



Termination Payments Tax (Assessment and Collection) Act 1997

No. 73, 1997

**An Act relating to the assessment and collection of
termination payments tax, and for related purposes**

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	2
3 Act to bind Crown	2
4 Extension to Territories	2
5 Object of Act	2
6 Outline of Act	2
Part 2—Liability to surcharge	4
7 Application	4
8 Termination payments surcharge	4
9 Surcharge payable only on part of certain termination payments	5
10 Surcharge threshold	6
Part 3—Assessment and collection of surcharge	9
11 Assessment of liability to pay surcharge	9
12 Amendment of assessments	10
13 Payment of interest to Commonwealth if liability increased by an amendment of an assessment	11
14 Commissioner may use tax file numbers for the purposes of this Act	12
15 Objections against assessments	12
Part 4—Recovery of unpaid surcharge, interest or late payment penalty	14
16 Penalty for non-payment of surcharge	14
17 Recovery of unpaid amounts	15
18 Payment of surcharge, interest or late payment penalty	15
19 Application of payments	15
20 Review of decision not to remit interest or late payment penalty	16
Part 5—Administration	18
21 General administration of Act	18
22 Annual report	18
23 Secrecy	18

Part 6—Miscellaneous	22
24	Authorised officers22
25	Evidence.....22
26	Access to premises etc.....23
27	Obtaining information and evidence24
28	Records to be kept and retained by employer.....25
29	Application of the <i>Criminal Code</i>26
30	Regulations.....26
Part 7—Interpretation	27
31	Definitions.....27



Termination Payments Tax (Assessment and Collection) Act 1997

No. 73, 1997

An Act relating to the assessment and collection of termination payments tax, and for related purposes

[Assented to 5 June 1997]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Termination Payments Tax (Assessment and Collection) Act 1997*.

Section 2

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Act to bind Crown

- (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.
- (2) Nothing in this Act permits the Crown to be prosecuted for an offence.

4 Extension to Territories

This Act extends to Norfolk Island, the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.

5 Object of Act

The object of this Act is to provide for the assessment and collection of the termination payments surcharge. The surcharge is payable on payments of kinds commonly known as golden handshakes that are made to high-income taxpayers in consequence of the termination of their employment.

6 Outline of Act

The following is a simplified outline of this Act.

- If any termination payments have been or are made to or for a taxpayer after 7.30 pm on 20 August 1996, the Commissioner will calculate the taxpayer's adjusted taxable income for the financial year in which the payments were or are made.

- If the amount calculated is greater than the surcharge threshold, the Commissioner will calculate the rate of surcharge and assess the amount of surcharge payable by the taxpayer on the payments. Only part of certain employment-related termination payments is subject to the surcharge.
- If, after the assessment of surcharge, the taxpayer's adjusted taxable income is found to be different from the amount that was previously calculated or the termination payments are found to be different from the amount on which the assessment was based, the Commissioner may amend the assessment.
- If liability for surcharge is increased as a result of an amendment of an assessment, interest is payable on the additional surcharge.
- The provisions in the *Taxation Administration Act 1953* for objecting against assessments of income tax apply to assessments of surcharge.
- A late payment penalty applies if surcharge is not paid on time.
- The Commissioner may remit interest or late payment penalty: a refusal to remit is reviewable by the Administrative Appeals Tribunal.

Part 2—Liability to surcharge

7 Application

Act provides for surcharge on termination payments

- (1) This Act provides for the payment of surcharge on certain payments (***termination payments***) made to or for high-earning taxpayers (see subsection 8(2)) in consequence of the termination of their employment.

*Definition of ***termination payment****

- (2) A ***termination payment*** is a payment that:
 - (a) is made after 7.30 pm by legal time in the Australian Capital Territory on 20 August 1996; and
 - (b) is the retained amount of an eligible termination payment for the purposes of Subdivision AA of Division 2 of Part III of the Income Tax Assessment Act because of paragraph (a) of the definition of ***eligible termination payment*** in subsection 27A(1) of that Act;but does not include the retained amount of any post-June 1994 invalidity component of such a payment or an eligible termination payment from an employee share acquisition scheme.

8 Termination payments surcharge

Surcharge payable on termination payments

- (1) Termination payments surcharge is payable on any termination payments made to or for a taxpayer.

Section 9

No surcharge is payable unless adjusted taxable income is greater than surcharge threshold

- (2) Surcharge is payable only if the taxpayer's adjusted taxable income for the financial year in which the payments are made is greater than the surcharge threshold for the financial year.

