

PAYROLL TAX BILL

EXPLANATORY NOTE

THIS Bill provides for the introduction of payroll tax, as announced in the Budget.

Clause 1 relates to the Short Title and commencement, and declares the Act to be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1952.

The Act is declared to have come into force on 1 August 1970. It will apply to chargeable wages (as defined in *clause 3 (2)*) paid or payable on or after that date, but the first payment of tax will not be due until the return of wages paid or payable in August is required to be made, that is, not later than 20 September 1970.

Clause 2 is the main interpretation clause, defining the terms used in the Bill. Among these is the term "employer", which is defined broadly as any person, including the Crown, who pays or is liable to pay chargeable wages.

Clause 3 defines "wages" and "chargeable wages" for the purposes of the Bill.

The term "wages" includes salaries, wages, bonuses, commissions, and benefit allowances that are payable to employees, directors' fees, honoraria, commissions to insurance agents or collectors, and building society and super-annuation fund salesmen, payments under labour-only contracts for carpentry work in the building trade, and certain other payments.

The expression "chargeable wages" is defined as wages where the services in respect of which they are paid or payable are performed in New Zealand, or where the person who receives them or is entitled to receive them is resident in New Zealand. The expression does not include—

- (a) Wages that are exempt from payroll tax under *clause 7* of the Bill;
- (b) Wages that are exempt from income tax under the Land and Income Tax Act 1954 or under an agreement as defined in section 203c of that Act (relating to double tax agreements);
- (c) Wages paid outside New Zealand by a person who is not resident in New Zealand and is not engaged in business in New Zealand through a fixed establishment situated in New Zealand.

Clause 4 provides that the Act will bind the Crown. This is necessary because of the provisions of the Bill under which some Departments of State are liable for payroll tax. See the Second Schedule.

PART I

LIABILITY TO PAYROLL TAX

Clause 5 imposes a payroll tax on chargeable wages paid or payable by any employer in any period on or after 1 August 1970, at the rate of 2 percent of the amount of those chargeable wages. The tax is payable by the employer who pays or is liable to pay the wages.

Clause 6 provides for a general exemption of \$7,800 per annum for all employers. If a person liable was an employer for part only of a year, this amount is reduced proportionately.

The deduction is to be allowed monthly at the rate of \$650 a month. If the chargeable wages paid in any month are less than \$650, any surplus may be carried over to the next month and so on, but may not be carried over into the next year. If the annual exemption of \$7,800 exceeds the chargeable wages for the year, the excess may not be carried over into the next year.

Clause 7 exempts certain classes of wages from payroll tax, and follows generally the provisions as to liability set out in Appendix I to the Budget (see pp. 36 and 37).

The clause provides that the following classes of wages shall be exempt from payroll tax:

- (a) Wages paid by any public body specified in the First Schedule, except those paid in respect of the following activities:
 - (i) Road transport services, ferry services, and other services for the conveyance of passengers or goods:
 - (ii) Gas, electric-light, and power-supply undertakings:
 - (iii) The operation of harbour departments:
 - (iv) The operation of airports:
 - (v) The operation of harbour bridges or road tunnels where tolls are charged.
- (b) Wages paid by any Department of State, including the State Advances Corporation of New Zealand and wages paid by the Ministry of Defence to members of the New Zealand Armed Forces, but not including—
 - (i) Wages paid by the Public Trust Office, the State Insurance Office, the Government Life Insurance Office, the New Zealand Electricity Department, the Post Office, the New Zealand Government Railways Department, the Government Printing Office, and the Export Guarantee Office:
 - (ii) Wages paid by the Mines Department or the New Zealand Forest Service in respect of their trading activities:
 - (iii) Wages paid by the Ministry of Works in respect of work done for any person (which term includes a Department of State) which, if that other person had been the person liable to pay them, would have been subject to payroll tax:
 - (iv) Wages paid by the Tourist and Publicity Department to certain staff employed in tourist bureaux or wages paid by that Department and chargeable to the Rotorua Electric Supply:
- (c) Wages paid by the persons or classes of persons specified in the Third Schedule to the Bill. These in general are the employers referred to under the heading "*Not Liable*" on p. 37 of the Budget:

- (d) Wages paid by farmers to employees engaged in farming activities:
- (e) Wages paid by agricultural contractors to their employees in respect of work on farming properties. These include payments for shearing, scrub cutting, harvesting, fencing, drainage, agricultural aerial work, fertiliser or seed spreading, weed control, and flood prevention:
- (f) Wages paid by meat companies, except wages paid in respect of local wholesale or retail sales:
- (g) Wages paid by meat exporters other than meat-freezing companies to the extent that the wages are attributable to meat export activities:
- (h) Wages paid in respect of the killing of stock in abattoirs and rural slaughterhouses.
- (i) Wages paid by co-operative milk, dairy, and pig marketing companies, except wages paid in respect of employees engaged in activities such as store trading:
- (j) Wages paid in respect of employees engaged in the operation of cool stores for export dairy produce:
- (k) Wages paid in respect of wool scouring or the buying, selling, or exporting of wool (including the storing and preparing of wool for sale or export):
- (l) Wages paid to new members of commercial fishing boats:
- (m) Wages paid in the administration of any fund established exclusively for charitable purposes or in carrying out any activities exclusively for charitable purposes:
- (n) Wages paid in respect of the conduct of any creche, day nursery, play centre, kindergarten, or similar undertaking:
- (o) Wages paid in the conduct of a licensed public hospital:
- (p) Wages paid in the conduct of a rest home, convalescent home, or other similar home:
- (q) Wages paid to private domestic staff.

Subclauses (2) and (3) provide for the Commissioner to make any necessary apportionments. In doing so he may ignore small amounts of indirect wages.

Subclause (4) provides that the Governor-General may, by Order in Council, amend the First or Second or Third Schedule by adding the name of any public body, Department of State, person, or body.

Subclause (6) provides that every such Order in Council will expire at the end of the session of Parliament in which it is laid before Parliament, unless it is expressly validated by an Act of Parliament passed during that session.

PART II

REBATES FROM PAYROLL TAX BY REFERENCE TO EXPORT OF GOODS

This Part provides for rebates against payroll tax in respect of sales of certain export goods:

- (a) A rebate will be allowed equivalent to 1 percent of the value of export sales of qualifying goods. There is a provision that if the rebate of 1 percent exceeds the payroll tax of the exporter of the qualifying goods in any year, that excess may be allocated to a person who has supplied the final exporter goods or components which are incorporated in the export goods:
- (b) For certain other goods which do not qualify for the 1 percent rebate, there is a rebate of a proportionate part of the exporter's payroll tax.

Clause 8 defines—

- (a) The value of the export sales as, in broad terms, the amount or value of the consideration received for the goods sold. It does not include the cost of freight outside New Zealand:
- (b) Export goods, which in general terms are the same as those which at present qualify for the income tax deduction for increased exports under section 129B of Land and Income Tax Act 1954. However, newsprint and aluminium and aluminium alloys which do not qualify for the export incentive for income tax purposes will be qualifying export goods for payroll tax purposes.

Clause 9 provides for the rebate in respect of sales of qualifying export goods. It will be the smaller of—

- (a) 1 percent of the employer's export sales during the year; or
- (b) The amount of payroll tax.

Clause 10: Subclause (1) provides that where the 1 percent of export sales of qualifying goods exceeds the payroll tax of the final exporter in any year, that excess may be allowed to an employer who supplied goods or components of a kind which are comprised in or physically included in the qualifying goods of the final exporter.

The subclause also provides that the employer who is the final exporter may nominate to whom this excess is to be given when there is more than one such supplier.

Subclause (2) limits the excess rebate of the final exporter which can be given to any one of his suppliers to the smaller of—

- (a) 1 percent of the price paid by the final exporter to the supplier for the qualifying goods or components of such goods in the specified year and the immediately preceding year:
- (b) The payroll tax payable in the specified year by the supplier. The specified year is the year in which the export goods are sold.

Subclause (3) provides that when a final exporter wishes to allocate any excess rebate to a particular supplier, he must give notice to this effect in writing after the end of the specified year.

Subclause (4) deems the supply of services to be a supply of qualifying goods in a case where an employer has provided services for an exporter to whom section 78F of the Land and Income Tax Act 1954 applies. That section provides a concession for firms processing primary metal for export.

Clause 11 provides for a rebate in respect of payroll tax on wages attributable to exports of certain primary produce and minerals which are not included in the general classes of export goods dealt with in *clause 9*. The rebate in this case will be a proportionate part of the employer's payroll tax based on a formula contained in the section.

PART III

RETURNS

Clause 12 provides that every employer must, within 20 days after the end of every month, make a return of all chargeable wages paid or payable by him during that month. An employer is not required to make a return under this clause until the first month in the year in which he pays or is liable to pay chargeable wages in excess of \$650. The Commissioner may require an employer to make a return for an earlier month.

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Clause 13 provides that every employer who pays or is liable to pay payroll tax in respect of the chargeable wages paid or payable by him in any year must make a return of all chargeable wages paid or payable by him in that year. The return must be made by 15 May following the end of that year or, if the employer ceases to be an employer during the year, by the 15th of the second month following the month in which he ceased to be an employer.

Clause 14 provides that the executor or administrator of a deceased employer must make returns in respect of chargeable wages paid by that employer during his lifetime. The executor or administrator will be liable for payroll tax in respect of those chargeable wages, and that liability will be deemed to be a liability incurred by the deceased employer during his lifetime.

Clause 15 provides that the Commissioner may require additional returns to be furnished.

Clause 16 provides that the authority of any person to make a return on behalf of any employer or person will be presumed until the contrary is proved.

PART IV

PAYMENT, ASSESSMENT, AND RECOVERY OF PAYROLL TAX

Clause 17 provides that an employer who is liable to pay payroll tax must pay the tax within the time when, under *clause 12*, he is required to make a monthly return of chargeable wages, that is, by the 20th of the succeeding month. The Commissioner may extend that time.

Clause 18 enables the Commissioner to make an assessment of payroll tax in any case where he finds that payroll tax or further payroll tax is payable by any employer. The Commissioner may also make an assessment where an employer makes default in furnishing a return or the Commissioner is not satisfied with any return made or has reason to suppose that an employer who has not made a return is liable to pay payroll tax.

The Commissioner has power to make amended assessments.

The taxpayer may also request an assessment to enable him to pursue an objection to any decision or determination of the Commissioner.

Clause 19 provides that where an employer has made a return of chargeable wages, the Commissioner may not issue an assessment or issue an amended assessment increasing the amount payable after the expiration of 4 years from the end of the year in which the return is made. The 4-year limitation period does not apply where the return made is fraudulent or wilfully misleading.

Clause 20 confers a right of objection against assessments, and applies, with the appropriate modifications, sections 29 to 34 of the Land and Income Tax Act 1954, relating to objections to assessments of income tax.

