

# Supplementary Order Paper

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## HOUSE OF REPRESENTATIVES

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Wednesday, the 16th Day of October 1957

### INCOME TAX ASSESSMENT BILL

HON. MR WATTS, in Committee, to move the following amendments:

*Clause 2, subclause (1):* To omit the definition of the term "employment" in lines 15 to 17 (page 4):

To omit the definition of the term "pension fund" in lines 40 to 44 (page 5):

To omit from the definition of the term "salary or wages" the words "or retiring allowance" in line 36 (page 6), and substitute the words "retiring allowance, or other allowance or annuity":

To insert in the same definition, after the words "past employment of that person" in line 37, the words "or of any person of whom that person is or has been the wife or husband or a child or dependant":

To omit from the definition of the term "subsisting company" the words "has made" in line 13 (page 7), and substitute the words "by virtue of":

To omit from the same definition the word "to" in line 14, and substitute the word "has".

*Clause 5, subclause (5):* To add to the subclause the words "or deductible on or before or after that date from any salary or wages or other income for any period before that date".

*Clause 7, subclause (4):* To add the following provisos:

Provided that where, by reason of the size or nature of the employer's business or organisation, the dispersal of employees, or difficulty in assembling particulars, or for any other reason approved by the Commissioner, it is impracticable for an employer to pay overtime pay for a pay period at the same time as the other salary or wages for the pay period, the overtime pay of any employee for the pay period may, for the purpose of calculating the amount of the tax deduction, be aggregated with the employee's salary or wages (other than overtime pay) for a subsequent pay period if, in respect of both pay periods,—

(a) The amounts of the employee's salary or wages (other than overtime pay) are substantially the same; and

(b) The amounts of the tax deductions applicable to the employee's salary or wages are the same; and

(c) The tax code applicable to the employee is the same:

Provided also that, where it is the practice of an employer to pay overtime pay for an interval of time which is of the same length as a pay period of an employee but does not coincide with any such pay period, the overtime pay of the employee for any such interval may, for the purposes of the first proviso to this subsection, be deemed to be overtime pay for the pay period during which that interval ends, if the amounts of the employee's salary or wages (other than overtime pay) for that interval and for that pay period are substantially the same.

*Clause 9, subclause (1):* To omit the words "or retiring allowance" in line 43 (page 10) and line 1 (page 11), and substitute the words "retiring allowance, or other allowance, or annuity".

*Clause 10, subclause (1):* To omit the word "pension" in line 24 (page 11), and substitute the word "superannuation"; to omit the word "pension" in line 29, and substitute the word "superannuation".

**NOTE**—These amendments will involve the substitution of the word "superannuation" for the word "pension" in the headnote to clause 10, and also in the headnote to clause 1 of the First Schedule (page 71).

*Clause 14, subclause (1):* To omit paragraph (a) in lines 14 to 17 (page 16), and substitute the following paragraph:

- (a) The marriage has subsisted at any time during the year in which the employee delivers the tax code declaration to the employer or to the Commissioner, and the spouse has been supported by the employee at any time during that year; and

*Clause 24, subclause (2):* To omit the word "pension" in line 26 (page 26), and substitute the word "superannuation".

*Clause 27, subclause (1):* To omit the word "pension" in line 30 (page 28), and substitute the word "superannuation".

*Clause 32, subclause (2):* To omit the word "subsection" in line 25 (page 32), and substitute the word "section".

*Clause 32:* To omit subclauses (3), (4), and (5), and substitute the following subclauses:

(2A) For the purposes of this section the expression "registration Act to which the property is subject", in relation to any property, means—

- (a) The Land Transfer Act 1952 or the Deeds Registration Act 1908, as the case may require, in every case where the property is land or an interest in land (including a mortgage);
- (b) The Chattels Transfer Act 1924 in every case where an instrument creating a charge over the property, if executed by an individual, would require registration under that Act;
- (c) Part IV of the Companies Act 1955 in every case where an instrument creating a charge over the property, if executed by a company, would require registration under that Part of that Act (whether or not the property is land or an interest in land).

(2B) The Commissioner may register any charge on any property created by this section under any registration Act to which the property is subject by depositing with the appropriate Registrar a certificate under the hand of the Commissioner setting forth the description of the property charged and the amount payable; and in every such case the Registrar shall, without payment of any fee, register the certificate as if it were an instrument registrable under the registration Act.