No surcharge is payable by residents of external Territories

- (3) Surcharge is not payable on any termination payments made to or for a taxpayer in a financial year if the taxpayer is a Territory resident for the purposes of Division 1A of Part III of the Income Tax Assessment Act as it applies to the year of income that comprises that financial year.

Taxpayer liable for surcharge

- (4) The taxpayer is liable to pay the surcharge.

9 Surcharge payable only on part of certain termination payments

Termination payments made before 20 August 2001

- (1) If a termination payment has been or is made to or for a taxpayer after 20 August 1996 and before 20 August 2001, surcharge is payable only on the part of the termination payment that is worked out using the formula:

$$\frac{\text{Post-20 August 1996 period}}{\text{Total period}} \times \text{Termination payment}$$

where:

post-20 August 1996 period means the number of days in the period of the taxpayer's employment for which the termination payment was made that occurred after 20 August 1996.

total period means the number of days in the period of the taxpayer's employment for which the termination payment was made.

Section 10

Termination payments made on or after 20 August 2001

- (2) If:
- (a) a termination payment is made to or for a taxpayer on or after 20 August 2001; and
 - (b) the taxpayer is entitled to the payment under a written agreement between the taxpayer and his or her employer that was entered into before 7.30 pm by legal time in the Australian Capital Territory on 20 August 1996;

surcharge is payable only on the part of the termination payment that is worked out using the formula:

$$\frac{\text{Post - 20 August 1996 period}}{\text{Total period}} \times \text{Termination payment}$$

where:

post-20 August 1996 period means the number of days in the period of the taxpayer's employment in respect of which the termination payment was made that occurred after 20 August 1996.

total period means the number of days in the period of the taxpayer's employment in respect of which the termination payment was made.

10 Surcharge threshold

Surcharge threshold for 1996-97 financial year

- (1) The ***surcharge threshold*** for the 1996-97 financial year is \$70,000.

Surcharge threshold for later financial year

- (2) The ***surcharge threshold*** for a later financial year is the amount calculated using the formula:

$$\text{Previous surcharge threshold} \times \text{Indexation factor}$$

where:

Section 10

previous surcharge threshold means the surcharge threshold for the financial year immediately before the financial year for which the surcharge threshold is being calculated.

indexation factor means the number calculated under subsections (4) and (5) for the financial year for which the surcharge threshold is being calculated.

Rounding off of amount of surcharge threshold

- (3) If an amount worked out for the purposes of subsection (2) is an amount of dollars and cents:
- (a) if the number of cents is less than 50—the amount is to be rounded down to the nearest whole dollar; or
 - (b) otherwise—the amount is to be rounded up to the nearest whole dollar.

Indexation factor

- (4) The **indexation factor** for a financial year is the number calculated, to 3 decimal places, using the formula:

$$\frac{\text{Index number for last quarter in current March year}}{\text{Index number for last quarter in previous March year}}$$

where:

index number, for a quarter, means the estimate of full-time adult average weekly ordinary time earnings for the middle month of the quarter published by the Australian Statistician.

current March year means the period of 12 months ending on 31 March immediately before the financial year for which the surcharge threshold is being calculated.

previous March year means the period of 12 months immediately before the current March year.

Section 10

Rounding up of indexation factor

- (5) If the number calculated under subsection (4) for a financial year would, if it were worked out to 4 decimal places, end with a number greater than 4, the number so calculated is increased by 0.001.

Change in index numbers

- (6) If at any time, whether before or after the commencement of this Act, the Australian Statistician has published or publishes an index number for a quarter in substitution for an index number previously published for the quarter, the publication of the later index number is to be disregarded.

Surcharge threshold to be published

- (7) The Commissioner must publish before, or as soon as practicable after, the start of the 1997-98 financial year, and before the start of each later financial year, the surcharge threshold for the financial year.

Note: For the purposes of this section, *Australian Statistician* means the Australian Statistician referred to in subsection 5(2) of the *Australian Bureau of Statistics Act 1975*.

Part 3—Assessment and collection of surcharge

11 Assessment of liability to pay surcharge

Commissioner to assess surcharge

- (1) For each financial year in which termination payments are made to or for a taxpayer, the Commissioner must:
 - (a) calculate the taxpayer's adjusted taxable income; and
 - (b) if the adjusted taxable income is greater than the surcharge threshold:
 - (i) calculate the termination payments; and
 - (ii) calculate the rate of surcharge that applies to the taxpayer; and
 - (iii) make an assessment, directed to the taxpayer, of any surcharge payable.