Subclause (2) specifies certain matters in respect of which there is no right of objection.

Clause 21 provides that where the Commissioner has reason to believe that an employer may leave New Zealand before any payroll tax becomes due and payable by him, the payroll tax shall be due and payable on a date fixed by the Commissioner and notified to the employer.

Clause 22 provides that if payroll tax is not paid by the due date, 10 percent additional tax will be payable. The Commissioner is authorised to grant relief from additional tax if in the circumstances he considers it equitable to do so, but the approval of the Minister of Finance is required to the remission or refund of tax exceeding \$500 in any case.

Clause 23 applies, with the appropriate modifications, sections 205, 209, 210 (except subsection (3)), 211 to 217, and 221 of the Land and Income Tax Act 1954, relating to the procedures for the recovery of tax.

PART V

REFUNDS AND RELIEF FROM PAYROLL TAX

Clause 24 provides for the refund of payroll tax paid in excess. No refund may be made after the expiration of 8 years from the end of the year in which the wages were paid or payable, or, where the tax was paid pursuant to an assessment, after the expiration of 8 years after the end of the year in which the assessment is made, unless application for a refund is made before the expiration of that period.

Clause 25 empowers the Commissioner to grant relief from liability for payroll tax to an employer who is an individual, a partnership, or a trustee, on the grounds of serious hardship. The approval of the Minister of Finance is required to any remission or refund under this clause in excess of \$500.

Clause 26 provides that refunds of payroll tax may be made without appropriation.

PART VI

PENALTIES

Clause 27 makes it an offence for any person to refuse or fail to furnish any return or any information required under the Bill or regulations thereunder, to wilfully or negligently make a false return or give false information to the Commissioner or any other officer, to obstruct any officer, to fail to comply with any requirement of the Bill or any regulations thereunder, or to aid or abet or incite any other person to commit such an offence.

The maximum penalty for an offence is a fine of \$200.

Clause 28 provides that proceedings for an offence must be dealt with summarily by a Magistrate, and the information must be laid by the Commissioner or some person authorised by him.

Clause 29 provides that an information may charge several offences founded on the same facts or forming or being part of a series of offences of the same or a similar character.

Clause 30 enables an information for an offence to be laid at any time within 10 years after the end of the year in which the offence was committed.

Clause 31 provides for penal payroll tax in the case of evasion or attempted evasion of payment of payroll tax. The penal tax is not to exceed treble the amount of the deficient tax.

Clause 32 provides that an assessment of penal payroll tax is to be made by the Commissioner in the same manner as an assessment of the deficient tax.

Clause 33 provides that an objection to an assessment of penal payroll tax may be made on the ground that the person assessed is not chargeable with penal tax, or that the amount assessed is excessive in the circumstances. *Clause 20* is applied for the purpose.

Clause 34 enables penal payroll tax to be assessed against and recovered from the executors or administrators of a deceased taxpayer as a debt incurred by the deceased in his lifetime.

Clause 35 provides that the assessment and recovery of penal payroll tax is not barred or affected by the fact that the employer has been convicted of an offence. A person who has paid penal tax assessed against him for an offence may not thereafter be convicted of the same offence.

Clause 36 provides for the publication of the names of payroll tax evaders, and applies, with appropriate modifications, section 238 of the Land and Income Tax Act 1954.

PART VII

AGENTS

Clause 37 defines the terms "absentee" and "overseas company" for the purposes of this Part.

Agents Generally

Clause 38 provides that the Commissioner may declare any person to be the agent of another person for the purposes of the Act.

Clause 39 contains the following general provisions with respect to an agent:

- (a) He is answerable as an employer for doing such things as are required to be done in respect of the payment of chargeable wages:
- (b) He is to make returns and be chargeable with payroll tax as if he were a principal:
- (c) He may recover from his principal any payroll tax paid by him as agent:
- (d) He may retain out of money in his hands sufficient to pay any payroll tax for which he is or may become liable:
- (e) He is personally liable for the payroll tax payable in respect of chargeable wages in respect of which he is an agent.

Clause 40 provides that the provisions of the Bill relating to agents will not release the principal from liability to make returns and to be chargeable for payroll tax.

Where 2 or more persons are chargeable as agents with the same payroll tax, they are jointly and severally liable for the tax.

Clause 41 enables the Commissioner to treat 2 persons as principal and agent where one of them in carrying on any business is so far under the control of the other that the relation between them is in effect that of principal and agent.

Special Cases of Agency

Clause 42 provides that the guardian or committee of any person who is under any legal or other disability shall be the agent of that person for the purposes of the Bill.

Clause 43 provides that a mortgagee in possession of any land or other property is, to the extent specified in the clause, the agent of the mortgagor for the purposes of the Bill in respect of chargeable wages paid or payable in respect of the land or property or of any business in which the land or property is used.

Clause 44 applies, with the necessary modifications, section 185 of the Land and Income Tax Act 1954, relating to the liability of new companies for income tax payable by former companies with virtually the same shareholders or under the same control.

Agents of Absentees

Clause 45 provides that any person who in New Zealand carries on, holds, or has the management or control of any business on behalf of a principal who is an absentee is the agent of the absentee, and must make returns and will be liable for payroll tax as the agent of the absentee.

Clause 46 provides that any person who has the possession, control, or management of any real or personal property of any other person who is an absentee and is liable to pay payroll tax is the agent of the absentee in respect of all chargeable wages paid or payable in respect of the property, or of any business in which that property is used, and must make returns and will be liable for payroll tax as the agent of the absentee.

PART VIII

GENERAL PROVISIONS

Clause 47 requires every employer to keep sufficient records to enable his chargeable wages and his liability for payroll tax to be readily ascertained. As in the case of records required to be kept for income tax purposes, the records must be kept for at least 7 years, unless the Commissioner does not require their retention or the employer is a company that has been finally dissolved.

Clause 48 provides for the making of regulations.

Clause 49 contains transitional provisions relating to the period from 1 August 1970 to 31 March 1971. The general annual exemption of \$7,800 is reduced to \$5,200 in respect of that period. Provision is made for an adjustment where wages paid or payable by an employer in the period from 1 April 1970 to 31 July 1970 were less than \$2,600, for cases where wages paid before 1 August 1970 were paid in whole or in part in respect of a period on or after that date, and for cases where wages paid on or after 1 August 1970 were paid in whole or in part in respect of a period before that date.

Clause 50 establishes a Transitional Relief Committee of 3 members to consider applications for relief from payroll tax on account of contracts entered into on or before 25 June 1970. Relief may be granted to any employer who—

- (a) Has on or before that date entered into a binding contract for the supply of goods and services; and
 - (b) Applies for relief within the time specified in *subclause (12) (b)*; and
 - (c) Establishes to the satisfaction of the Committee that, by reason of the terms of that contract, payment of the full amount of payroll tax would result in a serious deterioration in the financial stability and viability of his business.
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Hon. Mr Muldoon

PAYROLL TAX

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A BILL INTITLED

An Act to make provision for the imposition, assessment, and collection of a tax upon the paid or payable wages

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, 5
as follows:

1. Short Title, commencement, etc.—(1) This Act may be cited as the Payroll Tax Act 1970.

(2) This Act shall be deemed to have come into force on the 1st day of August 1970. 10

(3) This Act is hereby declared to be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1952, and the First Schedule to that Act is hereby accordingly amended by adding a reference to this Act. 15

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Agent” means any person declared by this Act or by the Commissioner to be the agent of any other person for the purposes of this Act: 20

“Board of Review” means a Board of Review established under the Inland Revenue Department Amendment Act 1960:

“Business” includes any profession, trade, manufacture, or undertaking carried on for pecuniary profit: 25

“Charitable purpose” includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community:

5 “Child” includes a stepchild:

“Commissioner” means the Commissioner of Inland Revenue as defined in the Inland Revenue Department Act 1952:

10 “Company” means any body corporate, whether incorporated in New Zealand or elsewhere; but does not include a public body:

“Employer” means any person who pays or is liable to pay any chargeable wages; and includes an agent, a trustee, and the executor or administrator of a deceased employer; and also includes the Crown:

15 “Farming or agricultural business” means any business, or that part of any business, carried on by any person on land in New Zealand, being a business or, as the case may be, that part of a business which consists of any of the following activities:

(a) Animal husbandry (including poultry-keeping, bee-keeping, and the breeding of horses); or

(b) Growing fruit, vegetables, grain, flax, or other crop-producing plants; or

25 (c) Horticulture; or

(d) Viticulture;—

and “farming or agriculture” has a corresponding meaning:

30 Provided that any activity which consists of forestry or silviculture (not being the planting or growing of trees solely or principally to provide shelter or to prevent erosion or otherwise for agricultural or pastoral purposes) or of the production of wine, spirits, or other beverages from grapes or other crops shall be deemed not to be activities of any of the kinds referred to in paragraphs (a) to (d) of this definition:

35 “Field agent” means—

40 (a) Any person who is engaged in—

(i) Procuring proposals for or arranging contracts of insurance of any kind, or collecting premiums in respect of such contracts; or

(ii) Procuring or arranging contracts relating to any superannuation fund, as defined in section 2 of the Land and Income Tax Act 1954; or recruiting contributors to any such superannuation fund: 5

(b) Any person who is engaged in procuring or arranging contracts or undertakings to subscribe for shares in any building society within the meaning of the Building Societies Act 1965;—

but does not include any person— 10

(i) Who is engaged in a business of an independent insurance broker, being a person who is not required by any agreement, contract, or arrangement to place business entrusted to him solely with 1 person or with any group of 2 or more companies under the control of the same persons; or 15

(ii) Who is engaged in a business which customarily consists principally of activities other than those specified in paragraphs (a) and (b) of this definition, where activities specified in those paragraphs form an inconsequential part of the business as a whole or are inconsequential in themselves: 20

“Fixed establishment”, in relation to any person, means a fixed place of business in which substantial business is carried on by that person; and includes— 25

(a) A branch, factory, shop, or workshop in which, in each case, substantial business is carried on; and

(b) A mine, quarry, oil well, or other place of natural resources subject to exploitation; and 30

(c) An agricultural, pastoral, or forestry property;—

but does not include—

(d) The use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to a business; or 35

(e) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information or for advertising for a business: 40

“Honorarium” means any payment (whether in cash or otherwise) made in respect of or in relation to the services of—

(a) Any person as Chairman or as a member of a local authority or statutory board within the meaning of the Fees and Travelling Allowances Act 1951; or

5 (b) Any person as Chairman or as a member of any committee, board, council, or other body whatsoever to whom remuneration is paid pursuant to any other Act; or

10 (c) Any official of any society, club, or other like organisation:

“Income tax” means income tax levied under section 77 of the Land and Income Tax Act 1954:

15 “Maori authority” means a Maori authority as defined in section 158 of the Land and Income Tax Act 1954:

“Month” means a calendar month commencing on the 1st day of the month:

“New Zealand” includes the continental shelf as defined in section 2 of the Continental Shelf Act 1964:

20 “Paid”, in relation to wages and to a person by whom wages are paid, includes allowed, given, or granted, and also includes credited or dealt with in the interest of or on behalf of a person; and “pay”, “payment”, and “payable” have corresponding meanings; and “received”, “receives”, “receipt”, and “receivable”, in relation to wages and to a person by whom wages are received or are receivable, also have meanings corresponding to the meanings of the terms “paid”, “pay”, “payment”, and “payable”:

25 30 “Partnership” means an association of persons carrying on business as partners or in receipt of income jointly or carrying on a joint undertaking; but does not include a company:

35 “Payroll tax” means payroll tax levied under section 5 of this Act:

“Person” includes a company and a public body; and also includes an unincorporated body of persons, a partnership, and a Department of State:

40 “Prescribed” means prescribed by the Commissioner or by regulations under this Act:

“Resident in New Zealand” means deemed to be resident in New Zealand within the meaning of Part VI of the Land and Income Tax Act 1954:

45 “Year” means a year commencing on the 1st day of April and ending with the 31st day of March,

(2) For the purposes of this Act, 2 or more persons acting as co-trustees shall be deemed to be 1 person.

