

HOUSE OF REPRESENTATIVES

(As read a first time)

**LOAN (INCOME EQUALIZATION DEPOSITS) AMENDMENT
BILL 1984**

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1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 2 May 1984

(Acting Treasurer)

A BILL

FOR

An act to amend the *Loan (Income Equalization Deposits) Act 1976* and for related purposes

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

Short title, &c.

5 **1. (1)** This Act may be cited as the *Loan (Income Equalization Deposits) Amendment Act 1984*.

(2) The *Loan (Income Equalization Deposits) Act 1976*¹ is in this Act referred to as the Principal Act.

Interpretation

2. Section 3 of the Principal Act is amended—

10 **(a)** by omitting from sub-section (1) the definitions of “authorized person” and “Board of Review” and substituting the following definitions:

 “ ‘Assessment Act’ means the *Income Tax Assessment Act 1936*;

 “ ‘authorized person’ means the Secretary to the Department;

- “bond’ means a Treasury Bond, or Stock, within the meaning of the *Commonwealth Inscribed Stock Act 1911*;
- “bond series’ means bonds of the same maturity date and interest rate;
- “Class A interest deposit limit’, in relation to a person in relation to a year of income, means the Class A interest deposit limit ascertained in relation to the person in relation to the year of income under section 4B; 5
- “Class A interest rate’, in relation to a quarter, means the rate that is 2 percentage points above the short-term bond rate in relation to the quarter; 10
- “Class B deposit’ means a deposit other than—
- (a) a primary producer deposit; or
 - (b) a Class C deposit;
- “Class B interest rate’, in relation to a quarter, means the rate that is 3 percentage points below the short-term bond rate in relation to the quarter; 15
- “Class C deposit’ means a deposit made before 1 September 1983 but does not include such a deposit, or the part (if any) of such a deposit, that has been converted under section 12A; 20
- “Class C interest rate’, means—
- (a) in relation to the period commencing on the date of commencement of the *Loan (Income Equalization Deposits) Amendment Act 1984* and ending on 31 August 1984—7.5% per annum; 25
 - (b) in relation to the period commencing on 1 September 1984 and ending on 31 August 1985—5.5% per annum;
 - (c) in relation to the period commencing on 1 September 1985 and ending on 31 August 1986—3.5% per annum; and 30
 - (d) in relation to the period commencing on 1 September 1986 and ending on 31 August 1987—1.5% per annum;
- “Commissioner’ means the Commissioner of Taxation;
- “conversion application’ means—
- (a) an application under section 12 of this Act, as in force before the commencement of the *Loan (Income Equalization Deposits) Amendment Act 1984*, in respect of the conversion of the whole or a part of a parcel of stock into a deposit; or 35
 - (b) an application under section 12A of this Act in respect of the conversion of the whole or a part of a deposit, or of a parcel of stock, into a non-Class C deposit; 40

“‘conversion deposit’ means a deposit resulting from—

- (a) the conversion at any time during the period commencing on 1 September 1983 and ending immediately before the date of commencement of the *Loan (Income Equalization Deposits) Amendment Act 1984* of the whole or a part of a parcel of stock under section 12 of this Act; or
- (b) the conversion at any time of the whole or a part of a deposit or of a parcel of stock under section 12A of this Act;

“‘declaration date’, in relation to a qualifying bond series, means the date on which the result of the successful tender in respect of the bond series was declared;”;

- (b) by inserting after the definition of “‘deposit’” in sub-section (1) the following definitions:

“‘eligible primary producer’ means—

- (a) a natural person who, or a company that, carries on in Australia a business of primary production otherwise than as trustee of a trust estate;
- (b) a partner in a partnership that carries on in Australia a business of primary production; and
- (c) a beneficiary of a trust estate the trustee of which carries on in Australia a business of primary production;

“‘gross receipts from primary production’, in relation to a person in relation to a year of income, has the same meaning as in Division 16C of Part III of the Assessment Act, as in force immediately before the date of commencement of the *Loan (Income Equalization Deposits) Amendment Act 1984*;

“‘income certificate’ means a notice of a determination issued by the Commissioner to the authorized person under section 4D;

“‘income from property’ has the same meaning as in the Assessment Act;

“‘last declared bond series’, in relation to 2 or more qualifying bond series, means—

- (a) if the declaration date of all the bond series is the same date—each of the bond series; and
- (b) in any other case—the bond series, or each of the bond series, of which the declaration date is not earlier than the declaration date of any of the other bond series;

