



NORFOLK ISLAND

PUBLIC WORKS LEVY AMENDMENT NO. 2 ACT 1989

Act No 25 of 1989

An Act to amend the Public Works Levy Ordinance 1976

[Assented to 29 December 1989]

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows -

Short title

1. This Act may be cited as the Public Works Levy Amendment No. 2 Act 1989.

Commencement

2. (1) This Act comes into operation on a date, or dates, fixed by the Administrator by notice published in the Gazette.

(2) The Administrator may fix different dates for the commencement of different provisions of this Act.

Principal Ordinance

3. The Public Works Levy Ordinance 1976 is in this Act referred to as the Principal Ordinance.

Interpretation

4. Section 3 of the Principal Ordinance is amended -

- (a) by omitting from paragraph (b) of the definition of "income" in subsection (1) "Social Services Act 1947" and substituting "Social Security Act 1947";
- (b) by omitting from paragraph (c) of the definition of "income" in subsection (1) "Repatriation Act 1920" and substituting "Veterans' Entitlements Act 1986";

- (c) by inserting after the definition of "income" in subsection (1) -

"'levy' means the levy imposed by section 5 or 5A;";

- (d) by omitting the definition of "levy period" in subsection (1) and substituting -

"'levy period', in respect of a levy day, means the period of 6 months beginning on the day after that levy day;";

- (e) by adding at the end of subsection (1) -

"'previous levy period', in respect of a levy day, means the period of 6 months ending on that levy day."; and

- (f) by omitting subsection (3) and substituting -

" (3) A person is, for the purposes of this Ordinance, a prescribed person if -

(a) the person has become a prescribed person under subsection (3A); and

(b) the person has not, under subsection (3B), ceased to be a prescribed person.

(3A) A person becomes a prescribed person when -

(a) the person has reached the age of 18 years; and

(b) the person -

(i) having arrived in Norfolk Island during the previous 120 days, shows an intention to be present in Norfolk Island for more than 120 days; or

(ii) has been present in Norfolk Island for more than half of the previous 240 days.

(3B) A person ceases to be a prescribed person when -

(a) the person leaves Norfolk Island without having an intention to return permanently to Norfolk Island within the next 180 days, and that intention is expressed by the person in the prescribed form; or

(b) the person has not been present in Norfolk Island for a continuous period of 180 days.

(3C) Subsection (3) does not prevent a person who has ceased, under subsection (3B), to be a prescribed person from again becoming, under subsection (3A), a prescribed person."

Public works levy

5. Section 5 of the Principal Ordinance is amended by adding at the end -

" (2) In spite of paragraph (1)(b), if the executive member is satisfied that a prescribed person is a person eligible under the Veterans' Entitlements Act 1986 of the Commonwealth to be provided with treatment, within the meaning of that Act, for any injury suffered or disease contracted by the person, the amount of levy payable under this section is \$100."

Reduction of levy

6. The Principal Ordinance is amended by omitting section 5A and substituting -

First payment of levy

"5A. (1) Subject to this Ordinance, when a person becomes a prescribed person during a levy period, the person becomes liable to pay levy to the Administration in respect of that levy period.

(2) The amount of the levy so payable is the greater of -

(a) \$40; or

(b) subject to subsection (3), an amount calculated according to the formula -

$$D \times \$1,$$

where 'D' is the number of days within the period beginning on the day the person becomes a prescribed person and ending on the next levy day.

(3) If an amount calculated under paragraph (2)(b) exceeds \$160, the amount is to be taken to be \$160."

Deduction for dependants

7. Section 6 of the Principal Ordinance is amended by omitting subsections (1) and (2) and substituting -

" (1) Where, in relation to levy imposed by section 5, one or more persons were dependants of a person during the previous levy period, the executive member may declare that the amount of levy payable by the person in respect of the levy day at the end of that period is to be reduced by \$10 in respect of each dependant.

(2) Where, in relation to levy imposed by section 5A, one or more persons were dependants of a person during the period of 6 months ending on the day on which the person became a prescribed person, the executive member may declare that the amount of the levy payable by the person under that section is to be reduced by \$10 in respect of each dependant."

Reduction of levy

8. Section 7A of the Principal Ordinance is amended -

(a) by omitting subsection (1) and substituting -

" (1) A person may apply to the executive member, in accordance with a form supplied by the executive member, for a declaration that the person's income for the purposes of this Ordinance -

- (a) in relation to levy imposed by section 5 - received during the previous levy period; or
- (b) in relation to levy imposed by section 5A - received during the period of 6 months ending on the day on which the person became a prescribed person,

is an amount falling within one of the groups specified in Column 2 of the Table in subsection (4).";

- (b) by omitting from subsection (2) "prescribed period after service" and substituting "prescribed period, or such longer period as the executive member determines in respect of the application, after service"; and
- (c) by inserting after subsection (4) -

" (4A) The Table in subsection (4) may be altered by the regulations.".