(3) For the purposes of this Act, all amounts shall be determined in terms of New Zealand currency.

3. Meaning of “wages” and “chargeable wages”—(1) For the purposes of this Act, the term “wages” means— 5

(a) Any wages, salary, allowances (including allowances of any of the kinds referred to in sections 88c and 89 of the Land and Income Tax Act 1954), overtime pay, holiday pay, long-service leave pay, bonuses, gratuities, extra salary, commissions, emoluments, or remuneration of any kind paid or payable (whether at piece rates or otherwise and whether in cash or otherwise) to any person in respect of or in relation to the employment of that person, not being— 10 15

(i) Any lump sum payment (not being accrued holiday pay or accrued long-service leave pay) made to any person by way of bonus, gratuity, or retiring allowance on the occasion of the retirement, on or after attaining the appropriate retiring age (as defined in subsection (3) of section 88b of the Land and Income Tax Act 1954), of that person from full-time employment; or 20

(ii) Any lump sum payment (not being accrued holiday pay or accrued long-service leave pay) made to any person on the occasion of and in consequence of the termination of the full-time employment of that person by reason of redundancy or other similar circumstances; or 25 30

(iii) Any payment made to any person by way of pension in respect of the past employment of that person or of any other person of whom that first-mentioned person is or has been the wife or husband or a child or dependant : 35

(b) Any amount paid or payable (whether in cash or otherwise) for work done or services rendered under contracts or arrangements which are wholly or substantially for the supply of labour in or in connection with the construction, erection, or extension of buildings (including the erection of prefabricated or precut parts of buildings), being work or services of any nature that customarily can form part of the work or services of a carpenter under a building contract: 40 45

- 5 (c) Any fees, allowances (including allowances of any of the kinds referred to in sections 88c and 89 of the Land and Income Tax Act 1954), bonuses, gratuities, commissions, emoluments, or remuneration of any kind paid or payable (whether in cash or otherwise) by a company to a director of that company in respect of or in relation to the services of that director in his capacity of director:
- 10 (d) Any amount paid or payable (whether in cash or otherwise) by way of honorarium to any person:
- (e) Any commissions, retainers, or other amounts whatsoever paid or payable (whether in cash or otherwise) to a field agent in respect of or in relation to the services of that agent;—
- 15 but does not include—
 - (f) Any allowance paid or payable to the extent to which that allowance is, pursuant to a determination made by the Commissioner under section 90 of the Land and Income Tax Act 1954, exempt from income tax; or
 - 20 (g) Any amount which is paid or payable by a person, being or purporting to be remuneration for services rendered by another person, and allocated to that first-mentioned person in accordance with subsection (1) of section 106 of the Land and Income Tax Act 1954; or
 - 25 (h) Any amount which under section 139 of the Land and Income Tax Act 1954 is deemed to be a dividend paid by a company to another person and deemed to be received by that person as a shareholder of the company:
- 30

35 Provided that, in the case of a field agent referred to in paragraph (e) of this subsection, where the Commissioner is satisfied that that agent receives no reimbursement whatsoever in respect of any expenditure or loss (including depreciation) incurred in producing the commissions, retainers, or other amounts referred to in that paragraph, an amount equal to 20 percent of those commissions shall, for the purposes of paragraph (f) of this subsection, be deemed to have been

40 determined by the Commissioner under section 90 of the Land and Income Tax Act 1954 to be exempt from income tax:

45 Provided also that nothing in any of paragraphs (a) to (e) of this subsection shall be construed as limiting in any way the application of any other or others of those paragraphs.

(2) For the purposes of this Act the expression “chargeable wages” means wages where—

- (a) The services in respect of which they are paid or payable are performed in New Zealand, whether or not— 5
- (i) They are paid or payable in New Zealand; or
 - (ii) The contract or arrangement under which they are paid or payable was made in New Zealand; or
 - (iii) The person by whom they are paid or payable is in, or is resident in, or carries on business in, New Zealand; or 10
 - (iv) The person who receives or is entitled to receive them is resident in, or is domiciled in, New Zealand or is a New Zealand citizen; or 15
 - (v) The payroll or register or other record of wages is located in New Zealand:
- (b) The person who receives or is entitled to receive them is resident in New Zealand, whether or not— 20
- (i) The services in respect of which they are paid or payable are performed in New Zealand; or 20
 - (ii) They are paid or payable in New Zealand; or
 - (iii) The contract or arrangement under which they are paid or payable was made in New Zealand; or 25
 - (iv) The person by whom they are paid or payable is in, or is resident in, or carries on business in, New Zealand; or
 - (v) The person who receives or is entitled to receive them is domiciled in New Zealand or is a New Zealand citizen; or 30
 - (vi) The payroll or register or other record of wages is located in New Zealand;—

but does not include—

- (c) Wages which are exempt from payroll tax under section 7 of this Act; or 35
- (d) Wages which are exempt from income tax (otherwise than by way of special exemption) under any provision of the Land and Income Tax Act 1954 or under an agreement as defined in section 203c of that Act; or 40
- (e) Wages which are paid outside New Zealand by a person who—
- (i) Is not resident in New Zealand; and

(ii) Is not engaged in business in New Zealand through a fixed establishment situated in New Zealand.

5 (3) Every reference in this Act to chargeable wages shall be construed as a reference to the gross amount of those chargeable wages without any deduction whatsoever from that amount.

4. Act to bind the Crown—This Act shall bind the Crown.

PART I

10

LIABILITY TO PAYROLL TAX

5. Payroll tax imposed—(1) Subject to the provisions of this Act, there shall be levied and paid, for the use of Her Majesty, a tax herein referred to as payroll tax.

15 (2) Subject to, and in accordance with the provisions of this Act, payroll tax shall be levied and paid on all chargeable wages paid or payable by any employer in any period on or after the 1st day of August 1970 at the rate of 2 percent of the amount of those chargeable wages.

20 (3) Payroll tax shall be paid by the employer who pays or is liable to pay the chargeable wages.

6. General exemption—(1) For the purpose of ascertaining the payroll tax payable by an employer, there shall, subject to the provisions of this section, be deducted by way of general exemption from the total amount of chargeable wages paid or payable by that employer in any year—

(a) In the case of an employer who was an employer during the whole of that year, the amount of \$7,800:

30 (b) In the case of an employer who was an employer during part only of that year, an amount which bears to \$7,800 the same proportion as the number of months in that year (being months during which he was an employer or is deemed to be, or treated as, an employer pursuant to subsection (4) of this section) bears to 12.

35 (2) The deduction provided in subsection (1) of this section in respect of an employer shall, subject to the provisions of this section, be allowed in accordance with the following provisions:

- (a) There shall be deducted from the amount of the chargeable wages included in a return (being a return relating to a period included in that year) furnished in accordance with section 12 of this Act, or from the amount of any chargeable wages included in an assessment (being an assessment relating to a period included in that year) made by the Commissioner pursuant to section 18 of this Act,—
- (i) Where the return or assessment relates to a month, the amount of \$650; or
 - (ii) Where the return or assessment relates to a period comprising 2 or more months, the amount of \$650 for each month which is included in that period:
- (b) Where the amount to be deducted pursuant to paragraph (a) of this subsection from the amount of any chargeable wages included in any return or assessment relating to a period included in any year exceeds the amount of the chargeable wages included in that return or assessment, the amount of the excess shall be deducted from the chargeable wages included in the return or assessment next made by or on the employer in respect of a later period included in that year.
- (3) Where the amount of the deduction provided in subsection (1) of this section in respect of any employer exceeds the total amount of chargeable wages paid or payable by that employer in any year or, as the case may be, in part of any year, that excess shall not in whole or in part be carried forward or be deducted from the chargeable wages paid or payable by that employer in any subsequent year or in part of any subsequent year.
- (4) For the purposes of this section—
- (a) A person shall be deemed to be an employer during a month if he was an employer at any time during that month:
 - (b) Where, in relation to a person and to a month, that person did not pay, and was not liable to pay, chargeable wages at any time during that month, and he satisfies the Commissioner that—
 - (i) It was solely by reason of the nature of his business (being a business in which the wages paid or payable by him fluctuate with different periods of the year) that he did not so pay, and was not liable so to pay, chargeable wages; and

(ii) That person had commenced that business before the end of that month and had not terminated that business before the commencement of that month,—

5 the Commissioner may treat that person as being an employer during that month.