“‘lowest yield bond series’, in relation to 2 or more qualifying bond series, means—

- (a) if all the bond series have the same weighted average yield—each of the bond series; and

(b) in any other case—the bond series, or each of the bond series, of which the weighted average yield is not greater than the weighted average yield of any of the other bond series;

“‘non-Class C deposit’ means a deposit other than a Class C deposit; 5

“‘non-conversion deposit’ means a deposit other than a conversion deposit;

“‘owner’, in relation to a deposit, means—

(a) in the case of a deposit made by the trustee of a trust estate on behalf of a beneficiary—the beneficiary; and 10

(b) in any other case—the person who made the deposit;

“‘partnership’ has the same meaning as in the Assessment Act;

“‘primary producer deposit’ means—

(a) a non-conversion deposit made on or after 1 September 1983 the owner of which was an eligible primary producer at the time of the making of the application for the deposit; 15

(b) where—

(i) the owner of a conversion deposit that resulted from the conversion of the whole or a part of a deposit (in this paragraph referred to as the ‘original deposit’) was an eligible primary producer at the time of the making of the conversion application; and 20

(ii) an unrecouped income tax deduction existed in respect of the original deposit immediately before the time of conversion, 25

so much of the conversion deposit as is equal to the amount of the unrecouped income tax deduction or, if the conversion deposit resulted from the conversion of part only of the original deposit, so much of the conversion deposit as is equal to the amount that bears to the amount of the unrecouped income tax deduction the same proportion as the part of the original deposit that was converted bears to the whole of the original deposit; and 30 35

(c) where—

(i) the owner of a conversion deposit that resulted from the conversion of the whole or a part of a parcel of stock was an eligible primary producer at the time of making of the conversion application; and 40

(ii) an unrecouped deduction under Division 16B of Part III of the Assessment Act existed in respect

of the parcel immediately before the time of conversion,

so much of the conversion deposit as is equal to the amount of the unrecouped deduction or, if the conversion deposit resulted from the conversion of part only of a parcel of stock, so much of the conversion deposit as is equal to the amount that bears to the amount of the unrecouped deduction the same proportion as that part of the parcel bears to the whole of the parcel;

“‘primary production’ has the same meaning as in the Assessment Act;

“‘qualifying bond series’, in relation to a quarter, means a bond series—

(a) in respect of which a successful tender has been declared during the period of 3 months immediately preceding the quarter; and

(b) with a period to maturity of less than 5 years;

“‘quarter’ means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October;

“‘reduced taxable income’ means the taxable income reduced by so much of the taxable income as is derived from income from property;

“‘relevant income amounts’, in relation to a person in relation to a year of income, means—

(a) the gross receipts from primary production of the person in relation to the year of income; and

(b) the reduced taxable income of the person of the year of income;”;

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

“‘shortest term bond series’, in relation to 2 or more qualifying bond series, means—

(a) if the period to maturity in respect of all of the bond series is of the same length—each of the bond series; and

(b) in any other case—the bond series, or each of the bond series, whose period to maturity is not longer than the period to maturity of any of the other bond series;

“‘short-term bond rate’, in relation to a quarter, means—

(a) where there is only 1 qualifying bond series in relation to the quarter—the weighted average yield in respect of that bond series;

(b) where there are 2 or more qualifying bond series in relation to the quarter and only one of those bond series (in this paragraph referred to as the ‘eligible bond

series’) is the last declared bond series—the weighted average yield in respect of the eligible bond series;

(c) where—

(i) there are 2 or more qualifying bond series in relation to the quarter; 5

(ii) paragraph (b) does not apply; and

(iii) only one of the last declared bond series (in this paragraph referred to as the ‘eligible bond series’) is the shortest term bond series in relation to the last declared bond series, 10

the weighted average yield in respect of the eligible bond series;

(d) where—

(i) there are 2 or more qualifying bond series in relation to the quarter; and 15

(ii) neither paragraph (b) nor paragraph (c) applies, the weighted average yield in respect of any of the qualifying bond series that is—

(iii) a last declared bond series in relation to the qualifying bond series; 20

(iv) a shortest term bond series in relation to bond series to which sub-paragraph (iii) applies; and

(v) a lowest yield bond series in relation to bond series to which sub-paragraph (iv) applies; and

