

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

(Presented pursuant to leave granted and read 1^o, 21 March 1985)

(SENATOR JACK EVANS)

A BILL

FOR

An Act to provide for the preparation of legislation for the reform of the Australian taxation system and the introduction of that legislation into the Parliament

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 *Taxation System Reform Act 1985*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Objects

- 10 3. The purpose of this Act is to provide machinery and a time-table for the formulation of comprehensive reforms of the Australian taxation system and the introduction into the Parliament of legislation to effect those reforms.

Interpretation

4. (1) In this Act, unless the contrary intention appears—

“Committee” means the Joint Committee on the Reform of the Taxation System for the time being constituted by this Act;

“Committee’s explanation” means—

5

(a) in relation to draft legislation prepared to give effect to the reforms of the taxation system formulated by the Committee—the report prepared by the Committee by way of explanation of those reforms and of that draft legislation; and

(b) in relation to that draft legislation as altered in accordance with section 10—the report prepared by the Committee by way of explanation of the alterations so made to that draft legislation;

10

“Deputy Presiding Member” means the Deputy Presiding Member of the Committee;

“Member” means a member of the Committee;

15

“Minister” means the Minister of State responsible for taxation matters;

“Presiding Member” means the Presiding Member of the Committee.

(2) In this Act, a reference to the taxation system shall be read as a reference to the Acts imposing taxation and to the Acts relating to the imposition, assessment and collection of taxation.

20

PART II—JOINT COMMITTEE ON THE REFORM OF THE TAXATION SYSTEM

Establishment of Committee

5. (1) As soon as practicable after this Act comes into operation, and as soon as practicable after the commencement of the first session of each Parliament that meets for the first time after the commencement of this Act, a joint committee of members of the Parliament, to be known as the Joint Committee on the Reform of the Taxation System, shall be appointed.

25

(2) Nothing in sub-section (1) requires the appointment of members of the Committee after the Committee has complied with paragraph 7 (b).

30

Functions of Committee

6. The functions of the Committee are—

(a) to review—

(i) the Reports of the Taxation Review Committee appointed by the Commonwealth in 1972; and

35

(ii) the Report of the Committee of Inquiry into Inflation and Taxation appointed by the Commonwealth in 1974;

- (b) to formulate, in the light of its review of those reports and of any evidence taken by the Committee for the purposes of that review, comprehensive reforms of the taxation system; and
- (c) to cause to be prepared draft legislation to give effect to the reforms of the taxation system so formulated by the Committee.

Duties of Committee

7. The Committee shall so perform its functions as to ensure—

- (a) that it presents, before 1 July 1987, copies of the draft legislation referred to in paragraph 6 (c) and of the Committee's explanation of that legislation to—
 - (i) the Minister;
 - (ii) the President of the Senate; and
 - (iii) the Speaker of the House of Representatives; and
- (b) that it presents to the Minister, within 24 months after the expiration of the period mentioned in sub-section 9 (1), copies of that draft legislation as altered by the Committee in accordance with section 10, and of the Committee's explanation of those alterations.

Draft legislation to be tabled

8. (1) The President of the Senate shall lay on the Table of the Senate copies of the draft legislation, and of the Committee's explanation, presented to the President by the Committee within 15 sitting days of the Senate after they were presented to the President.

(2) The Speaker of the House of Representatives shall lay on the Table of that House copies of the draft legislation, and of the Committee's explanation, presented to the Speaker by the Committee within 15 sitting days of that House after they were presented to the Speaker.

Public scrutiny and comment

9. (1) Subject to sub-section (2), during the period of 12 months commencing on—

- (a) subject to paragraph (b), the day on which copies of the draft legislation and of the Committee's explanation were laid on the Table of the Senate; or
- (b) if copies of the draft legislation and of the Committee's explanation were laid on the Table of the House of Representatives on a later day—that later day,

the Minister shall cause copies to be available for purchase by the public upon payment of the prescribed fee and any person may make representations to the Committee with respect to the draft legislation and furnish to the Committee suggestions for the amendment of the draft legislation—

- (c) in writing; or
- (d) with the consent, or at the request, of the Committee, orally.