7. Certain wages not chargeable—(1) The following classes of wages shall be exempt from payroll tax:

- 10 (a) Wages paid (otherwise than as trustee or agent) by any public body of any of the kinds specified in the First Schedule to this Act, except to the extent that the wages are attributable to the carrying on of any of the following activities:
- 15 (i) Any road transport service, any ferry service, or any other service for the conveyance of passengers or goods:
- (ii) Any gas undertaking, any electric light undertaking, or any power-supply undertaking:
- 20 (iii) The operation of any harbour department:
- (iv) The operation of any airport:
- (v) The operation of any harbour bridge or road tunnel, being a bridge or tunnel in respect of which tolls are charged:
- 25 (b) Wages paid (otherwise than as trustee or agent) by any Department of State specified in the Second Schedule to this Act, to the extent specified in the second column of that Schedule:
- (c) Wages paid (otherwise than as trustee or agent) by any person specified, or any person of any of the
- 30 classes specified, in the Third Schedule to this Act:
- (d) Wages paid by any person carrying on any farming or agricultural business (being wages attributable to and incurred in carrying on that business):
- 35 (e) Wages paid by any person to any employee in respect of work done or services performed on any land used for the purposes of any farming or agricultural business, being work done or services performed in the nature of—
- 40 (i) The eradication or extermination of animal or vegetable pests on that land; or
- (ii) The felling, clearing, destruction, and removal of timber, stumps, scrub, or undergrowth on that land; or
- 45 (iii) The destruction of weeds or plants detrimental to that land; or

(iv) The preparation of that land for farming or agriculture, including the cultivation and grassing thereof; or

(v) The draining of any swamp on that land or any low-lying part of that land; or 5

(vi) The construction, repair, or maintenance of access roads or tracks on that land; or

(vii) The construction, repair, or maintenance of dams, stopbanks, irrigation or stream diversion channels, or other improvements for the purpose of conserving or conveying water for use on that land or for preventing or combating soil erosion; or 10

(viii) The repair of flood or erosion damage; or

(ix) The sinking, repair, or maintenance of bores or wells for the purpose of supplying water for use on that land; or 15

(x) The construction, repair, or maintenance of aeroplane landing strips to facilitate agricultural aerial work on that land; or

(xi) The carrying out of any agricultural aerial work in connection with that land; or 20

(xii) The construction or repair of fences on that land; or

(xiii) The construction, repair, or maintenance on that land of feeding platforms, feeding yards, plunge sheep dips, or self-feeding ensilage pits; or 25

(xiv) The shearing of livestock used in that farming or agricultural business; or

(xv) The sowing, cultivating, harvesting, or gathering of any crop produced on that land; or 30

(xvi) Any other work customarily performed by employees in the carrying on of a farming or agricultural business:

Provided that nothing in this paragraph shall be construed as applying to wages paid to any employee in respect of work done or services performed in the construction, erection, repair, or maintenance of any building or other structure, other than a building or other structure of any of the kinds referred to in subparagraphs (vi), (vii), (ix), (x), (xii), and (xiii) of this paragraph, or in respect of transporting goods or livestock by road to or from that land: 40

- 5 (f) Wages paid by any person engaged in the business of operating an export slaughterhouse as defined in subsection (1) of section 2 of the Meat Act 1964 or an export packing house as defined in that subsection (being wages attributable to and incurred in carrying on that business), except to the extent that the wages are attributable to any activities which consist of the wholesaling or retailing or distributing of meat or meat products or meat by-products or animal products or animal by-products for consumption or use in New Zealand:
- 10 (g) Wages paid by any person to the extent that the wages are attributable to and incurred in the business of exporting meat under a meat exporter's licence issued to that person pursuant to Part V of the Meat Act 1964:
- 15 (h) Wages paid by any person to which has been delegated, pursuant to section 14 of the Meat Act 1964, the power to establish or maintain an abattoir within the meaning of that Act (being wages attributable to and incurred in the killing in that abattoir of stock for consumption in New Zealand):
- 20 (i) Wages paid by any person engaged in the operation of a rural slaughterhouse within the meaning of the Meat Act 1964 (being wages attributable to and incurred in the killing in that slaughterhouse of stock for consumption in New Zealand):
- 25 (j) Wages paid by—
- 30 (i) A co-operative dairy company and attributable to and incurred in any of the activities referred to in subsection (4) of section 146 of the Land and Income Tax Act 1954; or
- 35 (ii) A co-operative milk marketing company and attributable to and incurred in any of the activities referred to in subsection (2) of section 146A of that Act; or
- 40 (iii) A co-operative pig marketing company and attributable to and incurred in any of the activities referred to in subsection (2) of section 146B of that Act:
- 45 (k) Wages paid by any person to the extent that the wages are attributable to, and incurred in the operation of, any store owned by that person, being a store appointed pursuant to section 26 of the Dairy Industry Act 1952 for the storage, cooling, or freezing of dairy produce prior to export:

- (l) Wages paid by any employer to the extent that the wages are attributable to—
- (i) The scouring of wool; or
 - (ii) The buying, selling, or exporting of wool (including the storing and preparing of wool for sale or for export) : 5
- (m) Wages paid by any person to an employee in respect of work done or services performed, as a member of the crew, on a boat which is registered as a fishing boat under Part I of the Fisheries Amendment Act 1963, including a small boat belonging to any such fishing boat, and which is used in any business in New Zealand which consists of the taking or catching of fish, shellfish, or crustaceans for the purposes of sale, being wages attributable to or incurred in carrying on that business: 10 15
- (n) Wages paid by any person, being wages attributable to and incurred in—
- (i) The administration of any fund established exclusively for charitable purposes; or 20
 - (ii) The carrying on of any activities exclusively for charitable purposes:
- (o) Wages paid by any person to the extent that the wages are attributable to and incurred in the conduct of any creche, day nursery, play centre, kindergarten, or any other similar undertaking: 25
- (p) Wages paid by any person, being wages attributable to and incurred in the conduct of a licensed private hospital:
- (q) Wages paid by any person, being wages attributable to and incurred in the conduct of any rest home, convalescent home, or other home for the care of aged, infirm, disabled, or sick persons: 30
- (r) Wages paid by any person in respect of the employment of any employee, where— 35
- (i) That person is the occupier or one of the occupiers of a dwellinghouse or other premises used exclusively for residential purposes; and
 - (ii) The employment is for the performance of work in or about the dwellinghouse or premises or the garden or grounds appurtenant thereto; and 40
 - (iii) The employment is not in relation to any business carried on by that person:

(2) Where an apportionment of any wages is required for the purposes of this section, and any question arises as to the basis or manner of such apportionment, it shall be determined by the Commissioner.

5 (3) In making any apportionment of wages for the purposes of this section, the Commissioner may ignore small amounts of wages which are indirectly attributable to but not directly incurred in the carrying on of any activity, where the wages paid in respect of that activity are not exempt from payroll
10 tax under this section.

(4) The Governor-General may from time to time, by Order in Council,—

(a) Amend the First Schedule to this Act by adding the name of any specified public body or the name of
15 any class of public body:

(b) Amend the Second Schedule to this Act by adding the name of any Department of State:

(c) Amend the Third Schedule to this Act by adding the name of any specified person or body or the name
20 of any class of person or body.

(5) Any Order in Council under subsection (4) of this section may limit the extent to which wages paid by the local authority or public body or Department of State or person or body specified or described in the order shall be exempt from
25 payroll tax, and may consequentially amend the appropriate Schedule for the purpose of giving effect to any exemption conferred by the order.

(6) Every Order in Council made under subsection (5) of this section and laid before Parliament in any session
30 pursuant to the Regulations Act 1936 (as amended by the Regulations Amendment Act 1962) shall expire on the close of the last day of that session except so far as it is expressly validated or confirmed by an Act of Parliament passed during that session.

35

PART II

REBATES FROM PAYROLL TAX BY REFERENCE TO EXPORT OF GOODS

8. Interpretation—(1) In this Part of this Act, unless the context otherwise requires,—

40 “Consideration receivable” means—

(a) In relation to a sale or other disposal of goods,—

(i) In the case of a sale or disposal other than one to which subparagraph (ii) of this paragraph applies, the amount or value of
45 the consideration for the sale or disposal:

- (ii) Where the sale or disposal is part of, or is connected with, a transaction in which any other assets, or any services, are sold, disposed of, or supplied, such part of the amount or value of the consideration or considerations as the Commissioner is satisfied is attributable to the sale or disposal of the goods,— reduced by any amounts paid or payable (otherwise than as an agent) by the person selling or disposing of the goods, by way of freight for carriage of the goods outside New Zealand or by way of insurance or other outgoings in relation to the goods attributable to events or contingencies occurring or arising, or services performed, after the placing of the goods upon a ship or aircraft for export from New Zealand: 5
- (b) In relation to the supply of services, the amount or value of the consideration for the supply of the services: 10
- “Export goods” means goods exported from New Zealand on or after the 1st day of August 1970 by a person, being goods— 15
- (a) Which were sold or disposed of on or after that date by that person; and 20
- (b) Of which that person was the owner at the time of the sale or disposal;—
- but does not include—
- (c) Goods exported by way of gift: 25
- (d) Goods taken or sent out of New Zealand with the intention that they will at some later time be brought or sent back to New Zealand: 30
- (e) Goods imported into New Zealand and subsequently exported from New Zealand after being processed, packed, graded, or sorted in New Zealand or incorporated with another product in New Zealand, if the consideration receivable for the sale or disposal of the goods so exported is less than 15 percent greater than the cost of all imported goods included in the goods so exported, such cost being the landed cost of those imported goods (exclusive of New Zealand customs duty) at the time when they were imported into New Zealand: 35 40

Provided that this paragraph shall not operate in respect of second-hand machinery which has been reconditioned or rebuilt in New Zealand or both:

(f) Goods imported into New Zealand and subsequently exported from New Zealand in the same form without processing, packing, grading, or sorting thereof in New Zealand:

(g) Goods exported to the Cook Islands (including Niue) or to the Tokelau Islands:

(h) Animals and animal products and animal by-products (including dairy produce, meat, meat products, wool, and their respective by-products), but not including—

(i) Bees:

(ii) Products or by-products of bees, other than packed extracted honey and crude unrefined beeswax:

(iii) Fish:

(iv) Fish products or fish by-products:

(v) Lactose:

(vi) Products or by-products of lactose:

(vii) Leather:

(viii) Leather products:

(ix) Meat of game:

(x) Products of game or by-products of game:

(xi) Poultry:

(xii) Products of poultry or by-products of poultry, other than eggs and egg pulp:

(xiii) Wool grease or products derived therefrom:

(xiv) Woollen yarns:

(xv) Worsted yarns:

(i) Minerals:

(j) Any other goods specified by the Governor-General from time to time by Order in Council:

Provided that the Governor-General may from time to time, by Order in Council, exclude any goods or any specified class or classes of goods from the operation of paragraph (e) or paragraph (h) or paragraph (i) of this definition:

“Eggs” and “egg pulp” have the same meanings as in the Egg Marketing Authority Regulations 1953:

“Fish” includes every description of fish, of whales, seals, and other marine mammals, and of shellfish, including crustaceans and echinoderms; and “fish products” and “fish by-products” have corresponding meanings:

- “Game” means deer; and includes, when living in a wild state, hares, pigs, and goats; and “products of game” and “by-products of game” have corresponding meanings:
- “Minerals” means— 5
- (a) All minerals (whether beneficiated or not), coal, oil, kauri gum, clay, stone, gravel, sand, and precious stones; and
- (b) All metals occurring in their native state and ores of any metals (whether beneficiated or not); 10
and
- (c) Scrap metal and scrap metal alloys in any form;—
- but does not include—
- (d) Ingots or billets produced from scrap metal or 15
from scrap metal alloys; or
- (e) Primary aluminium or primary aluminium alloys, or primary aluminium or primary aluminium alloys produced from scrap resulting from the processing of alumina: 20
- “Payroll tax” does not include additional payroll tax imposed under section 22 of this Act or penal payroll tax imposed under section 31 of this Act: 20
- “Poultry” means domestic fowls, ducks, geese, and turkeys; and includes the carcass of any such birds; 25
and “products of poultry” and “by-products of poultry” have corresponding meanings:
- “Value of export sales”, in relation to a period, means, in relation to a person, the amounts of consideration receivable by that person in respect of the sale or 30
other disposal of export goods that have been sold or otherwise disposed of by him during that period.
- (2) For the purposes of this Part, where a person has received or is entitled to receive an amount under a policy of insurance or otherwise in respect of loss, destruction, or 35
damage that has occurred, after their export from New Zealand, in respect of goods owned by him,—
- (a) In the case of loss or destruction, that person shall be deemed to have sold those goods, at the time of the loss or destruction, for a consideration equal to 40
that amount:
- (b) In the case of damage—
- (i) If that person has sold or disposed of the goods for a consideration, the consideration shall be deemed to be increased by that amount: 45

(ii) If that person ceased to be the owner of the goods in any other manner, he shall be deemed to have sold the goods, at the time when he so ceased, for a consideration equal to that amount.

