

LEGISLATIVE ASSEMBLY

Read 1^o 30 November 1982

(Brought in by Mr Jolly and Mr Crabb.)

A BILL

To further amend the *Pay-roll Tax Act 1971*.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. (1) This Act may be cited as the *Pay-roll Tax (Further Amendment) Act 1982*. Short title.

(2) In this Act the *Pay-roll Tax Act 1971* is called the Principal Act. Principal Act No. 8154. Reprinted to No. 9059. Subsequently amended by Nos. 9192, 9305, 9427, 9440, 9647, 9699, 9733 and 9766.

10 (3) This Act shall come into operation on 1 January 1983. Commencement.

2. (1) In section 9A (3A) (ga) of the Principal Act—

(a) for the expression "1981" there shall be substituted the expression "1982";

(b) for the expression "1982" there shall be substituted the expression "1983".

Amendment of No. 8154.

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- (2) In section 9B (1) of the Principal Act in the interpretation of “prescribed amount”—
- (a) for the expression “1982” (where twice occurring) there shall be substituted the expression “1983”;
 - (b) for the expression “\$8050” (where three times occurring) there shall be substituted the expression “\$10 416”;
 - (c) for the expression “\$10 416” (where three times occurring) there shall be substituted the expression “\$11 666”;
 - (d) for the expression “1981” there shall be substituted the expression “1982”. 10
- (3) In section 11A of the Principal Act—
- (a) in sub-section (1) for the expression “\$2400” there shall be substituted the expression “\$2690”;
 - (b) in sub-section (2B) for the expression “1982” there shall be substituted the expression “1983”. 15
- (4) In section 12 of the Principal Act—
- (a) in sub-section (1) for the expression “2400” there shall be substituted the expression “\$2690”;
 - (b) in sub-section (2A) for the expression “\$2400” there shall be substituted the expression “\$2690”. 20
- (5) In Part A of Schedule One to the Principal Act—
- (a) for the expression “1981” (where three times occurring) there shall be substituted the expression “1982”;
 - (b) for the expression “48 300A” (where twice occurring) there shall be substituted the expression “62 500A”;
 - (c) for the expression “62 500B” (where twice occurring) there shall be substituted the expression “70 000B”;
 - (d) for the expression “1982” (where twice occurring) there shall be substituted the expression “1983”. 25
- (6) In Part B of Schedule One to the Principal Act— 30
- (a) for the expression “1981” (where three times occurring) there shall be substituted the expression “1982”;
 - (b) for the expression “1982” (where twice occurring) there shall be substituted the expression “1983”.
- (7) In Part A of Schedule Two to the Principal Act— 35
- (a) for the expression “1982” there shall be substituted the expression “1983”;
 - (b) for the expression “125000c” (where twice occurring) there shall be substituted the expression “140 000c”.
- (8) In Part B of Schedule Two to the Principal Act for the expression “1982” there shall be substituted the expression “1983”. 40

3. Section 3 of the Principal Act is amended as follows:

Amendment of
No. 8154 s. 3.

- (a) After the interpretation of "month" there shall be inserted the following interpretation:

"Motor vehicle" has the same meaning as motor car in the *Motor Car Act 1958* but does not include—

"Motor
vehicle."

- (a) a motor tractor;
(b) a motor car designed to carry a load in excess of 1 tonne; or
(c) a motor car designed to carry more than nine passengers.'

- (b) In the interpretation of "Wages"—

(i) for the expression "wages, salary" (where first occurring) there shall be substituted the expression "wages, remuneration, salary"; and

(ii) in paragraph (ca) for the expression "the provision of any wages, salary, commission, bonuses allowances or other benefits" there shall be substituted the expression "wages, remuneration, salary, commission, bonuses, allowances or other benefits paid or payable";

- (c) In sub-section (2B) for the expression "wages, salary" there shall be substituted the expression "wages, remuneration, salary"; and

- (d) After sub-section (2D) there shall be inserted the following sub-section:

'(2E) In this Act in relation to wages, remuneration, salary, commission, bonuses, allowances or other benefits "paid" includes provided conferred and assigned and "pay" and "payable" have corresponding meanings.'