(2) Where a person has, during the period specified in sub-section (1), notified the Committee in writing of his or her intention to make representations with respect to, or furnish suggestions for amendments of, the draft legislation, the person may, with the consent of the Committee, make those representations or furnish those suggestions after the expiration of that period. 5

Reconsideration of draft legislation

10. At the expiration of the period mentioned in sub-section 9 (1), the Committee shall re-consider the draft legislation in the light of the representations made to it, the suggested amendments furnished to it and any other evidence taken by the Committee for the purpose of its consideration of those representations and suggested amendments and cause to be made to the draft legislation such alterations as it deems fit. 10

Minister to bring Bills before the Parliament

11. (1) When the Committee presents to the Minister, in accordance with paragraph 7 (b), copies of the draft legislation as altered by the Committee and of the Committee's explanation— 15

- (a) the Minister shall, as soon as practicable after receipt of those copies, cause copies to be available for purchase by the public upon payment of the prescribed fee; and 20
- (b) the Minister, or if the Minister is a Senator, the Minister of State representing the Minister in the House of Representatives, shall, within 6 months after receipt of those copies, seek the leave of the House of Representatives to introduce Bills in accordance with the Bills comprising the draft legislation as so altered. 25

(2) Nothing in this Act shall be taken to prevent the member of the House of Representatives who seeks leave to introduce a Bill into that House in pursuance of sub-section (1) from opposing, and voting against, a motion that the Bill be read a first time, a motion that the Bill be read a second time or a motion that the Bill be read a third time or from proposing amendments of the Bill in Committee of the Whole House. 30

PART III—CONSTITUTION AND PROCEEDINGS OF THE COMMITTEE

Constitution of the Committee

12. (1) The Committee shall consist of— 35

- (a) 4 Senators appointed by the Senate in accordance with sub-section (2); and
- (b) 5 members of the House of Representatives appointed by that House in accordance with sub-section (3).

(2) Of the Senators appointed to be members of the Committee—

- (a) 2 shall be Senators appointed on the nomination of the Leader of the Government in the Senate;
- (b) One shall be a Senator appointed on the nomination of the Leader of the Opposition in the Senate; and
- (c) One shall be a Senator appointed on the nomination of Senators who are members of a minority group represented in the Senate or are independent Senators.

(3) Of the members of the House of Representatives appointed to be members of the Committee—

- (a) 3 shall be members of that House appointed upon the nomination of the Prime Minister, the Leader of the House of Representatives or the Government Whip in the House of Representatives; and
- (b) 2 shall be members of that House appointed on the nomination of the Leader of the Opposition, the Deputy-Leader of the Opposition or the Opposition Whip in the House of Representatives.

(4) A member holds office during the pleasure of the House of the Parliament by which the member was appointed.

(5) A member ceases to hold office—

- (a) when the House of Representatives expires by effluxion of time or is dissolved;
- (b) if the member ceases to be a member of the House of the Parliament by which the member was appointed; or
- (c) if the member resigns office as provided in section 13.

Resignation

13. (1) A member appointed by the Senate may resign his or her office by writing signed by the member and delivered to the President of the Senate.

(2) A member appointed by the House of Representatives may resign his or her office by writing signed by the member and delivered to the Speaker of that House.

Vacancies

14. (1) Where a vacancy occurs in the office of a member who was appointed by the Senate, the Senate shall appoint to fill the vacancy a Senator who has been nominated as mentioned in paragraph 12 (2) (a), (b) or (c), whichever is appropriate.

(2) Where a vacancy occurs in the office of a member who was appointed by the House of Representatives, that House shall appoint to fill the vacancy a member of that House who has been nominated as mentioned in paragraph 12 (3) (a) or (b), whichever is appropriate.

Presiding Member and Deputy Presiding Member

15. (1) There shall be a Presiding Member of the Committee and a Deputy Presiding Member of the Committee, who shall be elected by the members from time to time and shall hold office as Presiding Member and Deputy Presiding Member, respectively, during the pleasure of the Committee. 5

(2) The Presiding Member shall preside at all meetings of the Committee at which he or she is present.

(3) In the event of the absence of the Presiding Member from a meeting of the Committee, the Deputy Presiding Member shall, if present at the meeting, preside at the meeting. 10

(4) In the event of the absence of both the Presiding Member and the Deputy Presiding Member from a meeting of the Committee, the members present may appoint one of their number to preside at the meeting and the member so appointed shall, in relation to that meeting, have all the powers and functions of the Presiding Member. 15

Remuneration

16. (1) A member shall not be paid any remuneration in respect of the performance of the duties or functions of his or her office.

(2) The members shall be paid such allowances as are prescribed.