(e) in any other case—the rate of interest notified by the Treasurer in the *Gazette* as the rate of interest in relation to the quarter for the purposes of this definition;” 25

(d) by inserting after the definition of “stock” in sub-section (1) the following definitions: 30

“‘taxable income’, in relation to a person in relation to a year of income, has the same meaning as in the Assessment Act;

“‘weighted average yield’, in relation to a bond series, means—

(a) where only one competitive tender bid was accepted by the Commonwealth for the bond series—the yield of that competitive tender bid; and 35

(b) in any other case—the average of the yields of the competitive tender bids accepted by the Commonwealth for the bond series, weighted by the respective values of accepted competitive tender bids at each yield level;” 40

(e) by omitting “*Income Tax Assessment Act 1936*” from the definition of “year of income” in sub-section (1) and substituting “Assessment Act”; and

(f) by adding at the end thereof the following sub-sections:

5 “(3) Subject to sub-section (4), the relevant income amounts in relation to a person in relation to a year of income are, and shall be taken at all times to have been, those amounts as estimated or notified, or last estimated or notified, as the case requires, in accordance with section 4C.

10 “(4) Where an income certificate is issued in relation to a person in relation to a year of income, the relevant income amounts in relation to the person in relation to the year of income shall, subject to the application of this sub-section in relation to any later income certificate issued in relation to the person in relation to the year of income, be taken to be, and at all times to have been, those amounts as stated in that first-mentioned income certificate.

15 “(5) For the purposes of this Act, the part of the taxable income of a person that is derived from income from property shall be ascertained in accordance with the Assessment Act.”.

Borrowing by accepting deposits

3. Section 4 of the Principal Act is amended by omitting sub-section (4).

4. After section 4 of the Principal Act the following sections are inserted:

Interest payable in respect of deposits

20 “4A. (1) Interest is payable in respect of deposits in accordance with this section in respect of any period after the commencement of this section.

25 “(2) Subject to this section, the rate of interest payable from time to time in respect of primary producer deposits made in a year of income by, or by a trustee on behalf of, a person is—

(a) in respect of any of the deposits that are conversion deposits—the Class A interest rate;

30 (b) in respect of so much of the amount of the deposits (other than conversion deposits) as does not exceed the Class A interest deposit limit in relation to the person in relation to the year of income—the Class A interest rate; and

35 (c) in respect of the amount (if any) by which the amount of any non-conversion deposits included in the deposits exceeds the Class A interest deposit limit in relation to the person in relation to the year of income—the Class B interest rate.

“(3) The rate of interest payable in respect of Class C deposits in respect of a period ending on or before 31 August 1987 is the Class C interest rate.

“(4) No interest is payable in respect of Class C deposits in respect of any period after 31 August 1987.

40 “(5) Subject to this section, the rate of interest payable in respect of Class B deposits is the Class B interest rate.

“(6) Where—

- (a) during a year of income, the person who is the owner of a primary producer deposit ceases to be an eligible primary producer; and
- (b) the person does not again become an eligible primary producer before the expiration of the period of 120 days after the day on which the person ceases to be an eligible primary producer,

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the deposit shall be deemed not to be, and never to have been, a primary producer deposit at any time after the date on which the person ceased to be a primary producer.

“(7) Where—

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- (a) but for this sub-section, interest would accrue at a particular time at the Class A interest rate in respect of deposits made by, or by a trustee on behalf of, a person in a year of income or years of income; and
- (b) the amount of those deposits exceeds \$250,000,

interest is payable at the Class B interest rate in respect of so much of the amount of those deposits as is equal to the amount of the excess.

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“(8) If the short-term bond rate in respect of a quarter is less than or equal to 3% per annum, no interest is payable in respect of that quarter in respect of deposits in respect of which interest would, but for this sub-section, be payable at the Class B interest rate.

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Class A interest deposit limit

“4B. (1) For the purposes of this Act, the Class A interest deposit limit in relation to a person in relation to a year of income is an amount equal to—

- (a) 60% of the gross receipts from primary production of the person in relation to the year of income; or
- (b) the reduced taxable income of the person of the year of income, whichever is the less.