4. After section 3 of the Principal Act there shall be inserted the following sections:

Amendment of
No. 8154.
New ss. 3A and
3B.
Beneficial
loan
arrangement.

- 3A. (1) In this section—

"loan" means a loan or advance of any definite and certain sum of money or forbearance to be paid.

"prescribed rate" means such rate as is from time to time fixed for the purposes of this section by the Governor in Council by Order published in the *Government Gazette*.

(2) Where the wages paid or payable by an employer to or in relation to an employé in any financial year include a benefit in respect of the terms of repayment of a loan provided by the employer to or in relation to the employé, the amount of that benefit shall for the purposes of this Act be calculated in accordance with this section.

(3) The

(3) The amount of the benefit paid or payable to or in relation to the employé in respect of the terms of repayment of a loan shall be—

- (a) where no interest is paid or payable in respect of the loan for the financial year in which pay-roll tax is paid or payable—the amount of interest which would have been paid if interest had been paid for that financial year at the prescribed rate on the highest outstanding balance of the loan during that financial year; and 5
- (b) where the amount of interest paid or payable in respect of the loan for that financial year is less than the amount of interest which would have been paid if interest had been paid for that financial year at the prescribed rate on the highest outstanding balance of the loan during that financial year—the amount of the difference between the amount paid or payable as interest on the loan and the amount of interest which would have been paid if interest had been paid for that financial year at the prescribed rate on the highest outstanding balance of the loan during that financial year. 10 15 20

(4) Notwithstanding anything to the contrary in this Act where a loan to which this section applies was provided by an employer to or in relation to an employé before the commencement of section 4 of the *Pay-roll Tax (Further Amendment) Act 1982* and the Commissioner is satisfied that at the time the loan was provided the rate of interest payable by the employé in respect of the loan was the current market rate of interest in respect of loans of that type, the Commissioner may determine that pay-roll tax shall not be paid or payable by the employer in respect of the benefit paid or payable to or in relation to the employé in respect of the terms of repayment of that loan. 25 30

(5) In this section a reference to a loan provided by an employer to or in relation to an employé includes a reference to a loan provided to or in relation to an employé by any person acting for or in concert or under an arrangement or understanding whether formal or informal and whether expressed or implied with the employer. 35

(6) A rate fixed by Order of the Governor in Council under this section shall come into effect on the date specified in the Order.

(7) This section applies in respect of a loan whenever provided whilst the loan or part of the loan is outstanding. 40

(8) Notwithstanding anything to the contrary in the foregoing provisions of this section, in relation to the period commencing on 1 January 1983 and ending on 30 June 1983 this section shall apply as if in sub-sections (2) and (3) a reference to financial year or year were a reference to that period. 45

3B. (1) Where

3B. (1) Where the wages paid or payable by an employer to or in relation to an employé in any financial year include a benefit in respect of the provision of a motor vehicle by the employer to or in relation to the employé as part of the remuneration for the employé's services, the amount of that benefit shall for the purposes of this Act be calculated by reference to the cost to the employer of the provision of the motor vehicle in that financial year which, subject to this section, shall be determined in accordance with Schedule Six.

Use of
vehicle.

(2) Where the wages paid or payable by an employer to or in relation to an employé in any financial year include a benefit in respect of the provision of a motor vehicle by the employer to or in relation to the employé and—

- (a) sub-section (1) does not apply in respect of the provision of the motor vehicle; and
- (b) the cost price of the motor vehicle within the meaning of Schedule Six exceeds the prescribed cost price—

the amount of that benefit shall for the purposes of this Act be calculated by reference to the appropriate proportion of the cost to the employer of the provision of the motor vehicle in that financial year which, subject to this section, shall be determined in accordance with Schedule Six.

(3) For the purposes of sub-section (2) the appropriate proportion shall be 60 per cent or such lower percentage as the Commissioner may determine in a particular case taking into account the extent to which the motor vehicle is used by the employé to perform his duties for the employer and the extent to which the motor vehicle is used for the private purposes of the employé.

