

1987

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 29 October 1987

(Minister Assisting the Treasurer)

A BILL

FOR

**An Act to amend the sales tax laws in relation to off-shore
installations, 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:

PART I—PRELIMINARY

Short title

- 5 **1.** This Act may be cited as the *Sales Tax (Off-shore Installations) Amendment Act 1987*.

Commencement

- 10 **2.** (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (2)** Subject to subsection (3), Parts II, III and IV shall be deemed to have come into operation on 21 January 1987.

(3) Subsection 3B (2) of the *Sales Tax Assessment Act (No. 1) 1930* as inserted by this Act shall be deemed to have come into operation on 29 October 1987.

**PART II—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 1) 1930**

5

Principal Act

3. In this Part, “Principal Act” means the *Sales Tax Assessment Act (No. 1) 1930*¹.

4. Section 3 of the Principal Act is amended:

(a) by omitting from subsection (1) the definitions of “Australian installation”, “Australian seabed”, “Australian waters” and “Installation”;

(b) by inserting in subsection (1) the following definitions:

“‘aircraft’ means a machine or apparatus that can derive support in the atmosphere from the reactions of the air or from buoyancy;

‘Australian fishing zone’:

(a) in relation to Australia, means waters having as their inner limits the base lines by reference to which the territorial limits of Australia are determined under international law and as their outer limits the line that, at every point, is 200 nautical miles from the nearest point on one of those base lines; or

(b) in relation to the Territory of Ashmore and Cartier Islands and the Coral Sea Islands Territory, waters having as their inner limits the base lines by reference to which the territorial limits of those Territories are determined under international law and as their outer limits lines that, at every point, are 200 nautical miles from the nearest point on one of those base lines;

‘Australian installation’ means an installation that is deemed to be part of Australia by virtue of this Act;

‘Australian seabed’ means the seabed beneath Australian waters;

‘Australian waters’ means:

(a) waters within so much of the areas described in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* and the Coral Sea area as are either:

(i) within the Australian fishing zone; or

(ii) outside that zone but within the outer limits of the continental shelf of Australia; and

(b) waters on the landward side of those waters, but does not include waters of a port or harbour or waters over which, under an agreement in force between Australia

and another country, Australia does not exercise sovereign rights;

'environment related activity' means any activity relating to:

- (a) tourism or recreation;
- (b) the carrying on of a business;
- (c) exploring, exploiting or using the living resources of the sea, of the seabed or of the subsoil of the seabed, whether by way of fishing, pearling, oyster farming, fish farming or otherwise;
- (d) marine archaeology; or
- (e) a prescribed purpose;

and includes a scientific activity and a transport activity;

'excluded dumping vessel' means any vessel that is engaged in a sea voyage or in any activity at sea relating solely to the dumping at sea or to the incineration at sea of waste or other matter which the vessel is authorised to dump or incinerate under the *Environment Protection (Sea Dumping) Act 1981*;

'excluded fishing installation' means:

- (a) a licensed fishing boat that is being used solely for commercial fishing purposes;
- (b) a fish aggregating device that is being used solely for commercial fishing purposes;
- (c) a mariculture platform that is being used solely for the purpose of rearing and harvesting fish, crustaceans or molluscs; or
- (d) fishing equipment;

'excluded pearling vessel' means any vessel that is licensed under the law of a State or Territory to carry out pearling operations and that is being used solely for the purpose of carrying out those operations;

'excluded wreck' means:

- (a) an historic shipwreck, or an historic relic, within the meaning of the *Historic Shipwrecks Act 1976*; or
- (b) any other wreck within the meaning of section 294 of the *Navigation Act 1912* to which the provisions of Part VII of that Act apply or would apply but for the operation of section 295B of that Act;

'installation' means:

- (a) a sea installation;
- (b) an off-shore industry fixed structure; or
- (c) an off-shore industry mobile unit;

'scientific activity' means an activity relating to scientific research;

'sea installation' means:

- (a) any man-made structure that, when in, or brought into, physical contact with the seabed or when floating, can be used for an environment related activity;
- (b) any partly constructed structure that, when completed, is intended to be, or could be, a structure referred to in paragraph (a); or 5
- (c) the remains of a structure that has been a structure referred to in paragraph (a) or (b);

but does not include:

- (d) a cargo ship within the meaning of Part IV of the *Navigation Act 1912*; 10
- (e) an excluded dumping vessel;
- (f) an excluded fishing installation;
- (g) an excluded pearling vessel;
- (h) an excluded wreck; 15
- (j) a navigational aid placed in the sea or on the seabed in accordance with the law of the Commonwealth, a State or a Territory;
- (k) an off-shore industry fixed structure;
- (m) an off-shore industry mobile unit; 20
- (n) a structure relating to the defence of Australia;
- (p) a submarine cable installation;
- (q) a structure belonging to the naval, military or air forces of a foreign country; or
- (r) a prescribed structure or a structure in a class of prescribed structures; 25

‘ship’ means a vessel designed for use in navigation by water;

‘structure’ includes a ship, an aircraft and any other vessel;

‘submarine cable installation’ means:

- (a) a cable that has been laid on the seabed to permit telecommunications between a place in Australia and a place outside Australia; or 30
- (b) a vessel having the function of installing or servicing such a cable while that vessel is engaged in any activity relating to that function; 35

‘transport activity’ means:

- (a) the mooring of ships or aircraft; or
- (b) the landing of aircraft;” and

- (c) by omitting subsections (12) and (13) and substituting the following subsection: 40

“(12) A reference in this Act to an off-shore industry mobile unit or to a sea installation does not include a reference to a vessel that is used, or is to be used, wholly or principally in:

- (a) transporting persons or goods to or from an installation; or
- (b) manoeuvring an installation, or in operations relating to the attachment of an installation to the Australian seabed.”.

5 5. After section 3A of the Principal Act the following sections are inserted in Part I:

Installations in Australian waters

“3B. (1) For the purposes of this Act, but subject to subsection (3), an installation shall be taken to be installed in Australian waters if it is in, or is brought into, physical contact with:

- 10
- (a) the Australian seabed; or
 - (b) another installation that by any other application or applications of this subsection is taken to be installed in Australian waters.

15 “(2) For the purposes of this Act, an installation shall be taken to be installed in Australian waters at a particular time if the whole or part of the installation:

- (a) is in Australian waters at that time; and
 - (b) has been in a particular locality:
 - (i) that is circular and has a radius of 20 nautical miles; and
 - (ii) the whole or part of which is in Australian waters;
- 20 for:
- (iii) a continuous period of at least 30 days immediately preceding that time; or
 - (iv) one or more periods, during the 60 days immediately preceding that time, that in sum amount to at least 40 days.

25 “(3) A ship or aircraft shall not be taken to be installed in Australian waters under subsection (1) if it:

- (a) is brought into physical contact with the Australian seabed; or
 - (b) is in, or is brought into, physical contact with another installation that is taken to be installed in Australian waters;
- 30 for less than:
- (c) if the ship or aircraft is registered under the law of a foreign country—30 days; or
 - (d) if not—5 days.

35 “(4) An installation shall not be taken to be installed in Australian waters for the purposes of this Act unless it is to be taken to be so installed under subsection (1) or (2).

“(5) For the purposes of this Act, an installation shall be taken to be brought into physical contact with the seabed or an installation if it is connected with the seabed or installation by a cable or other device.

Certain installations to be part of Australia

“3C. (1) An installation that: 5

(a) at the commencement of this section, is installed in Australian waters; or

(b) at or after that commencement, becomes installed in Australian waters;

shall, subject to subsection (2), be deemed to be part of Australia. 10

“(2) An installation that is deemed to be part of Australia by virtue of this section shall cease to be part of Australia if:

(a) the installation is removed from its location for the purpose of being taken to a place outside the outer limits of Australian waters (whether or not it is to be taken to a place in Australia before 15
being taken outside those limits); or

(b) after having been removed from its location otherwise than for that purpose, it is removed for the purpose of being taken to a place outside the outer limits of Australian waters (whether or not it is 20
to be taken to a place in Australia before being taken outside those limits).”.