5 (3) For the purposes of this Part, goods shall be taken to have been physically included in goods exported from New Zealand if they have been used, directly or indirectly, in the manufacture, production, assembling, or processing of the goods that have been exported so that the whole or a
10 substantial part of the goods so used has been incorporated in the goods exported, or so that the goods exported have been derived solely from the goods so used (whether or not the goods so used have retained their identity or physical or chemical form or condition).

15 **9. Rebate to exporter by reference to export of goods—**

Subject to the provisions of this Part, where in any year (that year being referred to in this section and in section 10 of this Act as the specified year) an employer sells or otherwise disposes of any export goods, there shall be allowed as a rebate
20 from the total amount of payroll tax (before the deduction of any rebate allowable to that employer under section 10 or section 11 of this Act) payable by him in respect of the chargeable wages paid or payable by him in the specified year a sum equal to the smaller of the following two sums:

- 25 (a) A sum equal to 1 percent of the value of export sales in relation to that employer and the specified year:
(b) A sum equal to that payroll tax.

10. Rebate to supplier by reference to export of goods—

- (1) Where—
30 (a) In relation to any employer to whom section 9 of this Act applies (that employer being referred to in this section as the exporter) and to the specified year, the sum referred to in paragraph (a) of that section exceeds the sum referred to in paragraph (b) of
35 that section; and
(b) The exporter has, during the specified year or during the year immediately preceding the specified year, acquired from another employer or other employers (that other employer and those other employers
40 being referred to in this section as supplier and suppliers, respectively)—

(i) Goods of a kind that are comprised in the export goods sold or otherwise disposed of by the exporter during the specified year; or

(ii) Goods of a kind that have been physically included in goods of a kind that are comprised in such export goods,—

the exporter may, by notice in accordance with subsection (3) of this section, allocate the excess referred to in paragraph (a) of this subsection—

(c) Where there is only 1 supplier, to that supplier: 10

(d) Where there are 2 or more suppliers, to each such 1 or more suppliers (and, if more than 1, in such amounts) as the employer decides,—

and, subject to the provisions of this section, the amount so allocated to any supplier shall be allowed as a rebate from the residue of the total amount of payroll tax payable by that supplier (being payroll tax payable in respect of the chargeable wages paid or payable by him in the specified year) after deducting from that total amount any rebate allowable to that supplier under section 9 of this Act. 15 20

(2) The rebate allowed under this section to any supplier in respect of the specified year shall not in any case exceed the smaller of the following sums:

(a) A sum equal to 1 percent of the total consideration (being consideration which has not already been taken into account for the purposes of calculating any rebate under this section) for which the exporter has, during the specified year and the year immediately preceding the specified year, acquired the goods as aforesaid from that supplier: 25 30

(b) A sum equal to the amount of that residue of that total amount of payroll tax.

(3) Every notice under subsection (1) of this section shall be in writing, and shall be given to the Commissioner within 3 months after the end of the specified year, or within such further time as the Commissioner, in his discretion, may allow in any case or class of cases. 35

(4) The reference in subparagraph (ii) of paragraph (b) of subsection (1) of this section to goods of a kind that have been physically included in goods of a kind that are comprised in export goods shall, where— 40

(a) The exporter is a company to which section 78F of the Land and Income Tax Act 1954 applies; and

(b) The export goods consist of a primary metal within the meaning of the said section 78F,—
 be deemed to include a reference to services supplied to the exporter by another person, being services which consist of the processing of a mineral (as defined in subsection (1) of the said section 78F) into that primary metal.

11. Rebate to exporter by reference to export of certain other goods—(1) For the purposes of this section—

“Exporter” means an employer, not being a person specified in paragraph (f) or paragraph (g) of subsection (1) of section 7 of this Act:

“Qualifying goods”, in relation to an exporter, means—

(a) Animals and animal products and by-products (including dairy produce, meat, meat products, wool and their respective by-products); and

(b) Minerals—

which, but for paragraph (h) or, as the case may be, paragraph (i) of the definition of the expression “export goods” in subsection (1) of section 8 of this

Act, would be export goods (within the meaning of that definition) in relation to that exporter.

(2) Where, in any year, an exporter sells or otherwise disposes of any qualifying goods, there shall be allowed as a rebate from the residue of the total amount of payroll tax payable by him (being payroll tax payable in respect of the chargeable wages paid or payable by him in that year), after deducting from that total amount any rebate allowable to that exporter under section 9 or section 10 of this Act, a sum calculated in accordance with the following formula:

$$\frac{a}{b} \times c$$

where—

a is the total of the amounts of consideration receivable by that exporter in respect of the sale or other disposal of those qualifying goods that have been sold or otherwise disposed of by him in that year; and

b is the total of the amounts of consideration receivable by that exporter in respect of—

(i) The sale or other disposal of all goods (whether exported or not and including those qualifying goods) that have been sold or otherwise disposed of by him in that year; and

- (ii) The supply of all services that have been supplied by him (whether in New Zealand or elsewhere) in that year; and
 c is the amount of that residue of that total amount of payroll tax.

5

PART III

RETURNS

12. Monthly returns—(1) Subject to the provisions of this section, every employer shall, within 20 days after the end of every month in each year, being— 10

(a) Either—

(i) The month in that year in which he first pays or is liable to pay chargeable wages in excess of \$650; or

(ii) If so required by the Commissioner, any 15 earlier month in that year; and

(b) Every month in that year subsequent to the month referred to in subparagraph (i) or, as the case may be, subparagraph (ii) of paragraph (a) of this subsection,— 20

furnish to the Commissioner a return, in the prescribed form, of all chargeable wages paid or payable by the employer in that month.

(2) The Commissioner, in his discretion, may, for the purpose of meeting the special circumstances of any case or class of cases, vary to such extent and for so long as he thinks fit, the periods in respect of which, or the time within which, that employer is required to furnish returns pursuant to subsection (1) of this section. In every such case the provisions of this section shall apply as so varied, and the employer shall furnish returns accordingly. 25 30

(3) The exercise by the Commissioner of his discretion under subsection (2) of this section shall not in any case exempt an employer from his liability to pay any payroll tax, notwithstanding that it may have the effect of varying the time for payment of any payroll tax. 35

13. Annual returns—Every employer who pays or is liable to pay payroll tax in respect of the chargeable wages paid or payable by him in any year shall—

(a) In any case to which paragraph (b) of this section does not apply, not later than the 15th day of May next following the end of that year, or within such 40

later time as the Commissioner, in his discretion, may allow in any case or class of cases:

- 5 (b) In any case where the employer ceases to be an employer in any month in that year (not being the last month in that year), not later than the 15th day of the second month next following the month in which he so ceased to be an employer, or within such later time as the Commissioner, in his discretion, may allow in any case or class of cases,—
- 10 furnish to the Commissioner a return, in the prescribed form, showing the total amount of all chargeable wages paid or payable by the employer in that year, together with such other particulars as may be prescribed.

- 14. Returns by executors or administrators—**(1) The
- 15 executor or administrator of a deceased employer shall, in respect of all chargeable wages paid or payable by that employer in his lifetime, make the same returns as the employer ought to have made or would have been bound to make if he had remained alive; and the Commissioner may
- 20 from time to time require the executor or administrator to make such further returns relative to those chargeable wages as the Commissioner thinks necessary. The executor or administrator shall be chargeable with, and assessable and liable for, payroll tax or further payroll tax in respect of
- 25 those chargeable wages in the same manner in which the employer might have been chargeable, assessable, and liable had he remained alive.

- (2) The payroll tax or further payroll tax with which the executor or administrator is so chargeable and for which he
- 30 is so assessable and liable shall be deemed to be a liability incurred by the deceased employer in his lifetime, and the executor or administrator of the employer shall be liable for the same accordingly.

- 15. Commissioner may require other returns to be**
- 35 **furnished—**In addition to the returns specified in sections 12, 13, and 14 of this Act, the Commissioner may require any employer or person to furnish (whether on his own behalf or as an agent or a trustee) to the Commissioner such further or other returns as the Commissioner requires for the pur-
- 40 poses of this Act, and the employer or person shall furnish any such further or other returns accordingly.

16. Presumption as to authority—A return purporting to be furnished by or on behalf of any employer or person shall for all purposes be deemed to have been furnished by that employer or person or by his authority, as the case may be, unless the contrary is proved.

5

PART IV

PAYMENT, ASSESSMENT, AND RECOVERY OF PAYROLL TAX

17. Time for payment of payroll tax—Every employer liable to pay payroll tax shall pay that tax within the time within which he is required by this Act to furnish, under section 12 of this Act, the return of the chargeable wages in respect of which that tax is payable, or within such further time as the Commissioner, in his discretion, may allow to meet the special circumstances of any case or class or classes of cases.

15

18. Assessment of payroll tax—(1) Where the Commissioner finds in any case that payroll tax or further payroll tax is payable by any employer, the Commissioner may make an assessment of the amount on which that tax or further tax is payable and of the amount of that tax or further tax.

20

(2) Where—

(a) Any employer makes default in furnishing any return;

or

(b) The Commissioner is not satisfied with the return made by any employer; or

25

(c) The Commissioner has reason to suppose that any employer, although he has not made a return, is liable to pay payroll tax,—

the Commissioner may make an assessment of the amount on which, in his judgment, payroll tax ought to be levied and of the amount of that tax, and that employer shall be liable to pay the tax so assessed, save in so far as he establishes on objection that the assessment is excessive or that he is not chargeable with payroll tax.