(4) If a motor vehicle was provided by an employer to or in relation to an employé during only part of the relevant financial year, for the purposes of this section the cost to the employer of the provision of that motor vehicle determined in accordance with Schedule Six shall be reduced by an amount which bears to the full amount of that cost the same proportion as the number of days in the year on which the motor vehicle was not provided bears to 365.

(5) For the purposes of this section the use of a motor vehicle by an employé to perform his duties for his employer does not include the use of the motor vehicle by the employé to travel from his place of residence to his principal place of employment and from his principal place of employment to his place of residence.

(6) In this section a reference to the provision of a motor vehicle by an employer to or in relation to an employé includes a reference to the provision of a motor vehicle to or in relation to an employé by any person acting for or in concert or under an arrangement or understanding whether formal or informal and whether expressed or implied with the employer.

(7) For

- (7) For the purposes of this section the prescribed cost price is—
- (a) in relation to a motor vehicle purchased or first leased or hired by the employer before or during the financial year ended on 30 June 1981—\$18 828;
 - (b) in relation to a motor vehicle purchased or first leased or hired by the employer during the financial year ended on 30 June 1982—\$19 732; and
 - (c) in relation to a motor vehicle purchased or first leased or hired by the employer during or after the financial year ending on 30 June 1983—\$21 547.

(8) Notwithstanding anything to the contrary in the foregoing provisions of this section, this section shall apply to and in relation to the provision of a motor vehicle by an employer to or in relation to any employé during the period commencing 1 January 1983 and ending 30 June 1983 as if that motor vehicle had been provided by the employer during only that part of the relevant financial year.

(9) Notwithstanding anything to the contrary in this Act, any benefit paid or payable to or in relation to an employé in respect of the provision of a motor vehicle by an employer to or in relation to that employé otherwise than in the circumstances specified in sub-sections (1) and (2) shall not be subject to pay-roll tax under this Act.

Amendment of
No. 8154 s. 10.

5. Section 10 of the Principal Act is amended as follows:

- (a) For the expression “10. The” there shall be substituted the expression “10. (1) The”; and
- (b) At the end of the section there shall be inserted the following sub-sections:

“(2) Where the Minister administering the *Employment and Training Act* 1981 notifies the Commissioner in writing of his approval of a group apprenticeship scheme, the wages paid or payable to an apprentice employed as part of the scheme during any period commencing on or after 1 July 1982 during which—

- (a) the apprentice was or is employed as part of the scheme; and
 - (b) the scheme was or is an approved scheme—
- shall not be liable to pay-roll tax under this Act.

(3) Where the Minister administering the *Employment and Training Act* 1981 withdraws his approval of a group apprenticeship scheme, he shall notify the Commissioner in writing of the date on which that approval was withdrawn.”

6. After

6. After section 13 (3) of the Principal Act there shall be inserted the following sub-sections: Amendment of
No. 8154 s. 13.

5 “(3A) Notwithstanding sub-section (1) where in any financial year a benefit is paid or payable by an employer to or in relation to an employé, the Commissioner may require the employer to specify in respect of that benefit—

- 10 (a) in a return for any month in that financial year not being the month of June, an amount estimated in accordance with a formula approved by the Commissioner; and
- 15 (b) in the return for the month of June in that financial year, the amount of the difference between the actual amount of the benefit paid or payable to or in relation to the employé in that financial year and the total of the amounts previously disclosed in respect of that benefit in the returns furnished by the employer during that financial year.

20 (3B) Where an employer fails to include in a return an amount which he is required under sub-section (3A) (a) to include in that return the Commissioner may determine that amount for the purposes of this Act.”

7. In section 18 of the Principal Act after sub-section (5) there shall be inserted the following sub-sections: Amendment of
No. 8154 s. 18.

25 “(5A) Where an employer is liable under any provision of this Act to pay additional tax the Commissioner may cause an assessment to be made of the amount of additional tax payable by that employer.

(5B) The Commissioner may vary any assessment made under sub-section (5A).”

8. In section 31 of the Principal Act, after sub-section (6) there shall be inserted the following sub-section: Amendment of
No. 8154 s. 31.

30 ‘(7) In this section (other than sub-section (2)) “person” includes the Crown and any person acting on behalf of the Crown.’