(2c) Upon the registration of any such certificate under any registration Act it shall be deemed to be actual notice to all persons of the existence and amount of the charge, and the charge shall have operation and priority accordingly in relation to the property that is subject to the charge and to the registration Act:

Provided that in so far as any mortgage that is registered in respect of that property before the registration of the charge secures any money that is advanced after written notice of the charge or of the registration of the charge has been given to the mortgagee, or to any solicitor for the time being acting for the mortgagee in respect of the mortgage, the charge shall have priority over the mortgage.

(2D) When any registered charge has been satisfied, the Commissioner shall deposit with the appropriate Registrar a release of the charge, and the Registrar shall, without payment of any fee, register the release as if it were an instrument registrable under the registration Act.

*Clause 32, subclause (6)*: To omit the word "land" in line 10 (page 33), and substitute the word "property".

*Third Schedule*: To omit from paragraph (a) of the new subsection (6) to be added to section 85 (on page 103) the words "(otherwise than in respect of contributions to a pension fund)":

To omit from paragraph (b) of the said new subsection (6) the words "(otherwise than in respect of contributions to a pension fund)":

To omit from the said paragraph (b) the words "(not being contributions to a pension fund)":

To omit from the new subsection (7) to be added to section 85 (on page 104) the words "otherwise than in respect of contributions to a pension fund".

#### EXPLANATORY NOTE

*Clause 2, subclause (1)*: The definition of the term "employment" is to be omitted so as to let the term have its natural meaning, and not a meaning based on the extended meanings given to the terms "employer" and "employee".

The definition of the term "pension fund" is to be omitted because the term "superannuation fund" is to be substituted for the term "pension fund" in *clause 10* and other parts of the Bill.

The amendments to the definition of the term "salary or wages" are to make it clear that the definition includes widows' annuities and allowances to children and dependants as well as other superannuation allowances.

The definition of the term "subsisting company" is altered so as to make its application more precise in accordance with *clause 42 (3)*.

*Clause 5, subclause (5)*: The amendment is to make it clear that salary or wages for any period before 1 April 1958, will be subject to the deduction of social security charge, although payment of the salary or wages may be made after that date.

*Clause 7, subclause (4)*: The first proviso enables an employer to aggregate any payment of overtime pay with the ordinary wages for a subsequent pay period where it is impracticable to pay the overtime pay at the same time as the ordinary wages for the pay period in which the overtime pay is earned. The power will not be exercisable unless the ordinary wages for the two pay periods are substantially the same and the rates of tax deductions and the employee's tax code have remained unchanged.

The second proviso enables an employer to treat the interval for which he normally pays overtime pay as coinciding with a pay period of an employee for ordinary wages, where the interval is of the same length as the pay period but ends with a different day, being a day during the pay period. This power will not be exercisable unless the ordinary wages for the interval and the pay period are substantially the same.

*Clause 9, subclause (1)*: The amendment is consequential on the amendment to the definition of the term "salary or wages" in *clause 2 (1)*.

*Clause 10, subclause (1)*: The amendments will make the clause apply to all superannuation funds, and not merely to those that provide for a periodic pension.

*Clause 14, subclause (1)*: This amendment is to make it clear that a spouse is to be treated as a dependant where the marriage takes place during the income year.

*Clause 24, subclause (2)*: This amendment is consequential on the amendments to *clause 10*.

*Clause 27, subclause (1)*: This amendment is consequential on the amendments to *clause 10*.

*Clause 32, subclause (2)*: This amendment will make subclause (2) subject to the other provisions of the clause, including in particular subclause (2c) relating to the priority of charges on property that is subject to the Land Transfer Act or any other registration Act.

*Clause 32, subclauses (2A) and (2B)*: These subclauses will enable the Commissioner of Inland Revenue to register a charge under the Land Transfer Act 1952 or the Deeds Registration Act 1908, or under the Chattels Transfer Act 1924, or under Part IV of the Companies Act 1955.

*Clause 32, subclause (2c)*: This subclause provides that a charge on property subject to any of those Acts will have priority according to the date of its registration, except that it will have priority over further advances made under a prior mortgage after express notice of the charge has been given to the mortgagee or his solicitors.

*Clause 32, subclause (2d)* provides for registering a release of a registered charge after it has been satisfied.

*Clause 32, subclause (6)*: This amendment is consequential on the extension of the registration provisions to other property as well as land.

*Third Schedule*: The amendments are consequential on the amendments to *clause 10*.