When surcharge is payable

- (2) Surcharge assessed under subsection (1) is payable within one month after the day on which the assessment is made.

Information to be included in an assessment

- (3) An assessment of surcharge must explain the calculations on which the assessment was based, including particulars of the adjusted taxable income for the financial year, the termination payments and the amount of surcharge, and must state the day by which the surcharge is payable.

Copy of assessment to be given to taxpayer

- (4) When an assessment (including an amended assessment) is made, the Commissioner must give a copy to the taxpayer.

Section 12

Nil assessment

- (5) If the Commissioner calculates that no surcharge is payable by a taxpayer for a financial year, the calculation is taken, for the purposes of this Act other than subsection (4), to be an assessment on which a nil amount of surcharge was due and payable.

12 Amendment of assessments

Application

- (1) This section applies if, after the making of an assessment of surcharge on a termination payment or termination payments made to or for a taxpayer in a financial year:
- (a) the taxpayer's adjusted taxable income for the financial year is increased or reduced and the increase or reduction affects the taxpayer's liability to pay the surcharge; or
 - (b) the amount of the payment or the sum of the amounts of the payments is greater or less than the amount that was taken to be the amount of the payment or the sum for the purposes of the assessment.

Commissioner may amend assessment

- (2) The Commissioner may amend the assessment to take account of any matter referred to in paragraph (1)(a) or (b).

Amendment increasing surcharge

- (3) If, as a result of the amendment of the assessment, the amount of surcharge is increased, the amount of the increase is payable within one month after the day on which the assessment is amended.

Amendment reducing surcharge

- (4) If:
- (a) as a result of the amendment of the assessment, the amount of surcharge is reduced; and

(b) the amount previously assessed to be paid has been paid;
the amount by which the surcharge is reduced is to be repaid to the taxpayer.

13 Payment of interest to Commonwealth if liability increased by an amendment of an assessment

Liability to pay interest

- (1) If an amendment of an assessment increasing a taxpayer's liability to pay surcharge is made, the taxpayer must pay interest to the Commonwealth, calculated in accordance with subsection (2), on the amount of the increase.

Calculation of interest

- (2) Interest payable by a taxpayer under subsection (1) as a result of an amended assessment (the ***current amended assessment***) of surcharge for a financial year is to be calculated:
- (a) for the period:
- (i) starting on 15 June in the financial year; and
 - (ii) ending on the day on which the current amended assessment is made; and
- (b) at such annual rate or rates of interest as are provided for by section 214A of the Income Tax Assessment Act.

Amendment of nil assessment

- (3) If:
- (a) the Commissioner has calculated that no surcharge is payable by a taxpayer for a financial year; and
 - (b) the Commissioner afterwards makes an assessment of surcharge payable by the taxpayer for the financial year;
- the assessment referred to in paragraph (b) is taken to be an amended assessment.

Section 14

Interest less than 50 cents

- (4) If the amount of interest that would be payable under subsection (1) by a taxpayer is less than 50 cents, the interest is not payable.

Notice of interest to be given

- (5) If a taxpayer is liable to pay interest under this section, the Commissioner must notify the taxpayer of:
- (a) the period for which the taxpayer is liable to pay the interest; and
 - (b) the amount of the interest; and
 - (c) a date (not earlier than 30 days after the day on which the notification was given) as the due date for payment of the interest;
- and the amount is due and payable on that date.

Commissioner may remit interest

- (6) The Commissioner may remit the whole or part of any interest payable by a taxpayer under this section.

Note: A refusal to remit interest is reviewable by the Administrative Appeals Tribunal (see section 20).

14 Commissioner may use tax file numbers for the purposes of this Act

The Commissioner may use for the purposes of this Act a tax file number that has been provided for any other purpose.

15 Objections against assessments

If:

- (a) an assessment of surcharge payable by a taxpayer is made; and
- (b) the taxpayer is dissatisfied with the assessment;

Section 15

the taxpayer may object against it in the way set out in Part IVC of the *Taxation Administration Act 1953*.

Section 16

Part 4—Recovery of unpaid surcharge, interest or late payment penalty

16 Penalty for non-payment of surcharge

Monthly penalty for non-payment

- (1) If an amount of surcharge payable by a taxpayer remains unpaid throughout the whole or part of:
 - (a) the calendar month starting on the day after the day on which the amount became due and payable; or
 - (b) any following calendar month;the taxpayer must pay to the Commonwealth, for that calendar month, a penalty worked out under subsection (2). However, this subsection does not apply if the amount was fully paid before the 15th day of the calendar month referred to in paragraph (a).