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“(2) Where—

- (a) during the first 2 months of a year of income, a person—
 - (i) makes an application in respect of the making of a deposit otherwise than on behalf of a beneficiary of a trust estate; or
 - (ii) being the trustee of a trust estate, makes an application in respect of the making of a deposit on behalf of a beneficiary of the trust estate who is under a legal disability; and
- (b) each previous application (if any) made in the year of income in respect of the making of a deposit by, or on behalf of, the person or the beneficiary, as the case may be, included an election under this sub-section,

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the person may, in the application, elect that the rate of interest applicable to the deposit be determined by reference to the Class A interest deposit limit in relation to the person or the beneficiary, as the case may be, in relation to the next preceding year of income.

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“(3) Where an election is made under sub-section (2) in an application made during a year of income in respect of the making of a deposit, the deposit shall, for the purposes of the application of sub-section 4A (2), be deemed to have been made in the next preceding year of income.

5 “(4) Nothing in sub-section (3) entitles a person to be paid interest in respect of a deposit in respect of a period before the deposit was actually made.

Estimates of relevant income amounts

“4C. (1) Where—

10 (a) during a year of income (in this sub-section referred to as the ‘relevant year of income’) a person makes an application in respect of the making of a deposit by the person or by the person as trustee on behalf of a beneficiary of a trust estate; and

15 (b) the person or the beneficiary, as the case may be, has not received a notice given by the authorized person under sub-section 4D (3) of a determination of the Commissioner in relation to the person or the beneficiary, as the case may be, in relation to—

(i) where sub-paragraph (ii) does not apply—the relevant year of income; or

20 (ii) where the person makes an election under sub-section 4B (2) in the application—the year of income next preceding the relevant year of income,

the person shall, in the application, state the amounts that the person estimates will be the relevant income amounts in relation to the person or the beneficiary, as the case may be, in relation to the relevant year of income or, in a case to which sub-paragraph (b) (ii) applies, in relation to the year of income next preceding the relevant year of income.

30 “(2) The depositor in relation to a deposit may, at any time, on a form made available by the authorized person, give notice to the authorized person of the amounts that the depositor estimates are, or will be, the relevant income amounts, in relation to a year of income, in relation to—

(a) in a case to which paragraph (b) does not apply—the depositor; or

(b) where the deposit was made by the depositor in the capacity of a trustee of a trust estate on behalf of a beneficiary—the beneficiary.

“ (3) Nothing in this section affects the operation of section 10.

35 **Determination of relevant income amounts**

“4D. (1) The Commissioner shall, on request by the authorized person, determine the relevant income amounts in relation to the owner of a deposit in relation to a year of income.

40 “(2) The Commissioner shall issue to the authorized person a notice of any determination or decision of the Commissioner under this section.

“ (3) Where the authorized person receives notice of a determination or decision under sub-section (2), the authorized person shall serve notice in

writing of the determination or decision on the person to whom the determination or decision relates.

“(4) Subject to sub-section (5), where the person to whom a determination relates is dissatisfied with the determination, the person may, within 60 days after service of notice of the determination under sub-section (3), post to or lodge with the authorized person an objection in writing against the determination stating fully and in detail the grounds on which he relies.

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“(5) The authorized person shall forward the objection to the Commissioner.

“(6) Where the determination is an amended determination, the person has no further right of objection than he would have had if the amendment had not been made, except to the extent that the amendment resulted in a reduction of either of the relevant income amounts in relation to the person in relation to a year of income.

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“(7) The Commissioner shall consider the objection, and may either disallow it, or allow it either wholly or in part, and shall, if his decision requires an amendment of the determination to which the decision relates, amend the determination.

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“(8) In addition to his power to amend a determination in accordance with sub-section (7), the Commissioner may amend—

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(a) a determination that has not previously been amended; or

(b) a determination that was last amended in accordance with sub-section (7),

once within 2 years after the date on which notice of the determination or amended determination, as the case may be, is served on the person to whom the determination or amended determination, as the case may be, relates.

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“(9) The Commissioner shall not amend a determination except as provided by sub-sections (7) and (8).

“(10) The production of a notice of a determination under this section, or of a document under the hand of the Commissioner purporting to be a copy of such a notice, shall be conclusive evidence of the due making of the determination and that the amounts and all the particulars of the determination are correct.

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“(11) A document purporting to be a notice or document referred to in sub-section (10) shall, unless the contrary is established, be deemed to be such a notice or document and to have been duly given.

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“(12) In this section, unless the contrary intention appears, ‘determination’ includes an amended determination.”.

Records relating to deposits

5. Section 5 of the Principal Act is amended by omitting from sub-section (1) “Treasurer” and substituting “authorized person”.