9. After section 46 of the Principal Act there shall be inserted the following section: Amendment of
No. 8154
New s. 46A.

35 “46A. (1) Any document or copy of a document issuing out of the office of the Commissioner and bearing the written, stamped or printed signature of the Commissioner, a Deputy Commissioner, Assistant Commissioner or a delegate of the Commissioner, shall until the contrary is proved, be deemed to have been duly signed by the person by whom it purports to have been signed.

(2) Judicial

(2) Judicial notice shall be taken of every such signature and of the fact that the person whose signature it purports to be holds or has held the office of Commissioner, Deputy Commissioner, Assistant Commissioner or delegate of the Commissioner, as the case may be.”

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10. The Principal Act is amended as follows:

- (a) In sections 25 (4), 31 (2), 35 (1), 37, 40 and 44 (1) for the expression “\$1,000” there shall be substituted the expression “10 penalty units”;
- (b) In section 26 (2) for the expression “\$100” there shall be substituted the expression “1 penalty unit”;
- (c) In section 45A (4) for the expression “\$10 000” there shall be substituted the expression “100 penalty units”;
- (d) In section 50 (2) (b) for the expression “\$500” there shall be substituted the expression “5 penalty units”.

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Amendment of
No. 8154.

Amendment of
No. 8154.
New Schedule
Six inserted.

11. After Schedule Five to the Principal Act there shall be inserted the following Schedule:

Section 3B.

‘SCHEDULE SIX

PRE-CALCULATED ANNUAL VEHICLE COSTS

1. Subject to clause 2 of this Schedule, the annual cost to the employer of the provision of a motor vehicle shall be calculated as follows:

- (a) Where the motor vehicle is owned by the employer and has been fully depreciated by the employer the annual cost to the employer of the provision of the motor vehicle shall be ascertained by reference to the amount in column 2 of the Table which corresponds with the category in column 1 of the Table in which the cost price of the motor vehicle falls;
- (b) Where the motor vehicle is owned by the employer and does not comprise the whole or part of the security for a loan (if any) obtained to finance the purchase of the motor vehicle but is subject to depreciation by the employer the annual cost to the employer of the provision of the motor vehicle shall be ascertained by reference to the amount in column 3 of the Table which corresponds with the category in column 1 of the Table in which the cost price of the motor vehicle falls;
- (c) Where the motor vehicle is—
 - (i) subject to a hire-purchase agreement; or
 - (ii) owned by the employer and comprises the whole or part of the security for a loan obtained by the employer to finance the purchase of the motor vehicle—

and is subject to depreciation by the employer, the annual cost to the employer of the provision of the motor vehicle shall be ascertained by reference to the amount in column 4 of the Table which corresponds with the category in column 1 of the Table in which the cost price of the motor vehicle falls; and

- (d) Where the motor vehicle is leased by the employer, the annual cost to the employer of the provision of the motor vehicle shall be ascertained by reference to the amount in column 5 of the Table which corresponds with the category in column 1 of the Table in which the cost price of the motor vehicle falls.

SCHEDULE

SCHEDULE SIX—*continued*

2. The amounts expressed in column 2 of the Table represent standing and running costs only and where—

- (a) both the standing and running costs of a motor vehicle are met by an employé, the annual cost to the employer of the provision of the motor vehicle ascertained in accordance with clause 1 shall be reduced by the amount in column 2 of the Table which corresponds with the category in column 1 of the Table in which the cost price of the motor vehicle falls;
- (b) the standing costs only of a motor vehicle are met by an employé, the annual cost to the employer of the provision of the motor vehicle ascertained in accordance with clause 1 shall be reduced by the amount which is 30 per cent of the amount in column 2 of the Table which corresponds with the category in column 1 of the Table in which the cost price of the motor vehicle falls;
- (c) the running costs only of a motor vehicle are met by an employé, the annual cost to the employer of the provision of the motor vehicle ascertained in accordance with clause 1 shall be reduced by the amount which is 70 per cent of the amount in column 2 of the Table which corresponds with the category in column 1 of the Table in which the cost price of the motor vehicle falls; and
- (d) where the petrol costs only of a motor vehicle are met by an employé, the annual cost to the employer of the provision of the motor vehicle ascertained in accordance with clause 1 shall be reduced by the amount which is 40 per cent. of the amount in column 2 of the Table which corresponds with the category in column 1 of the Table in which the cost price of the motor vehicle falls.