Note: *Calendar month* is defined by section 22 of the *Acts Interpretation Act 1901*.

Calculation of penalty

- (2) The penalty for a calendar month is the amount worked out using the following formula and rounded up to the nearest whole dollar:

$$\text{Unpaid amount} \times \frac{0.2}{12}$$

where:

unpaid amount means the amount of surcharge unpaid at the start of the calendar month.

When penalty is payable

- (3) Late payment penalty for a calendar month is due and payable at the end of that month.

Commissioner may remit penalty

- (4) The Commissioner may remit the whole or part of an amount of late payment penalty.

Note: A refusal to remit late payment penalty is reviewable by the Administrative Appeals Tribunal (see section 20).

17 Recovery of unpaid amounts

The following may be recovered by the Commonwealth as debts due to the Commonwealth:

- (a) surcharge that is due and payable;
- (b) interest that is due and payable;
- (c) late payment penalty that is due and payable.

18 Payment of surcharge, interest or late payment penalty

Surcharge, interest and late payment penalty are payable to the Commissioner.

19 Application of payments

If:

- (a) 2 or more debts are due to the Commonwealth under this Part; and
- (b) an amount is paid to the Commissioner on account of one or more of the debts; and
- (c) the total amount of the debts payable exceeds the amount paid;

the following provisions have effect:

- (d) the Commissioner may apply the amount paid in partial discharge of the total amount of the debts; and
- (e) the Commonwealth may recover the balance.

Section 20

20 Review of decision not to remit interest or late payment penalty

Request to reconsider decision

- (1) If the Commissioner decides not to remit the whole or part of any interest or late payment penalty, the taxpayer may, within 21 days after the day on which the taxpayer receives notice of the decision, or within any further period that the Commissioner allows, request the Commissioner to reconsider the decision.

Reasons for request to be stated

- (2) The request is to set out the reasons for making it.

Commissioner to reconsider decision

- (3) On receipt of the request, the Commissioner must reconsider the decision and may confirm or revoke the decision or vary the decision in any way.

Reconsideration not completed within 21 days

- (4) If the Commissioner does not confirm, revoke or vary the decision within 21 days after the day on which the Commissioner received the request, the Commissioner is taken, at the end of that period, to have confirmed the decision.

Notice of reconsideration

- (5) If the Commissioner confirms, revokes or varies a decision within the period referred to in subsection (4), the Commissioner must tell the taxpayer the result of the reconsideration and the reasons for confirming, varying or revoking the decision, as the case may be.

Application for review of decision

- (6) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Commissioner that have been confirmed or varied.

Manner of applying for review

- (7) If a decision is taken, because of subsection (4), to be confirmed, section 29 of the *Administrative Appeals Tribunal Act 1975* applies as if the prescribed time for making application for review of the decision were the period starting on the day on which the decision is taken to be confirmed and ending on the 28th day after that day.

Operation of decision that is subject to review

- (8) If a request is made under subsection (1) for the reconsideration of a decision, section 41 of the *Administrative Appeals Tribunal Act 1975* applies as if the making of the request were the making of an application to the Administrative Appeals Tribunal for a review of the decision.

Hearing of review to be in private

- (9) The hearing of a proceeding before the Administrative Appeals Tribunal that relates to a decision referred to in subsection (6) is to take place in private and the Tribunal may, by order:
- (a) give directions as to the persons who may be present; and
 - (b) give directions of a kind referred to in paragraph 35(2)(b) or (c) of the *Administrative Appeals Tribunal Act 1975*.

Part 5—Administration

21 General administration of Act

The Commissioner has the general administration of this Act.

22 Annual report

After the end of each financial year, the Commissioner must give the Treasurer a report on the working of this Act during the year for presentation to the Parliament.

23 Secrecy

Definitions

(1) In this section:

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

person to whom this section applies means a person who is or has been:

- (a) the Commissioner, a Second Commissioner or a Deputy Commissioner; or
- (b) an officer or employee of the branch of the Australian Public Service under the direct control of the Commissioner; or
- (c) otherwise appointed or employed by, or a provider of services for, the Commonwealth.

produce includes permit access to.

protected document means a document that:

- (a) contains information about a person; and

- (b) is obtained or made by a person to whom this section applies in the course of, or because of, the person's duties under or in relation to this Act.

protected information means information that:

- (a) concerns a person; and
(b) is disclosed to, or obtained by, a person to whom this section applies in the course of, or because of, the person's duties under or in relation to this Act.