(3) The prescribed allowances are payable, upon the certificate of the Presiding Member or of the Deputy Presiding Member, out of moneys appropriated by the Parliament for the purposes of the Committee. 20

Meetings of the Committee

17. (1) The Committee may meet at such times and at such places within Australia as the Committee, by resolution, determines or, subject to any resolution of the Committee, as the Presiding Member determines either of his or her own motion or on receipt of a written request to convene a meeting signed by not less than 5 members. 25

(2) At any time when the Presiding Member is absent from Australia or is, for any reason, unable to perform the duties of his or her office or there is a vacancy in the office of the Presiding Member, the Deputy Presiding Member may exercise the powers of the Presiding Member under sub-section (1). 30

(3) The Committee shall not meet at any place outside Australia.

(4) The Committee may meet and transact business notwithstanding any prorogation of the Parliament. 35

(5) At a meeting of the Committee, 5 members constitute a quorum.

(6) All questions to be decided by the Committee shall be decided by a majority of the votes of the members present.

(7) The Presiding Member or other member presiding shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(8) Subject to this Act, the Committee may regulate the conduct of proceedings at meetings of the Committee as it deems fit.

Continuance of evidence and other proceedings

18. (1) Where the Committee as constituted at any time has taken evidence, or received submissions, in relation to a matter but the Committee as so constituted has ceased to exist before reporting to the Parliament, the Committee as next constituted may treat that evidence or those submissions as having been taken or received by it.

(2) Where the Committee as constituted at any time has reached a decision with respect to a matter but the Committee as so constituted has ceased to exist before reporting to the Parliament, that decision shall, unless the Committee as next constituted resolves otherwise, be treated as having been made by the Committee as next constituted.

Committee may take evidence, etc.

19. (1) The Committee may—

- (a) take evidence, on oath or affirmation; or
- (b) call publicly for, and reserve, written submissions with respect to matters related to the performance of its functions.

(2) The Presiding Member, or other member presiding at a meeting of the Committee, may administer an oath or affirmation to a person appearing before the Committee as a witness.

(3) The oath or affirmation administered to a witness shall be in accordance with the prescribed form.

Meeting may be in public or in private

20. (1) Subject to this section, the Committee may hold a meeting, including a meeting to receive submissions or take evidence, in public or in private, as it deems fit.

(2) Where a witness before the Committee requests that evidence to be given by the witness on any matter be taken in private and the Committee is satisfied that the evidence is likely to relate to a secret or confidential matter, the Committee shall meet in private to take that evidence.

(3) Where a person furnishing a document to the Committee requests that the Committee meet in private for the purpose of receiving the document and the Committee is satisfied that the document contains secret or confidential information, the Committee shall meet in private to receive the document.

(4) Where, at the request of a person—

- (a) the evidence of the person is taken in private; or

(b) the Committee meets in private to receive a document, the whole or part of the evidence or document (other than evidence or a document that has already been lawfully published) shall not be disclosed or published—

(c) by the Committee or a member, without the consent in writing of that person; or 5

(d) by any other person without the consent in writing of that person and the authority of the Committee under sub-section (6).

(5) Where the Committee meets in private otherwise than at the request of a person under sub-section (2) or (3), a person (including a member) shall not, without the consent (in writing signed by the Presiding Member or the Deputy Presiding Member) of the Committee under sub-section (6), disclose or publish the whole or a part of any evidence taken by, or document furnished to, the Committee at that meeting (other than evidence or a document that has already been lawfully published). 10 15

(6) The Committee may, in its discretion, disclose or publish, or authorize the disclosure or publication, of evidence taken by, or a document furnished to, the Committee in private, but this sub-section does not operate so as to affect the necessity for the consent, under sub-section (4), of the person who gave the evidence or furnished the document. 20

(7) This section has effect notwithstanding the provisions of section 2 of the *Parliamentary Papers Act 1908*.

Power to summon witnesses

21. (1) The Committee may summon a person to appear before it to give evidence and to produce documents. 25

(2) A summons under sub-section (1) shall be in accordance with the prescribed form and shall be signed by the Presiding Member or the Deputy Presiding Member.

(3) A summons may be served on the person summoned either personally or by being left at, or sent by post to, the person's usual place of business or abode. 30

PART IV—STAFF

Staff

22. The staff necessary for the performance of the Committee's functions shall be persons appointed or employed under the *Public Service Act 1922* and made available to the Committee by the Minister at the request of the Presiding Member or Deputy Presiding Member acting in pursuance of a resolution of the Committee. 35

Consultants

23. (1) Subject to sub-section (3), the Presiding Member may, on behalf of the Commonwealth, engage, under agreements in writing, persons having suitable qualifications and experience as consultants to, or to perform services for, the Committee.