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Deposits on behalf of beneficiaries of trust estates

6. Section 11 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “an eligible” and substituting “a”; and
- (b) by omitting sub-section (3).

5 7. Section 12 of the Principal Act is repealed and the following section is substituted:

Conversion of stock and pre September 1983 deposits

10 “12A. (1) A person who is the depositor in respect of a Class C deposit, or the holder of a parcel of stock, may make an application to the authorized person for the conversion of the whole or a specified part of the deposit or parcel of stock into a non-Class C deposit.

“(2) An application for the purposes of sub-section (1) shall be made on a form made available by the authorized person and shall contain such information as is required by that form.

15 “(3) Where a person makes an application in accordance with sub-section (1) in relation to the whole or a specified part of a deposit or parcel of stock—

(a) the whole of the deposit or parcel of stock, or the specified part of the deposit or parcel of stock, as the case may be, shall, on and after the date on which the application is made, be deemed to be a non-Class C deposit made by the applicant on the date on which the application is made; and

20 (b) in a case where the application is made within 60 days after the date of commencement of this section and relates to the whole or a specified part of a deposit—there is payable to the applicant, as additional interest in respect of the non-Class C deposit referred to in paragraph (a), an amount ascertained in accordance with the formula $A - B$, where—

25 A is the amount of interest that would have been payable under this Act in respect of a deposit of an amount equal to the non-Class C deposit referred to in paragraph (a) in respect of the period (in this paragraph referred to as the ‘relevant period’) that commenced on 1 September 1983 and ends immediately before the date on which the application is made if—

30 (i) in a case where the non-Class C deposit is, immediately after conversion, a primary producer deposit—the applicable rate of interest had been the highest rate of interest from time to time applicable to deposits during the relevant period; and

40 (ii) in any other case—the applicable rate of interest had been the second highest rate of interest from time to time applicable to deposits during the relevant period; and

B is the amount of the interest paid or payable to the applicant in respect of the deposit, or the specified part of the deposit, as the case may be, under this Act in respect of the relevant period.

“(4) The authorized person shall forward to the Commissioner particulars of applications made under this section.”

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Repayment within 12 months on ground of financial difficulties

8. Section 16 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1A) For the purposes of the application of sub-section (1) in relation to a conversion deposit, the conversion deposit shall be deemed to have been made on the date of the making of the deposit, or the date of issue of the stock, as the case may be, from which the conversion deposit was converted.”

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Repayment of deposits after expiration of 12 months

9. Section 17 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

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“(1A) For the purposes of the application of sub-section (1) in relation to a conversion deposit, the conversion deposit shall be deemed to have been made on the date of the making of the deposit, or the date of issue of the stock, as the case may be, from which the conversion deposit was converted.”

Repayment of Class C deposit in respect of which no income tax deduction has been allowed

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10. Section 18 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “, before 1 September 1983,” after “Where”;
- (b) by omitting from paragraph (1) (a) “*Income Tax Assessment Act 1936*” and substituting “*Assessment Act*”;
- (c) by inserting after sub-section (2) the following sub-section:

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“(2A) For the purposes of sub-paragraph (2) (b) (ii), any part of a deposit that has been converted under section 12A shall be deemed to have become repayable.”; and

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- (d) by omitting from sub-section (4) “*Income Tax Assessment Act 1936*” and substituting “*Assessment Act*”.

Repayment of excess Class C deposits

11. Section 19 of the Principal Act is amended by adding at the end thereof the following sub-sections:

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“(5) For the purposes of this section, any part of a deposit that has been converted under section 12A shall be deemed to have become repayable.

“(6) In this section, ‘deposit’ means a deposit made before 1 September 1983.”

12. After section 19 of the Principal Act the following section is inserted:

Special provisions relating to repayment of primary producer deposits

5 “19A. (1) Where at any time the amount of any primary producer deposit, or the total of the amounts of primary producer deposits, of which a person is the owner and in respect of which interest would, but for sub-section 4A (7), be payable at the Class A interest rate exceeds \$250,000, the person who is the depositor in respect of the deposit, or any of the deposits, may make a request to the authorized person for the repayment of the deposit or of so much of the deposit as is specified in the request.