**PART III—AMENDMENT OF SALES TAX ASSESSMENT ACT
(No. 5) 1930**

Principal Act

6. In this Part, “Principal Act” means the *Sales Tax Assessment Act (No. 5) 1930*². 25

7. After section 2B of the Principal Act the following sections are inserted in Part I:

Installations and goods deemed to be imported

“2C. (1) Where an overseas installation (not being an installation referred 30
to in subsection (2)) becomes installed in Australian waters at a particular time, the installation and any goods on it at that time shall be deemed to be imported into Australia at that time.

“(2) Where an overseas installation:

(a) is brought to a place in Australia at a particular time; and 35

(b) is to be taken from that place into Australian waters for the purpose of becoming installed in Australian waters;

the installation and any goods on it at that time shall be deemed to have been imported into Australia at that time.

Export of installations

“2D. (1) Where an installation ceases to be part of Australia at a particular time, the installation and any goods on it at that time shall be deemed to be exported from Australia at that time.

- 5 “(2) Where an installation is taken from a place in Australia into Australian waters for the purpose of becoming installed in Australian waters, the installation and any goods on it shall not be taken to have been exported from Australia.”.

PART IV—CONSEQUENTIAL AMENDMENTS OF OTHER LAWS

10 **Consequential amendments of other laws**

8. The Acts set out in the Schedule are amended as there specified.

SCHEDULE

Section 8

CONSEQUENTIAL AMENDMENTS OF OTHER LAWS

1. Each of the following Acts is amended by the repeal of section 2A:
Sales Tax Act (No. 1) 1930
Sales Tax Act (No. 2) 1930
Sales Tax Act (No. 3) 1930
Sales Tax Act (No. 4) 1930
Sales Tax Act (No. 6) 1930
Sales Tax Act (No. 7) 1930
Sales Tax Act (No. 8) 1930
Sales Tax Act (No. 9) 1930
2. The *Sales Tax Act (No. 5) 1930* is amended by the repeal of sections 2A, 2B, 2C, 2D and 2E.
3. Each of the following Acts is amended by omitting subsections 4 (2) and (3):
Sales Tax Act (No. 10A) 1985
Sales Tax Act (No. 10B) 1985
Sales Tax Act (No. 10C) 1985
4. Each of the following Acts is amended by omitting from subsection 12 (1) “and 3A” and substituting “, 3A, 3B and 3C”:
Sales Tax Assessment Act (No. 2) 1930
Sales Tax Assessment Act (No. 3) 1930
Sales Tax Assessment Act (No. 4) 1930
Sales Tax Assessment Act (No. 5) 1930
Sales Tax Assessment Act (No. 6) 1930
Sales Tax Assessment Act (No. 7) 1930
Sales Tax Assessment Act (No. 8) 1930
Sales Tax Assessment Act (No. 10) 1985
5. The *Sales Tax Assessment Act (No. 9) 1930* is amended by omitting from subsection 12 (1) “section 3A” and substituting “sections 3A, 3B and 3C”.

8 *Sales Tax (Off-shore Installations) Amendment No. , 1987*

6. The *Sales Tax (Exemptions and Classifications) Act 1935* is amended by the repeal of sections 6D, 6E, 6F, 6G and 6H.

7. The *Crimes (Taxation Offences) Act 1980* is amended by omitting from subsection 3 (1) the definition of "Australian installation" and substituting the following definition:

"'Australian installation' means an installation within the meaning of the *Sales Tax Assessment Act (No. 1) 1930* that is deemed by virtue of section 3C of that Act to be part of Australia;"

NOTES

1. 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; No. 40, 1962; No. 93, 1966; No. 216, 1973; No. 197, 1978 (as amended by No. 47, 1985); No. 19, 1979; No. 134, 1980; Nos. 51 and 122, 1982; No. 39, 1983; No. 123, 1984 (as amended by No. 47, 1985); Nos. 47, 123 and 144, 1985; Nos. 41, 48 and 99, 1986; and No. 42, 1987.
2. 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 (as amended by No. 144, 1985); No. 144, 1985; Nos. 48 and 99, 1986; and No. 42, 1987.