(2) The terms and conditions of engagement of a person engaged under sub-section (1) are such as are from time to time determined by the Presiding Member, with the approval of the President of the Senate and the Speaker of the House of Representatives.

(3) The Presiding Member shall not engage a person under sub-section (1) unless the Committee has, by resolution, approved the engagement of the person.

(4) In the event of the absence of the Presiding Member from Australia, or of the inability of the Presiding Member for any other reason to exercise a power under this section, the Deputy Presiding Member has, and may exercise, that power as if he or she were the Presiding Member.

(5) The remuneration and expenses of a person engaged under this section are payable out of moneys appropriated by the Parliament for the purposes of the Committee.

PART V—MISCELLANEOUS**Disobedience of summons**

24. (1) If a person upon whom a summons under section 21 has been served and to whom reasonable expenses of conveyance have been tendered fails to appear, or, having appeared, fails, unless excused or released by a member from continuing in attendance, to continue in attendance, in obedience to the summons, the Presiding Member or the Deputy Presiding Member may issue a warrant for the apprehension of the person.

(2) A warrant shall be in accordance with the prescribed form.

(3) The person executing a warrant under this section may

(a) apprehend the person in respect of whom it is issued;

(b) bring that person before the Committee; and

(c) detain that person in custody until that person is released by order of the Presiding Member or Deputy Presiding Member.

(4) A warrant may be executed by the person to whom it is addressed or by a person appointed by the person to whom it is addressed to assist in its execution, and the person executing the warrant may break and enter a building, place or ship for the purpose of executing the warrant.

Privileges of witness

25. A person summoned to appear, or appearing, before the Committee as a witness has the same protection and privileges, and is, in addition to the

penalties provided by this Act, subject to the same liabilities in any civil or criminal proceedings, as a witness in proceedings in the High Court.

Offences

26. (1) A person upon whom a summons under section 21 has been served shall not, without reasonable excuse (proof whereof shall lie on the person)— 5

- (a) fail to appear as required by the summons;
- (b) fail, unless excused or released by a member from continuing in attendance, to continue in attendance as required by the summons; or
- (c) refuse or fail— 10
 - (i) to be sworn or to make an affirmation;
 - (ii) to answer a question put by a member; or
 - (iii) to produce a document that the person was, by the summons, required to produce.

Penalty: \$400 or imprisonment for one year.

(2) A person shall not knowingly persuade or prevent a person from obeying a summons under section 21. 15

Penalty: \$400 or imprisonment for one year.

(3) A person shall not wilfully give false evidence on oath or affirmation before the Committee. 20

Penalty: Imprisonment for 5 years.

(4) A person shall not—

- (a) use violence to or inflict injury on;
- (b) cause or procure violence, damage, loss or disadvantage to; or
- (c) cause or procure the punishment of, 25

another person for or on account of his or her having appeared, or being about to appear, as a witness before the Committee or for or on account of any evidence lawfully given by that person before the Committee.

Penalty: \$400 or imprisonment for one year.

(5) An offence against this section may be prosecuted summarily or upon indictment, but the offender is not liable to be punished more than once in respect of the same offence. 30

(6) Subject to sub-sections (7) and (8), where proceedings for an offence against this Act are brought in a court of summary jurisdiction, the court may commit the defendant for trial or determine the proceeding, but, if it determines the proceeding, it shall not impose a penalty exceeding— 35

- (a) in the case of an offence against sub-section (3)—imprisonment for a term not exceeding one year; or
- (b) in the case of any other offence—a fine not exceeding \$200 or imprisonment for a term not exceeding 6 months.

(7) Where proceedings in respect of an offence against sub-section (3) are brought in a court of summary jurisdiction, the court shall not determine the proceedings except with the consent of the defendant.

- 5 (8) An offence against this Act shall not be prosecuted summarily without the written consent of the Director of Public Prosecutions or of a person authorised in writing by the Director of Public Prosecutions to give such consents, and an offence against this Act shall not be prosecuted upon indictment except in the name of the Director of Public Prosecutions.

Regulations

- 10 27. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and, in particular, providing for the payment of fees and expenses to witnesses appearing before the Committee.