30

(3) Where an employer is dissatisfied with any decision or determination of the Commissioner under this Act (not being a decision or determination relating to any matter referred to in subsection (2) of section 20 of this Act) by which the employer's liability to pay payroll tax is affected, the Commissioner shall, if so required by the employer by notice in writing given—

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- (a) Within 1 month after the date on which notice in writing of that decision or determination is given to the employer by or on behalf of the Commissioner; or
- 5 (b) Within such further time as the Commissioner, in his discretion, may allow,—
make an assessment of the amount of chargeable wages and of the amount of payroll tax or further payroll tax affected by that decision or determination.
- 10 (4) Subject to section 19 of this Act, the Commissioner may from time to time and at any time make all such alterations in or additions to an assessment made under this section as he thinks necessary to ensure the correctness thereof, notwithstanding that payroll tax or further payroll tax already
- 15 assessed may have been paid.
(5) As soon as conveniently may be after an assessment or amended assessment is made under this section, the Commissioner shall cause notice of the assessment or amended
- 20 assessment to be given to the employer liable to pay the payroll tax or further payroll tax.
(6) Where any payroll tax or further payroll tax assessed under an assessment or amended assessment made under this section is not paid within the time specified in section 17 of
- 25 this Act, or within such further time as the Commissioner allows under that section, the Commissioner may, in any case where he considers that the circumstances warrant it, specify in the notice of the assessment or amended assessment such later date as he, in his discretion, determines for the
- 30 payment of that payroll tax or further payroll tax and, in that event, that payroll tax or further payroll tax shall be payable on or before that date.
(7) The omission to give any such notice under subsection (5) of this section shall not invalidate the assessment or in any manner affect the operation thereof.
- 35 (8) Sections 25, 26, and 27 of the Land and Income Tax Act 1954, as far as they are applicable and with the necessary modifications, shall apply with respect to every assessment or amended assessment made under this section, as if—
(a) Every reference in those sections to an assessment were
- 40 a reference to an assessment made under this section; and
(b) The reference to a taxpayer in the said section 26 were a reference to an employer; and
(c) For the words “this Act” in the said section 25 there
- 45 were substituted a reference to this Act; and

- (d) The reference to a return in the said section 27 were a reference to a return made under this Act.

19. Limitation of time for amendment of assessment—

(1) Where any employer has made a return in respect of any period and has paid, or has been assessed for, payroll tax or further payroll tax in respect of that period, it shall not be lawful for the Commissioner— 5

(a) Where an assessment has not been made, to make an assessment:

(b) Where an assessment has been made, to alter the assessment so as to increase the amount thereof— 10
after the expiration of 4 years from the end of the year in which the return was made.

(2) Notwithstanding the provisions of subsection (1) of this section, in any case where, in the opinion of the Commissioner, the return so made is fraudulent or wilfully misleading, it shall be lawful for the Commissioner— 15

(a) Where an assessment has not been made, to make an assessment at any time:

(b) Where an assessment has been made, to alter the assessment at any time so as to increase the amount thereof. 20

20. Objections to assessments—(1) Subject to the provisions of this section, an assessment made under section 18 of this Act shall be subject to objection in the same manner as an assessment of income tax levied under section 77 of the Land and Income Tax Act 1954, and the provisions of sections 29 to 34 of that Act, as far as they are applicable and with the necessary modifications, shall apply to an objection to an assessment made under the said section 18 of this Act as if— 25
30

(a) Every reference in the said sections 29 to 33 to income tax or to tax were a reference to payroll tax; and

(b) Every reference in the said section 34 to income were a reference to chargeable wages.

(2) Except so far as may be expressly provided to the contrary in this Act, the provisions of subsection (1) of this section shall not confer any right of objection with respect to— 35

(a) Any decision or determination of the Commissioner made in exercise of any power or discretion conferred upon him to enlarge or extend the time for giving any notice, making any application, furnishing any return, or doing any other act, matter, or thing: 40

- 5 (b) Any matter which is left to the discretion, judgment, approval, consent, or determination of the Minister of Finance or any act, matter, or thing done or omitted by the Minister under or pursuant to any of the provisions of this Act or of any regulations made under this Act:
- 10 (c) Any matter in respect of which provision is made by this Act or by any regulations made under this Act—
- (i) For any matter to be inquired into, considered, reported upon, heard, decided, determined, or otherwise dealt with by; or
- 15 (ii) For the matter to be the subject of any recommendation of—
- any special committee, tribunal, or authority (other than a Board of Review) established in that behalf or any person or official (other than the Commissioner); or
- 20 (d) Any matter which by any provision in Part III, Part IV (except section 19), Part V, Part VI, Part VII (except section 41), or Part VIII of this Act is left to the discretion, judgment, opinion, approval, consent, or determination of the Commissioner; or
- 25 (e) Any matter in respect of which it is expressly provided in this Act, or in any provision of the Land and Income Tax Act 1954 applied to payroll tax by this Act, that there shall be no right of objection to the decision or determination of the Commissioner.

30 **21. Employer leaving New Zealand**—Where the Commissioner has reason to believe that an employer may leave New Zealand before any payroll tax or further payroll tax becomes due and payable by him, the payroll tax or further payroll tax shall be due and payable on such date as the Commissioner fixes and notifies in writing to the employer.

35 **22. Additional payroll tax for default in payment of payroll tax**—(1) If any payroll tax or further payroll tax is not paid within the time specified in section 17 of this Act, or within such further time as the Commissioner allows under that section or specify, pursuant to subsection (6) of section 18 of this Act, in a notice of an assessment or amended assessment, 10 percent

40 on the amount of the payroll tax unpaid shall be and be deemed to be added thereto by way of additional payroll tax and shall be payable accordingly:

Provided that, on application for relief made in writing by or on behalf of any employer who has become liable for the payment of any additional payroll tax under the foregoing provisions of this subsection, the Commissioner, if having regard to the circumstances of the case he thinks it equitable so to do, may, subject to the provisions of subsection (2) of this section, grant relief to the employer— 5

- (a) By the remission of the whole or part of the additional payroll tax; or
- (b) Where the additional payroll tax has been paid in whole or in part, by the refund to the employer of the whole or any part of that tax that has been paid, with or without the remission of any part of the additional payroll tax that has not been paid. 10

(2) No amount of additional payroll tax in excess of \$500 in any case shall be remitted or refunded under the proviso to subsection (1) of this section except with the approval of the Minister of Finance, given either specifically with respect to that case or generally with respect to a class of cases. 15

(3) Any amount imposed by way of additional payroll tax under this section shall be in addition to any other penalty to which the employer may be liable, and shall for all purposes be deemed to be of the same nature as the unpaid payroll tax in respect of which it is imposed, and shall, except to the extent that relief is granted in respect thereof under the proviso to subsection (1) of this section, be recoverable accordingly. 20 25

23. Application of certain provisions of the Land and Income Tax Act 1954 relating to recovery procedures—The provisions of sections 205, 209, 210 (except subsection (3)), 211 to 217, and 221 of the Land and Income Tax Act 1954, as far as they are applicable and with the necessary modifications, shall apply for the purposes of this Act, as if— 30

- (a) Every reference in those provisions to income tax or to tax were a reference to payroll tax; and
- (b) Every reference to a taxpayer in the said section 210 (except subsection (3)) were a reference to an employer; and 35
- (c) Every reference to a year of assessment in the said section 210 were a reference to a period in respect of which an employer is required to furnish a return under this Act; and 40
- (d) The reference to an assessment in the said section 215 were a reference to an assessment made under section 18 of this Act; and

- (e) For the words "this Act" wherever they occur in the said sections 217 and 221 there were substituted the words "the Payroll Tax Act 1970".

PART V

5 REFUNDS AND RELIEF FROM PAYROLL TAX

24. Refund of excess payroll tax—(1) Where, after the expiration of any year (that year being referred to in this section as the specified year), the Commissioner is satisfied that the payroll tax paid by an employer in respect of the chargeable
10 wages paid or payable by him in the specified year is in excess of the amount of payroll tax properly payable by him in respect of those chargeable wages, the Commissioner shall credit the amount of the excess in payment successively of—

15 (a) The payroll tax (if any) due by the employer and unpaid in respect of the chargeable wages paid or payable by him in any period before the specified year and, if more than one, in the order of those periods:

20 (b) The payroll tax (if any) due by the employer and unpaid in respect of the chargeable wages paid or payable by him in any period after the specified year and, if more than one, in the order of those periods,—
and shall refund to the employer an amount equal to the amount of the excess not so credited:

25 Provided that, subject to subsection (2) of this section, no refund shall be made under this subsection after the expiration of the period of 8 years immediately after the end of the specified year, unless written application for the refund is made by or on behalf of the employer before the expiration
30 of that period.

(2) In any case where—

35 (a) An assessment in respect of the chargeable wages paid or payable by the employer in the whole or part of the specified year has been made after the end of the specified year, and the Commissioner is satisfied that by reason of that assessment payroll tax has been paid in excess of the amount properly payable; or

40 (b) An assessment made at any time in respect of the chargeable wages paid or payable by the employer in the whole or part of the specified year has, after the end of the specified year, been altered so as to increase the amount of payroll tax payable, and the

Commissioner is satisfied that by reason of that alteration payroll tax has been paid in excess of the amount properly payable,—
 the Commissioner shall, notwithstanding that the time limited by subsection (1) of this section for the making of a refund may have expired, refund so much of the amount so paid in excess by reason of that assessment or, as the case may be, that alteration as is not required to be credited under paragraph (a) or paragraph (b) of that subsection: 5

Provided that, in any such case, no refund shall be made under this subsection after the expiration of the period of 8 years immediately after the end of the year in which that assessment or, as the case may be, that alteration was made, unless written application for the refund is made by or on behalf of the employer before the expiration of that period. 10 15

25. Relief in cases of serious hardship—(1) In any case where it is shown to the satisfaction of the Commissioner—

(a) That any employer, not being a company or a public body or an unincorporated body or a partnership (being a partnership in which one or more of the partners is a company), has suffered such loss or is in such circumstances that the exaction of the full amount of the payroll tax has entailed or would entail serious hardship; or 20

(b) That, owing to the death of any person who if he had not died would have been liable to pay payroll tax, the dependants of that person are in such circumstances that the exaction of the full amount of the payroll tax has entailed or would entail serious hardship,— 25 30

he may, subject to the provisions of this section, release the employer or the executor or administrator of the deceased person (as the case may be) wholly or in part from his liability, and the Commissioner may take such steps as are necessary for that purpose; and may, if the payroll tax or any part thereof has already been paid, refund the whole or any part of the amount paid. 35

(2) No amount of payroll tax in excess of \$500 in any case shall be remitted or refunded under this section except with the approval of the Minister of Finance.

26. **Appropriation of refunds**—Any refund of payroll tax under this Act may be made without further appropriation than this section.