Information may be recorded or divulged only for purposes of Act

- (2) A person to whom this section applies must not:
- (a) make a record of any protected information; or
(b) whether directly or indirectly, divulge or communicate to a person any protected information about another person;
- unless the record is made, or the information is divulged or communicated:
- (c) under or for the purposes of this Act; or
(d) in the performance of duties, as a person to whom this section applies, under or in relation to this Act.

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Information may be divulged to persons performing duties under Acts administered by Commissioner

- (3) Subsection (2) does not prohibit the Commissioner, a Second Commissioner or a Deputy Commissioner, or a person authorised by the Commissioner, a Second Commissioner or a Deputy Commissioner, from divulging or communicating any protected information to a person performing, as a person to whom this section applies, duties under or in relation to an Act of which the Commissioner has the general administration, or under regulations made under such an Act, for the purpose of enabling the person to perform the duties.

Section 23

Divulging of information to Minister

- (4) A person divulges or communicates protected information to a person in contravention of subsection (2) if the person divulges or communicates the information to a Minister.

Court may not require information or documents

- (5) A person to whom this section applies is not required:
- (a) to divulge or communicate protected information to a court; or
 - (b) to produce a protected document in court;
- except where it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

Information may be divulged to persons performing duties under this Act

- (6) Nothing in this or any other Act of which the Commissioner has the general administration prohibits the Commissioner, a Second Commissioner or a Deputy Commissioner, or a person authorised by the Commissioner, a Second Commissioner or a Deputy Commissioner, from divulging or communicating any information to a person performing, as a person to whom this section applies, duties under or in relation to this Act for the purpose of enabling the person to perform the duties.

Information may be divulged to court for purposes of this Act

- (7) Nothing in this or any other Act of which the Commissioner has the general administration prohibits the Commissioner, a Second Commissioner, a Deputy Commissioner, or a person authorised by the Commissioner, a Second Commissioner or a Deputy Commissioner, from:
- (a) divulging or communicating to a court any information obtained under or for the purposes of such an Act; or
 - (b) producing in court a document obtained or made under or for the purposes of such an Act;

Section 23

where it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

Oath or declaration of secrecy

- (8) A person to whom this section applies must, if and when required by the Commissioner, a Second Commissioner or a Deputy Commissioner to do so, make an oath or declaration, in a manner and form determined by the Commissioner in writing, to maintain secrecy in accordance with this section.

Part 6—Miscellaneous

24 Authorised officers

The Commissioner may, by writing, authorise a person who is an officer or employee within the meaning of the *Public Service Act 1922* to be an authorised officer for the purposes of a provision or provisions of this Act.

25 Evidence

Assessment to be evidence of correctness of calculations

- (1) The mere production of:
 - (a) an assessment; or
 - (b) a document signed by the Commissioner, a Second Commissioner or a Deputy Commissioner purporting to be a copy of an assessment;

is conclusive evidence of the due making of the assessment and, except in proceedings under Part IVC of the *Taxation Administration Act 1953* on a review or appeal relating to the assessment, that the amounts and all of the particulars of the assessment are correct.

Copies of documents

- (2) A document signed by the Commissioner, a Second Commissioner or a Deputy Commissioner purporting to be a copy of a document issued or given by the Commissioner, a Second Commissioner or a Deputy Commissioner is prima facie evidence that the second-mentioned document was so issued or given.

Copy of, or extract from, assessment

- (3) A document signed by the Commissioner, a Second Commissioner or a Deputy Commissioner purporting to be a copy of, or an extract

from, an assessment is evidence of the matter set out in the document to the same extent as the original assessment would be if it were produced.

Certificates

- (4) A certificate signed by the Commissioner, a Second Commissioner or a Deputy Commissioner certifying that an amount stated in the certificate was, on the day of the certificate, payable by a person as an amount of surcharge, interest or late payment penalty, is prima facie evidence of the matters stated in the certificate.

26 Access to premises etc.

Powers of authorised officer

- (1) For the purposes of this Act, an authorised officer:
- (a) may, at any reasonable time, enter and remain on any land or premises; and
 - (b) is entitled to full and free access at any reasonable time to all documents; and
 - (c) may inspect, examine, make copies of, or take extracts from, any documents.