10 “(2) A request under sub-section (1) in respect of a deposit or deposits of which a person is the owner is of no effect if—

(a) the amount, or the total of the amounts, to which the request relates is greater than the amount of the excess as determined in accordance with that sub-section; or

15 (b) where another request or other requests under that sub-section in respect of a deposit or deposits of which the same person is the owner is or are made on the same day as the first-mentioned request, the sum of—

20 (i) the amount or total referred to in paragraph (a) of this sub-section; and

(ii) the amount, or the total of the amounts, to which the other request relates or the other requests relate,

is greater than the amount of the excess as determined in accordance with sub-section (1) at the commencement of that day.

25 “(3) Where—

(a) a person is the owner of a primary producer deposit or primary producer deposits made in a year of income;

30 (b) the application in respect of the making of the deposit or of the first of the deposits, as the case may be, included an estimate of the relevant income amounts in relation to the person in relation to the year of income;

(c) the person has received a notice under sub-section 4D (3) of a determination of the Commissioner of the relevant income amounts in relation to the person in relation to the year of income;

35 (d) the Class A interest deposit limit (in this section referred to as the ‘original deposit limit’) in relation to the person in relation to the year of income ascertained on the basis of the estimate referred to in paragraph (b) exceeds the Class A interest deposit limit (in this section referred to as the ‘revised deposit limit’) in relation to the person in relation to the year of income ascertained on the basis of the Commissioner’s determination; and

40 (e) the amount of the primary producer deposit, or the total of the amounts of the primary producer deposits, referred to in paragraph (a) exceeds the revised deposit limit,

the person who is the depositor in relation to the deposit, or any of the deposits, referred to in paragraph (a) may make a request to the authorized person for repayment of the deposit or of so much of the deposit as is specified in the request.

“(4) In sub-section (3), ‘primary producer deposit’ does not include a conversion deposit. 5

“(5) For the purposes of sub-section (3), where an application in respect of the making of a deposit includes an election in accordance with sub-section 4B (2), the deposit shall be deemed to have been made in the year of income next preceding the year of income in which the application was made. 10

“(6) A request under sub-section (3) (in this sub-section referred to as the ‘relevant request’) in respect of a deposit or deposits of which a person is the owner is of no effect if—

(a) the amount, or the total of the amounts, to which the relevant request relates is greater than— 15

(i) the amount by which the amount of the deposit or of the total of the deposits, as the case may be, referred to in paragraph (3) (a) exceeds the revised deposit limit; or

(ii) the amount by which the original deposit limit exceeds the revised deposit limit, 20

whichever is the less; or

(b) where another request or other requests under that sub-section in respect of a deposit or deposits of which the same person is the owner is or are made on the same day as the relevant request, the sum of—

(i) the amount or total to which the relevant request relates; and 25

(ii) the amount, or the total of the amounts, to which the other request relates or the other requests relate,

is greater than—

(iii) the amount by which the amount of the deposit or of the total of the deposits, as the case may be, referred to in paragraph (3) (a) of which the person was the owner at the commencement of that day exceeds the revised deposit limit; or 30

(iv) the amount by which the original deposit limit exceeds the revised deposit limit,

whichever is the less. 35

“(7) Where a primary producer deposit has ceased to be a primary producer deposit by virtue of sub-section 4A (6), the depositor in relation to the deposit may make a request to the authorized person for the repayment of the deposit or of so much of the deposit as is specified in the request.

“(8) Where a request is made to the authorized person in accordance with this section in respect of a deposit or a part of a deposit, the deposit or the part of the deposit, as the case may be, becomes repayable on the date on which the request is made.” 40

Repayment in case of death, bankruptcy or winding-up

13. Section 20 of the Principal Act is amended by omitting from sub-section (3) “or 19” and substituting “, 19 or 19A”.

Review of decision

5 14. Section 22 of the Principal Act is amended by omitting sub-sections (3) to (8) (inclusive) and substituting the following sub-section:

“(3) An application may be made to the Administrative Appeals Tribunal for review of a decision notified under sub-section (1).”.

Provisions applicable where request under section 16 pending 12 months after making of deposit

10 15. Section 24 of the Principal Act is amended by omitting sub-sections (6) to (11) (inclusive) and substituting the following sub-sections:

“(6) An application may be made to the Administrative Appeals Tribunal for review of a decision notified under sub-section (1).

15 “(7) In this section, ‘deposit’ means a Class C deposit.”.

Delegation by authorized person

16. Section 27 of the Principal Act is amended by omitting from sub-section (1) “a Second Commissioner of Taxation or to an officer” and substituting “a person”.

