, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 198, 1978; No. 123, 1984; and No. 47, 1985.
 16. No. 29, 1930, as amended. For previous amendments, see No. 65, 1930; No. 29, 1931; Nos. 41 and 64, 1932; Nos. 17 and 49, 1933; No. 16, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 199, 1978; No. 123, 1984; and No. 47, 1985.
 17. No. 31, 1930, as amended. For previous amendments, see No. 66, 1930; No. 31, 1931; Nos. 42 and 64, 1932; Nos. 17 and 50, 1933; No. 16, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 200, 1978; No. 123, 1984; and No. 47, 1985.
 18. No. 33, 1930, as amended. For previous amendments, see No. 67, 1930; No. 33, 1931; Nos. 43 and 64, 1932; Nos. 17, 25 and 51, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 26, 1939; No. 71, 1953; No. 45, 1963; No. 93, 1966; No. 109, 1968; No. 216, 1973; No. 91, 1976; No. 201, 1978; Nos. 51 and 80, 1982; No. 123, 1984; and Nos. 47 and 144, 1985.
 19. No. 35, 1930, as amended. For previous amendments, see No. 68, 1930; No. 35, 1931; Nos. 44 and 64, 1932; Nos. 17, 25 and 52, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 202, 1978; No. 123, 1984; and No. 47, 1985.
 20. No. 37, 1930, as amended. For previous amendments, see No. 69, 1930; No. 37, 1931; Nos. 45 and 64, 1932; Nos. 17, 25 and 53, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 203, 1978; No. 123, 1984; and No. 47, 1985.
 21. No. 39, 1930, as amended. For previous amendments, see No. 70, 1930; No. 39, 1931; Nos. 46 and 64, 1932; Nos. 17, 25 and 54, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; No. 204, 1978; No. 123, 1984; and No. 47, 1985.
 22. No. 41, 1930, as amended. For previous amendments, see No. 71, 1930; No. 41, 1931; No. 47, 1932; No. 55, 1933; Nos. 9 and 61, 1935; No. 78, 1936; No. 13, 1946; No. 93, 1966; No. 216, 1973; No. 205, 1978; No. 123, 1984; and Nos. 47 and 144, 1985.
 23. No. 43, 1985.
 24. No. 179, 1985.
 25. No. 53, 1934, as amended. For previous amendments, see No. 12, 1935; No. 78, 1936; No. 63, 1940; No. 1, 1953; No. 93, 1966; No. 216, 1973; No. 123, 1984; and Nos. 47, 123 and 144, 1985.
 26. No. 1, 1953, as amended. For previous amendments, see Nos. 28, 39, 40 and 52, 1953; No. 18, 1955; No. 39, 1957; No. 95, 1959; No. 17, 1960; No. 75, 1964; No. 155, 1965; No. 93, 1966; No. 120, 1968; No. 216, 1973; No. 133, 1974; No. 37,

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1976; Nos. 19 and 59, 1979; Nos. 39 and 117, 1983; No. 123, 1984; No. 65, 1985 (as amended by No. 193, 1985); and Nos. 4, 47, 104, 123 and 168, 1985.

27. No. 12, 1983, as amended. For previous amendments, see No. 123, 1984; and Nos. 4, 47, 49 and 123, 1985.
28. No. 119, 1982, as amended. For previous amendments, see No. 123, 1984.
29. No. 30, 1964, as amended. For previous amendments, see No. 93, 1966; No. 216, 1973; No. 19, 1979; No. 134, 1980; No. 61, 1981; No. 122, 1982; No. 39, 1983; No. 123, 1984; and Nos. 47, 65 and 123, 1985.

*[Minister's second reading speech made in—
House of Representatives on 22 May 1986
Senate on 4 June 1986]*