PART VI

5

PENALTIES

27. **Penalty for failure to furnish returns, etc.**—(1) Every person commits an offence against this Act who—

- 10 (a) Refuses or fails to furnish any return or information as and when required by this Act or the regulations made thereunder, or by the Commissioner; or
- (b) Wilfully or negligently makes any false return, or gives any false information, or misleads or attempts to mislead the Commissioner or any other officer, in relation to any matter or thing affecting his own or
- 15 (c) Obstructs any officer acting in the discharge of his duties or in the exercise of his powers under this Act; or
- 20 (d) Acts in contravention of or, without lawful justification or excuse, fails to comply in any respect with any provision of this Act or of the regulations made thereunder or any requirement imposed under this Act or the regulations; or
- 25 (e) Aids, abets, or incites any other person to commit any offence against this Act or against any regulations made thereunder.

(2) Every person who commits an offence against this Act for which no other penalty is prescribed shall be liable to a fine not exceeding \$200.

30 28. **Proceedings to be taken summarily**—All proceedings for offences against this Act shall be taken by way of summary prosecution before a Magistrate, and only upon the information of the Commissioner, or of some person authorised in writing by the Commissioner in that behalf, and the signature

35 of the Commissioner to any warrant of authority under this section shall be judicially noticed.

29. **Information may charge several offences**—(1) Any information may charge the defendant with any number of offences against this Act, if those offences are founded on the

40 same set of facts, or form or are part of a series of offences of the same or a similar character.

(2) Where any information charges more than one such offence, particulars of each offence charged shall be set out separately in the information.

(3) All such charges shall be heard together, unless the Court, either before or at any time during the hearing, considers it just that any charge should be heard separately and makes an order to that effect. 5

30. Information may be laid within 10 years—Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information in respect of any offence against this Act or against any regulations made thereunder may be laid at any time within 10 years after the termination of the year in which the offence was committed. 10

31. Penal payroll tax in case of evasion—(1) If any employer evades or attempts to evade, or does any act with intent to evade, or makes default in the performance of any duty imposed upon him by this Act or the regulations thereunder with intent to evade, the payment or assessment of any sum which is or may become chargeable against him by way of payroll tax or further payroll tax (which sum is hereinafter referred to as the deficient payroll tax), he shall be chargeable, by way of penalty for that offence, with additional tax (hereinafter called penal payroll tax) not exceeding an amount equal to treble the amount of the deficient payroll tax. 15 20

(2) Penal payroll tax imposed under this section shall be in addition to any other penalty to which the employer may be liable, and shall for all purposes be deemed to be of the same nature as the deficient payroll tax and shall be deemed to have become payable on the day on which the deficient payroll tax became payable, and shall be recoverable accordingly. 25 30

32. Assessment of penal payroll tax—(1) The Commissioner shall make an assessment of penal payroll tax in the same manner, so far as may be, as an assessment of the deficient payroll tax, but separately therefrom.

(2) An assessment of penal payroll tax may be amended from time to time in the same manner as any other assessment. 35

(3) It shall be lawful for the Commissioner to make or amend an assessment of penal payroll tax at any time.

33. Objections to penal payroll tax—(1) Any assessment of penal payroll tax shall be subject, in the same manner as any other assessment of payroll tax, to objection on the ground that the person so assessed is not chargeable with
5 penal payroll tax, or on the ground that the amount so assessed is excessive having regard to the nature and degree of the offence or to the reason for the imposition of the penal payroll tax, and notwithstanding that the amount so assessed is not in excess of treble the amount of the deficient payroll
10 tax:

Provided that, where the person so assessed is chargeable with penal payroll tax, the amount of penal payroll tax assessed by the Commissioner shall not be reduced by a Board of Review or any Court below the smaller of the follow-
15 ing amounts:

(a) The amount of penal payroll tax so assessed:

(b) An amount calculated, in respect of the period commencing with the day immediately following the day on which the deficient payroll tax became payable and ending with the day on which the assessment of the penal payroll tax is made by the Commissioner, at the rate of 10 percent per annum of
20 the amount of the deficient payroll tax.

(2) Subject to the provisions of subsection (1) of this section, the provisions of section 20 of this Act shall apply to an objection to an assessment of penal payroll tax, save that the burden of proving the offence in respect of which penal payroll tax is chargeable shall lie upon the Commissioner.
25

34. Recovery of penal payroll tax from executors and administrators—(1) Penal payroll tax shall be assessable against and recoverable from the executors or administrators of a deceased employer, but, if so assessed, the amount thereof shall be recoverable only as a debt incurred by the deceased in his lifetime.
30

(2) Subject to Part VII of this Act, no penal payroll tax shall be recoverable from any person other than the employer himself, or his executors or administrators.
35

35. Recovery of penal payroll tax not affected by conviction of employer—The assessment or recovery of penal payroll tax
40 in respect of any offence shall not be in any manner barred or affected by the fact that the employer has been convicted under this Act of the same or any other offence; but no person who has paid the penal payroll tax assessed against him for any offence shall be thereafter convicted of the same offence.

36. Publication of names of payroll tax evaders—The provisions of section 238 of the Land and Income Tax Act 1954, as far as they are applicable and with the necessary modifications, shall apply for the purposes of this Act, as if—

- (a) For the words “paragraph (b) of subsection (1) of section 228 of this Act” in paragraph (a) of subsection (1) there were substituted the words “paragraph (b) of subsection (1) of section 27 of the Payroll Tax Act 1970”; and 5
- (b) For the word “taxation” in paragraph (a) of subsection (1) there were substituted the words “payroll tax”; and 10
- (c) For the word “tax” in paragraph (b) of subsection (1) and in paragraphs (d) and (e) of subsection (3) there were substituted the words “payroll tax”; and 15
- (d) For the word “taxpayer” wherever it occurs in subsection (2) and in paragraph (a) of subsection (3) there were substituted the word “employer”; and
- (e) For the word “income” in paragraph (d) of subsection (3) there were substituted the words “chargeable wages”. 20

PART VII

AGENTS

37. Interpretation—For the purposes of this Part of this Act— 25

“Absentee” means—

(a) Any person (other than a company) who is for the time being out of New Zealand:

(b) Any overseas company, unless it has a fixed and permanent place of business in New Zealand at which it carries on business in its own name: 30

(c) Any overseas company which is declared by the Commissioner to be an absentee for the purposes of this Act by notice given to that company or to its agent or attorney in New Zealand, so long as that declaration remains unrevoked: 35

“Overseas company” means any company other than one incorporated in New Zealand.

Agents Generally

38. **Commissioner may declare a person to be the agent of another person**—The Commissioner may from time to time declare any person to be the agent of any other person for the purposes of this Act.

39. **General provisions**—With respect to every agent, the following provisions shall apply:

- 10 (a) He shall be answerable as an employer for the doing of all such things as are required to be done pursuant to the provisions of this Act in respect of the payment of any chargeable wages:
- 15 (b) He shall, in respect of such chargeable wages, make the returns and be chargeable with payroll tax thereon as if he were the principal, and each return shall, except as otherwise provided by this Act, be separate and distinct from any other:
- 20 (c) Where as agent he pays any payroll tax, he may recover the amount so paid from his principal, or may deduct the amount from any money in his hands belonging or payable to his principal:
- 25 (d) He may from time to time retain out of any money belonging or payable to his principal such sums as may reasonably be deemed sufficient to pay the payroll tax for which he is or may become liable:
- (e) He shall be personally liable for the payroll tax payable in respect of the chargeable wages in respect of which he is an agent.

40. **Liability of principal not affected**—(1) Nothing in this Act relating to an agent shall be so construed as to release the principal from liability to make returns and to be chargeable with, and assessable and liable for, payroll tax or further payroll tax.

35 (2) No assessment of the agent shall preclude an assessment of the principal for the same payroll tax or further payroll tax, nor shall an assessment of the principal preclude an assessment of the agent for the same payroll tax or further payroll tax, and the principal and agent shall be jointly and severally liable for all payroll tax or further payroll tax for which the agent is liable.

40 (3) Where 2 or more persons are chargeable as agents with the same payroll tax or further payroll tax, they shall be jointly and severally liable therefor.

41. Relation of principal and agent arising in effect—When the Commissioner is satisfied that any person carrying on business in New Zealand (herein called the agent) is so far under the control of any other person carrying on business in New Zealand or elsewhere (herein called the principal) that the relation between them is in effect that of agent and principal, he may treat the first-mentioned business as that of the principal, and as being carried on by the agent on his behalf, and may require returns to be made, and may make assessments accordingly, and the principal and agent shall be liable for payroll tax or further payroll tax accordingly.

Special Cases of Agency

42. Guardian or committee of person under disability to be his agent—Every person who, as guardian, committee, or otherwise, has—

(a) The possession, control, or management of any real or personal property of; or

(b) The receipt, control, or disposition of any income derived by, or of any money belonging to,—

any other person who is under any legal or other disability shall for the purposes of this Act be the agent of that other person in respect of all chargeable wages paid or payable by that other person, and shall make returns and shall be chargeable with, and assessable and liable for, payroll tax or further payroll tax accordingly.

43. Liability of mortgagee in possession—For the purposes of this Act, a mortgagee in possession of any land or other property shall, to the extent that—

(a) He derived income from that land or other property on behalf of or for the benefit of the mortgagor; or

(b) Money otherwise comes into his hands, being money belonging or payable to the mortgagor,—

be deemed to be the agent of the mortgagor in respect of all chargeable wages paid or payable in respect of that land or other property or of any business in which that land or other property is used, and the mortgagee shall make returns and shall be chargeable with, and assessable and liable for, payroll tax or further payroll tax accordingly.

44. Liability of new companies for payroll tax payable by former companies with substantially the same shareholders or under the same control—The provisions of section 185 of the Land and Income Tax Act 1954, as far as they are

applicable and with the necessary modifications, shall apply for the purposes of this Act, as if every reference therein to income tax or to tax were a reference to payroll tax.

Agents of Absentees

5 **45. Liability of agent of absentee principal for returns and payroll tax**—Every person who in New Zealand, for or on behalf of a principal who is an absentee, carries on, holds, or has the management or control of any business shall for the purpose of this Act be the agent of that principal in respect
10 of all chargeable wages paid or payable in that business, and shall make returns and shall be chargeable with, and assessable and liable for, payroll tax accordingly.

46. Person having possession or control of property to be agent of absentee—Every person who has the possession, control, or management of any real or personal property of any
15 other person who is an absentee and who is liable to pay payroll tax under this Act shall for the purposes of this Act be the agent of that other person in respect of all chargeable wages paid or payable by that other person in respect of
20 that property or of any business in which that property is used, and shall make returns and shall be chargeable with, and assessable and liable for, payroll tax or further payroll tax accordingly.

PART VIII

25 GENERAL PROVISIONS

47. Keeping of records—(1) Subject to subsection (2) of this section, every person who is an employer shall, for the purposes of this Act, keep sufficient records in the English language to enable his chargeable wages and his liability for
30 payroll tax to be readily ascertained by the Commissioner or any officer authorised by him in that behalf, and shall retain all such records for a period of at least 7 years after the completion of the transactions to which they relate.