Proof of authority to be produced

- (2) An authorised officer is not entitled to enter or remain on any land or premises if, on being requested by the occupier of the land or premises for proof of authority, the officer does not produce a written authority signed by the Commissioner stating that the officer is authorised to exercise powers under this section.

Occupier to help authorised officer

- (3) The occupier of land or premises entered or proposed to be entered by an authorised officer under subsection (1) must, for the purpose of enabling the effective exercise of the officer's powers under this section, provide the officer with all reasonable facilities and assistance that the occupier is reasonably capable of providing.
-

Section 27

Penalty: 10 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

27 Obtaining information and evidence

Power of Commissioner to obtain information or documents

- (1) The Commissioner may, for the purposes of this Act, by written notice, require a person:
 - (a) to give to the Commissioner, within a reasonable period, and in a reasonable manner, stated in the notice, any information that the Commissioner requires; and
 - (b) to attend before the Commissioner, or an authorised officer, at a reasonable time and place stated in the notice, and answer questions; and
 - (c) to produce to the Commissioner, at a reasonable time and place stated in the notice, any documents in the custody or under the control of the person.

Power to require information on oath or affirmation

- (2) The Commissioner may require the information or answers to be verified or given on oath or affirmation, and either orally or in writing, and for that purpose the Commissioner or an authorised officer may administer an oath or affirmation.

Nature of oath or affirmation

- (3) The oath to be taken or affirmation to be made by a person is an oath or affirmation that the information or answers the person will give will be true.

Expenses of attendance

- (4) The regulations are to prescribe scales of expenses to be allowed to persons required to attend under this section.

28 Records to be kept and retained by employer*Employer to keep records*

- (1) An employer must keep records that record and explain all termination payments made by the employer.

How records to be kept

- (2) The records must be kept in writing in the English language or so as to enable the records to be readily accessible and convertible into writing in the English language.

Period for retention of records

- (3) An employer who has possession of any records kept or obtained under or for the purposes of this Act must retain them until the end of 5 years after they were prepared or obtained, or the making of the payments to which those records relate, whichever is the later.

When records need not be kept

- (4) This section does not require an employer to retain records if:
 - (a) the Commissioner has notified the employer that the retention of the records is not required; or
 - (b) the employer is a company that has gone into liquidation and been finally dissolved.

Offences

- (5) An employer who contravenes this section is guilty of an offence punishable on conviction by a fine of not more than 300 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Section 29

29 Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

30 Regulations

The Governor-General may make regulations 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.

Part 7—Interpretation

31 Definitions

In this Act, unless the contrary intention applies:

adjusted taxable income of a taxpayer has the same meaning as ***adjusted taxable income*** of a member has in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

assessment means an assessment of surcharge.

authorised officer means an officer or employee within the meaning of the *Public Service Act 1922* who has been authorised in writing by the Commissioner for the purposes of the provision in which the expression occurs.

Commissioner means the Commissioner of Taxation.

Deputy Commissioner means a Deputy Commissioner of Taxation.

Income Tax Assessment Act means the *Income Tax Assessment Act 1936*.

interest means interest payable under section 13.

late payment penalty means penalty payable under section 16.

post-June 1994 invalidity component of an eligible termination payment has the meaning given by subsection 27A(1) of the *Income Tax Assessment Act*.

retained amount has the meaning given by section 27AC of the *Income Tax Assessment Act*.

Second Commissioner means a Second Commissioner of Taxation.

Section 31

surcharge threshold has the meaning given by section 10.

taxpayer means an individual who is a taxpayer for the purposes of the Income Tax Assessment Act but does not include an individual acting as a trustee.

termination payment has the meaning given by subsection 7(2).

termination payments surcharge or *surcharge* means the termination payments surcharge imposed by the *Termination Payments Tax Imposition Act 1997*.

the 1996-97 financial year means the financial year that started on 1 July 1996.

[*Minister's second reading speech made in—
House of Representatives on 13 February 1997
Senate on 25 March 1997*]

(13/97)

I HEREBY CERTIFY that the above is a fair print of the Termination Payments Tax (Assessment and Collection) Bill 1997 which originated in the House of Representatives as the the Termination Payments Surcharge (Assessment and Collection) Bill 1997 and has been finally passed by the Senate and the House of Representatives.

Clerk of the House of Representatives

IN THE NAME OF HER MAJESTY, I assent to this Act.

Governor-General
1997