20 17. After section 27 of the Principal Act the following sections are inserted:

Offences

“27A. (1) Where—

25 (a) during a year of income, the person (in this sub-section referred to as the ‘relevant person’) who is the owner of a primary producer deposit ceases to be an eligible primary producer;

(b) the relevant person does not again become an eligible primary producer before the expiration of the period of 120 days after the day on which the person ceases to be an eligible primary producer; and

30 (c) notice in writing that the relevant person had ceased to be an eligible primary producer is not given to the authorized person, within 60 days after the date on which the relevant person ceased to be an eligible primary producer, by—

(i) in a case to which paragraph (ii) does not apply—the relevant person; or

35 (ii) if, immediately before the relevant person ceased to be an eligible primary producer—

(A) the relevant person was an eligible primary producer by reason only of being a beneficiary of a trust estate the trustee of which carried on in Australia a business of primary production; and

(B) the relevant person was under a legal disability,
the trustee of the trust estate,

the relevant person or the trustee, as the case may be, is guilty of an offence punishable, on conviction, by a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months, or both.

5

“(2) It is a defence to a prosecution of a person for an offence against sub-section (1) in relation to that person or another person ceasing to be an eligible primary producer if the first-mentioned person proves that he did not know, and had no reasonable grounds for believing, before the expiration of the period of 60 days referred to in paragraph (1) (c), that the first-mentioned person or the other person, as the case may be, had ceased to be an eligible primary producer.

10

“(3) A person shall not—

- (a) in an application, notice or request under this Act, make a statement that, to his knowledge, is false or misleading in a material particular; or
- (b) give information to another person if—

15

- (i) the information is, to his knowledge, false or misleading in a material particular; and
- (ii) the person believes, or has reasonable grounds for believing, that the information will be included, or serve as a basis for information that will be included, in an application, notice or request under this Act.

20

Penalty: \$2,000 or imprisonment for 12 months, or both.

“(4) For the purposes of sub-section (3), an estimate of an amount shall be taken to be false to the knowledge of the person making the estimate if, at the time when the estimate is made, the person does not believe, or has no reasonable grounds for believing, that the estimate is a fair estimate.

25

Recovery of overpayments

“27B. Where an amount paid to a person as interest in respect of a deposit or deposits in respect of a particular period exceeds the amount properly payable to the person as interest in respect of the deposit or deposits in respect of that period, the excess is a debt due to the Commonwealth by the person and may be recovered by the Commonwealth in a court of competent jurisdiction.

30

Secrecy

“27C. (1) A person who is or has been an officer shall not, directly or indirectly, except for the purposes of this Act, make a record of, or divulge or communicate to any person, any information with respect to the affairs of another person acquired by him in the exercise of his powers, or the performance of his duties or functions, under this Act.

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Penalty: \$1,000 or imprisonment for 6 months, or both.

40

“(2) Notwithstanding anything contained in sub-section (1), an officer may—

- 5 (a) if the Minister certifies that it is necessary in the public interest that any information acquired by the officer in the exercise of his powers, or the performance of his duties or functions, under this Act should be divulged, divulge that information to such person as the Minister directs;
- (b) divulge any such information to any authority or person prescribed by the regulations; or
- 10 (c) divulge any such information to a person who, in the opinion of the authorized person, is expressly or impliedly authorized by the person to whom the information relates to obtain it.

“(3) An authority to which, or person to whom, information is divulged under sub-section (2), and any person under the control of that authority or person is, in respect of that information, subject to obligations and liabilities under sub-section (1) as if the authority or person were a person exercising powers, or performing duties or functions, under this Act and had acquired the information in exercise of those powers or the performance of those duties or functions.

“(4) In this section, ‘officer’ means a person exercising powers, or performing duties or functions, under or in relation to this Act.”.

Amendment of Loan (Drought Bonds) Act

18. Section 27A of the *Loan (Drought Bonds) Act 1969*² is amended by omitting sub-section (1) and substituting the following sub-section:

25 “(1) Where the holder of a parcel of stock makes an application under section 12A of the *Loan (Income Equalization Deposits) Act 1976* for the conversion of stock included in that parcel into a non-Class C deposit within the meaning of that Act, that stock shall be deemed to have been redeemed on the date on which the application was made, but the holder of the stock is not
30 entitled to any payment in respect of the redemption other than a payment in respect of any interest on the stock that accrued in respect of a period before the application was made.”.