(2) This section shall not require the retention of any
35 records—

- (a) In respect of which the Commissioner has notified the employer that retention is not required:
- (b) Of a company which has been wound up and finally dissolved.

48. Regulations—The Governor-General may from time to time, by Order in Council, make regulations, not inconsistent with this Act, providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

5

49. Transitional provisions—(1) Notwithstanding anything in this Act, the following provisions shall apply with respect to the period commencing on the 1st day of August 1970 and ending with the 31st day of March 1971 (that period being referred to in this section as the specified period) namely:

10

(a) Instead of the deduction provided in subsection (1) of section 6 of this Act, there shall be deducted from the total amount of chargeable wages paid or payable by an employer in the specified period—

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(i) In the case of a person who was an employer during the whole of the specified period, the amount of \$5,200; or

(ii) In the case of a person who was an employer during part only of the specified period, an amount which bears to \$5,200 the same proportion as the number of months in that part of the specified period (being months during which he was an employer or is deemed to be, or treated as, an employer by virtue of subsection (2) of this section) bears to 8:

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Provided that where the total amount of wages that would have been chargeable wages in the period that commenced on the 1st day of April 1970 and ended with the 31st day of July would have been less than \$2,600 if payroll tax had been payable in respect of chargeable wages paid or payable in that period, there shall be allowed a further deduction from the total amount of chargeable wages paid or payable by the employer in the specified period of the amount by which the general exemption which would have been allowed in that first-mentioned period exceeds the amount that would have been chargeable wages in that period if payroll tax had been payable in respect of chargeable wages paid or payable in that period:

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(b) Any wages (not being wages of any of the kinds which are exempt from payroll tax under section 7 of this Act) paid before the 1st day of August 1970

shall, to the extent that they are paid in respect of a period on or after that date, be deemed to be chargeable wages and to have been paid on that date:

5 (c) Any wages (not being accrued holiday pay or accrued long-service leave pay) paid or payable in the specified period shall, to the extent to which they are paid or payable in respect of a period before the 1st day of August 1970, be deemed to have been paid
10 and payable before that date.

(2) Subsections (2), (3), and (4) of section 6 of this Act shall apply, with any necessary modifications, with respect to any deduction allowed under paragraph (a) of subsection (1) of this section.

15 **50. Relief from payroll tax on account of certain contracts made on or before 25 June 1970—**(1) For the purpose of this section there is hereby established a committee to be called the Transitional Relief Committee (hereinafter referred to as the Committee).

20 (2) The Committee shall consist of 3 members, one of whom shall be appointed as the Chairman. The members shall be appointed by the Governor-General on the recommendation of the Minister of Finance, and shall hold office during the pleasure of the Governor-General.

25 (3) At least 1 member of the Committee shall be a barrister or solicitor of the Supreme Court and at least 1 other shall be a member of the New Zealand Society of Accountants.

(4) A deputy for any member of the Committee may at any time be appointed in the manner in which that member
30 was appointed, to act,—

(a) For that member, while he remains in office, at any meeting of the Committee which that member does not attend:

35 (b) In place of that member if he vacates office (whether by reason of death or resignation or otherwise),— until that member's successor is appointed or the deputy's appointment is sooner revoked.

(5) Every such deputy while acting for or in place of a member shall, for all purposes, be deemed to have been
40 appointed to the office of that member, and, in the case of a deputy for the Chairman, shall while so acting be the Chairman of the Committee.

(6) The Committee shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this section, all the provisions of that Act, except sections 11 and 12 (which relate to costs), shall apply accordingly. 5

(7) For the purpose of considering any application under this section, the Committee shall have free access to all records under the control of the Commissioner relating to the applicant. 10

(8) Every question before the Committee shall be decided by the majority of the members.

(9) Every determination of the Committee under this section shall be final.

(10) Subject to this section, the Committee may regulate its procedure in such manner as it thinks fit. 15

(11) There shall be paid, out of money appropriated by Parliament for the purpose, to the members of the Committee remuneration by way of fees, salary, or travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the members of the Committee were members of a statutory board within the meaning of that Act. 20

(12) Where in any case any employer— 25

(a) Has on or before the 25th day of June 1970 entered into a binding contract for the supply of goods or services; and

(b) Has made application in writing to the Committee within 1 month after the date upon which he is liable to make any payment of payroll tax in respect of any chargeable wages paid or payable to any persons who are engaged by him in the performance of that contract, or within such later time as the Committee, in its discretion, may allow; and 30 35

(c) Establishes to the satisfaction of the Committee that, by reason of the terms of that contract, payment of the full amount of that payroll tax would result in a serious deterioration in the financial stability and viability of his business,— 40

the Committee may determine that the employer shall be relieved from liability to pay payroll tax to such extent and on such terms as it determines.

5 (13) Upon receiving notice of any such determination from the Committee, the Commissioner shall thereupon take such steps (including the making of any refund or refunds) as are necessary to grant the employer relief from payroll tax to the extent and upon the conditions contained in that determination.

SCHEDULES

Section 7 (1) (a)

FIRST SCHEDULE

PUBLIC BODIES THE WAGES PAID BY WHICH ARE EXEMPT FROM PAYROLL TAX EXCEPT WAGES ATTRIBUTABLE TO ACTIVITIES REFERRED TO IN SECTION 7 (1) (a).

A Borough Council
 A Catchment Board
 A Catchment Commission
 A City Council
 A Committee of Management of a Secondary School
 A County Borough Council
 A County Council
 A County Town Committee (including the Tokoroa County Borough Committee)
 A District Milk Board
 A Domain Board
 A Drainage Board
 An Education Board
 A Fire Brigade Committee
 A Fire Committee
 A Governing Body of a Secondary School
 A Governing Body of a Teachers' College
 A Governing Body of a Technical Institute
 A Hospital Board
 A Hydatids Control Committee or Organisation
 A Metropolitan Milk Board
 A Museum Trust Board
 A Nassella Tussock Board
 A National Park Board
 A National Park Local Committee
 A Pest Destruction Board
 A Public Reserve Special Board, Trust, or Trust Board
 A Regional Authority
 A Regional Planning Authority
 A Regional Water Board
 A River Board
 A Scenic Board
 A Town Council
 An Underground Water Authority
 An Urban Fire Authority
 A Water Supply Board

SECOND SCHEDULE

Section 7 (1) (b)

DEPARTMENTS OF STATE THE WAGES PAID BY WHICH ARE EXEMPT OR PARTLY EXEMPT FROM PAYROLL TAX

Department of State	Extent of Exemption
Mines Department	All wages other than those charged to Works and Trading Account.
Ministry of Works	All wages other than wages which are attributable to work done or services performed for any other person which, if that other person had been liable to pay them, would have been subject to payroll tax.
New Zealand Forest Service	All wages other than those charged to Works and Trading Account.
Tourist and Publicity Department	<p>All wages other than—</p> <p>(a) Wages attributable to services performed by a person employed in a tourist bureau (not being services performed outside New Zealand by a person who is not resident in New Zealand):</p> <p>(b) Wages chargeable to the Rotorua Electric Supply.</p>
<p>All other Departments of State, including the State Advances Corporation of New Zealand, but not including—</p> <p>(a) The Public Trust Office:</p> <p>(b) The State Insurance Office:</p> <p>(c) The Government Life Insurance Office:</p> <p>(d) The New Zealand Electricity Department:</p> <p>(e) The Post Office:</p> <p>(f) The New Zealand Government Railways Department:</p> <p>(g) The Government Printing Office:</p> <p>(h) The Export Guarantee Office.</p>	<p>All wages, including, in relation to the Ministry of Defence, all wages paid to members of the New Zealand Armed Forces.</p>

Section 7 (1) (e)

THIRD SCHEDULE

PERSONS OR BODIES EXEMPT FROM PAYROLL TAX IN RESPECT OF
ALL WAGES

1. The Governor-General.
2. A Maori authority as defined in section 158 of the Land and Income Tax Act 1954.
3. Cemetery Trustees under the Burial and Cremation Act 1964.
4. Any company having for its sole or principal object the treatment or sale of milk, the income from which activity is exempt from income tax pursuant to section 86 (1) (g) of the Land and Income Tax Act 1954.
5. Any milk treatment corporation which is exempt from income tax pursuant to section 86 (1) (gg) of the Land and Income Tax Act 1954.
6. Any person engaged wholly or principally in the treatment or treatment and sale of milk in a milk treatment station and whose objects are similar to those of a milk treatment corporation referred to in clause 5 of this Schedule.
7. Any advisory board, advisory council, or advisory committee established by any Act.
8. Any herd improvement society or association, the income of which is exempt from income tax under section 86 (1) (ooo) of the Land and Income Tax Act 1954.
9. Any person exempted pursuant to the Diplomatic Privileges and Immunities Act 1968 from payment of taxes.
10. Any primary producer board or marketing board established by any Act.
11. Any society or association for the purpose of promoting or encouraging scientific or industrial research the income of which is exempt from income tax under section 86 (1) (mm) of the Land and Income Tax Act 1954.
12. A private primary school or private secondary school registered under the Education Act 1964.
13. A school in New Zealand (whether public or private) for the deaf, the dumb, the blind, the mentally defective, the intellectually handicapped, the crippled, or the otherwise disabled or afflicted or handicapped.
14. A society, institution, association, organisation, or trust (not being a public body) established exclusively for charitable purposes and not carried on for the private pecuniary profit of any person.
15. The Veterinary Services Council and any veterinary club, society, or association the income of which is exempt from income tax under section 86 (1) (oo) of the Land and Income Tax Act 1954.
16. Any society or association established substantially or primarily for the purpose of the improvement of any district, being a society or association the income of which is exempt from income tax under section 86 (1) (q) of the Land and Income Tax Act 1954.
17. A university within the meaning of the Universities Act 1961.
18. The Armed Forces Canteen Council.
19. The Carter Observatory Board.
20. The Consumer Council.

THIRD SCHEDULE—*continued*

21. The Government Superannuation Board.
22. The Maori Education Foundation.
23. The Medical Research Council.
24. The National Provident Fund Board.
25. The National Roads Board, and any District Roads Council.
26. The New Zealand Broadcasting Authority.
27. The New Zealand Foundation for the Blind.
28. The New Zealand Historic Places Trust.
29. The New Zealand Industrial Design Council.
30. The New Zealand Inventions Development Authority.
31. The New Zealand Wool Commission.
32. The New Zealand Wool Testing Authority.
33. The Parliamentary Commissioner (Ombudsman).
34. The Queen Elizabeth the Second Arts Council.
35. The Reserve Bank of New Zealand.
36. The Royal Society of New Zealand.
37. The Standards Council.
38. The Trustees of the National Library.
39. The University Grants Committee.
40. The Vocational Training Council.
41. The Wairarapa Cadet Training Farm Trust Board.
42. The Winston Churchill Memorial Trust Board.
43. The Workers' Compensation Board.