3. Notwithstanding anything to the contrary in this Schedule, where a motor vehicle has been depreciated by an employer for a period of five years or more the cash price of that motor vehicle for the purposes of this Schedule shall be the cash price of the motor vehicle less the total amount allowed to the employer as depreciation on the motor vehicle up to 1 July in the financial year for which pay-roll tax is being levied.

4. In this Schedule—

“Cost price” means—

“Cost price.”

- (a) in relation to a motor vehicle which has been purchased by an employer, the consideration paid or payable by the employer in relation to the purchase of the motor vehicle including—
 - (i) any consideration paid or payable for any chattels and accessories supplied to or in relation to the motor vehicle under any contract between the vendor of the motor vehicle and the employer;
 - (ii) any trade-in allowance; and
 - (iii) any duties, taxes and handling charges paid or payable by the employer in respect of the purchase of the motor vehicle;
- (b) in relation to a motor vehicle which is hired by the employer under a hire-purchase agreement, the cash price of the motor vehicle specified in that agreement; and
- (c) in relation to a motor vehicle which is leased by the employer, the consideration paid or payable by the lessor in relation to the purchase of the motor vehicle including—
 - (i) any consideration paid or payable for chattels and accessories supplied to or in relation to the motor vehicle under any contract between the vendor of the motor vehicle and the lessor;
 - (ii) any trade-in allowance; and
 - (iii) any duties, taxes and handling charges paid or payable by the lessor or the employer in respect of the purchase of the motor vehicle.

“Depreciation” in relation to a motor vehicle means depreciation of the motor vehicle for the purpose of assessment of income tax in accordance with section 55 or 56 (1) of the *Income Tax Assessment Act 1936* of the Commonwealth and “depreciated” has a corresponding meaning.

“Depreciation.”

SCHEDULE SIX—Continued

“Fully depreciated.”	“Fully depreciated” in relation to a motor vehicle means depreciated by an employer for a period of seven years or more.
“Hire-purchase agreement.”	“Hire-purchase agreement” has the same meaning as it has in the <i>Hire-Purchase Act 1959</i> .
“Running costs.”	“Running costs” means the costs incurred for petrol and oil for and repairs to and maintenance of a motor vehicle.
“Standing costs.”	“Standing costs” means the costs of registration and insurance of a motor vehicle.
“Trade-in allowance.”	“Trade-in allowance” in relation to the purchase of a motor vehicle means an amount by which the amount payable under the contract is, or is to be, reduced in respect of an interest in property sold or transferred or agreed to be sold or transferred to the vendor of the motor vehicle or another person.

Table

Cost Price	Annual Cost of Provision of a Vehicle				
	1	2	3	4	5
\$	\$	\$	\$	\$	\$
0- 7 000	1 300	1 500	2 000	2 500	
7 001-10 000	1 400	2 400	3 500	3 600	
10 001-12 000	1 500	3 000	4 400	4 600	
12 001-15 000	1 600	3 400	5 000	5 400	
15 001-19 000	1 700	4 000	6 000	6 500	
19 001-23 000	1 800	4 600	7 300	7 800	
23 001-27 000	2 100	5 500	8 700	9 900	
27 001-32 000	2 300	6 300	10 100	12 200	
32 001-37 000	2 400	7 200	11 600	14 700	
37 001-42 000	2 500	8 000	13 200	17 300	
42 001-50 000	2 600	8 900	14 700	20 000	
50 001-60 000	2 700	10 200	17 200	24 100	
60 001-70 000	2 800	11 800	20 200	29 800	
70 001-80 000	2 900	13 400	23 200	34 100	
80 001-90 000	3 000	15 000	26 200	39 000	
90 001-100 000	3 100	16 600	29 200	44 000	
100 001-120 000	3 100	18 100	32 100	49 800	
120 001-140 000	3 100	21 100	37 900	59 500	
140 001 or more	3 100	24 100	43 700	69 100	