Transitional

35 **19. (1)** Until 1 January 1985, the Principal Act, as amended by this Act and as affected by sub-sections (2) and (3) of this section, applies as if—

- (a) section 3 were amended by omitting “issued by the Commissioner to the authorized person” from the definition of “income certificate” in sub-section (1) and substituting “served on a person by the authorized person”;
- 40 (b) section 4C were amended by omitting from paragraph (1) (b) “a notice given by the authorized person under sub-section 4D (3) of a determination of the Commissioner” and substituting “an income certificate”;

(c) section 4D were omitted and the following section were substituted:

Determination of relevant income amounts

“4D. (1) The authorized person may determine the relevant income amounts in relation to the owner of a deposit in relation to a year of income. 5

“(2) Where the authorized person makes a determination under sub-section (1), he shall serve notice in writing of the determination on the person to whom the determination relates.

“(3) Subject to sub-section (4), where the person to whom a determination relates is dissatisfied with the determination, the person may, within 60 days after service of notice of the determination under sub-section (2), post to or lodge with the authorized person an objection in writing against the determination stating fully and in detail the grounds on which he relies. 10

“(4) Where the determination is an amended determination, the person has no further right of objection than he would have had if the amendment had not been made, except to the extent that the amendment resulted in a reduction of either of the relevant income amounts in relation to the person in relation to a year of income. 15

“(5) The authorized person shall consider the objection, and may either disallow it, or allow it either wholly or in part, and shall— 20

- (a) serve on the person by post or otherwise written notice of his decision; and
- (b) if his decision requires an amendment of the determination to which the decision relates—amend the determination. 25

“(6) In addition to his power to amend a determination in accordance with sub-section (5), the authorized person may amend—

- (a) a determination that has not previously been amended; or
- (b) a determination that was last amended in accordance with sub-section (5), 30

once within 2 years after the date on which notice of the determination or amended determination, as the case may be, is served on the person to whom the determination or amended determination, as the case may be, relates.

“(7) The authorized person shall not amend a determination except as provided by sub-sections (5) and (6). 35

“(8) The production of a notice of a determination under this section, or of a document under the hand of the authorized person purporting to be a copy of such a notice, shall be conclusive evidence of the due making of the determination and that the amounts and all the particulars of the determination are correct. 40

“(9) A document purporting to be a notice or document referred to in sub-section (8) shall, unless the contrary is established, be deemed to be such a notice or document and to have been duly given.

5 “(10) In this section, unless the contrary intention appears, ‘determination’ includes an amended determination.”;

(d) section 12A were amended by omitting sub-section (4);

(e) section 19A were amended—

10 (i) by omitting from paragraph (3) (c) “sub-section 4D (3) of a determination of the Commissioner” and substituting “sub-section 4D (2) of a determination of the authorized person”; and

(ii) by omitting from paragraph (3) (d) “Commissioner’s” and substituting “authorized person’s”; and

15 (f) references to the authorized person in the Principal Act as amended by this Act and as affected by the preceding paragraphs of this sub-section were read as references to the Commissioner of Taxation.

20 (2) For the purposes of the application of sub-section 3 (3) of the Principal Act as amended by this Act, where, before the commencement of this Act, an estimate of the relevant income amounts in relation to a person in relation to a year of income was notified by the person to the Commissioner in relation to a deposit made on or after 1 September 1983 and before the date of commencement of this Act, those amounts shall be taken to be relevant income amounts in relation to the person in relation to the year of income estimated in accordance with section 4C.

25 (3) For the purposes of the application of sub-sections 4B (2) and (3) of the Principal Act as amended by this Act, where an application made before the commencement of this Act in respect of the making of a deposit—

(a) was made during the first 2 months of a year of income;

30 (b) was made in accordance with terms and conditions determined by the Treasurer under sub-section 4 (6) that were applicable to the deposit; and

35 (c) included an election to the effect that the eligibility of the deposit for interest at the highest rate applicable to deposits under the Principal Act should be assessed on the basis of relevant amounts in relation to the immediately preceding year of income,

the application shall be taken to be an application that included an election under sub-section 4B (2).

NOTES

1. No. 206, 1976, as amended. For previous amendments, see No. 148, 1979.
2. No. 99, 1969, as amended. For previous amendments, see No. 216, 1973; No. 207, 1976; and No. 19, 1979.