Exemption from payment of public works levy

9. Section 8 of the Principal Ordinance is amended by adding at the end -

" (5) Where, on an application in writing made by a prescribed person in relation to levy imposed by section 5A, the executive member is satisfied that, had the application been made under subsection (1) after the next levy day, it would have been granted, the executive member shall direct that the prescribed person be exempted from the payment of levy in respect of the levy period to which the application relates.".

Assessment Notices

10. Section 11 of the Principal Ordinance is amended by inserting after subsection (1) -

" (1AA) Subject to section 11A, as soon as practicable after a person becomes a prescribed person during a levy period, the executive member shall cause to be served upon the person an Assessment Notice in respect of levy imposed by section 5A."

Persons with low incomes

11. The Principal Ordinance is amended by omitting section 11A and substituting -

Persons with low incomes

"11A. (1) If, apart from this section, an Assessment Notice would be required to be served on a person, and the executive member is satisfied -

- (a) in relation to levy imposed by section 5 - that the person did not receive during the previous levy period an income for the purposes of this Ordinance of more than \$2500; or
- (b) in relation to levy imposed by section 5A - that the person did not receive during the period of 6 months ending on the day on which the person became a prescribed person an income for the purposes of this Ordinance of more than \$2500,

the executive member may, by written instrument -

- (c) dispense with the service of the Assessment Notice on the person; and
 - (d) direct that the person be exempted from payment of levy in respect of the relevant period.
- (2) If regulations made under subsection 7A(4A) alter the amount of \$2500 in the Table referred to in that subsection, or further alter the amount as so altered, the amount of \$2500 referred to in paragraphs (1)(a) and (b) is correspondingly altered.

Refund of levy

11B. (1) When a person ceases during a levy period to be a prescribed person, the person may, on or before the next levy day or within the prescribed period after it, apply in writing to the executive member for a refund of levy paid in respect of that levy period.

(2) If the executive member is satisfied that an applicant under subsection (1) -

(a) ceased, on a particular date within a levy period, to be a prescribed person; and

(b) paid levy in respect of that period,

the executive member is to refund to the applicant an amount calculated according to the formula -

$$\frac{L}{180} \times P,$$

where -

'L' is the amount of levy paid by the applicant;

'P' is the number of days within the period beginning on the day on which the person ceased to be a prescribed person and ending on the next levy day."

Transitional

12. (1) Subsection 5(2) of the Principal Act, as inserted by this Act, applies in relation to levy payable in respect of the 15 November 1989 levy day, as well as to levy days occurring after the commencement of this Act.

(2) Section 11B of the Principal Act, as inserted by this Act, does not apply in relation to persons who became prescribed persons before the commencement of this Act.

Minor and consequential amendments

13. The Principal Ordinance is amended in accordance with the Schedule.

SCHEDULE

Section 13

<u>Column 1</u> <u>Item</u>	<u>Column 2</u> <u>Provision amended</u>	<u>Column 3</u> <u>Amendment</u>
1	Section 5	Omit "who has attained the age of 18 years"
2	Section 5AA	Omit "levy"
3	Subsection 7(1)	Omit "levy" (twice occurring)
4	Subsection 7(1)	Add at the end "or under a law of Norfolk Island or of another place"
5	Subsection 7(3)	Omit "in respect of a levy period", substitute "for the purposes of this Ordinance in respect of a period"
6	Subsection 7(3)	Omit "that levy period", substitute "that period"
7	Subsection 7A(3)	Omit "received by the person during the levy period fell", substitute "received by the person during the relevant period falls"
8	Subsection 7A(3)	Omit "income fell", substitute "income falls"
9	Subsection 8(1)	Omit ", the executive member is satisfied that", substitute "in relation to levy imposed by section 5, the executive member is satisfied that"
10	Subparagraph 8(1)(a)(i)	Omit "levy period", substitute "previous levy period"

<u>Column 1</u> <u>Item</u>	<u>Column 2</u> <u>Provision amended</u>	<u>Column 3</u> <u>Amendment</u>
11	Subparagraph 8(1)(a)(ii)	Omit "applicable to that levy period", substitute "at the end of that period"
12	Subparagraph 8(1)(a)(iii)	Omit "levy period", substitute "period"
13	Subsection 8(1)	Omit "in respect of that levy period", substitute "in respect of the levy day at the end of that period"
14	Subsection 8(4)	Omit "this section", substitute "subsection (1)"
15	Subsection 8(4)	Omit "a levy period", substitute "a previous levy period"
16	Subsection 8(4)	Omit "that levy period", substitute "that period"
17	Paragraph 9(a)	Omit "in respect of a levy period", substitute "under this Ordinance"
18	Paragraph 9(a)	Omit "5A or"
19	Paragraph 9(c)	Omit "a levy payable in respect of a levy period", substitute "levy"

Notified Gazette No 57, 29 December 1989

Commenced - sections 1, 2, 3 and 5, subsection 12(1): 1 January 1990 (Gazette No 57, 29 December 1989)

- remaining provisions: 1 March 1990 (Gazette No 8, 22 February 1990)

This enactment amends Ordinance No 4 of 1976 as previously amended by Ordinance No 13 of 1979, Act No 8 of 1980, Act No 13 of 1981, Act No 13 of 1983, Act No 14 of 1983, Act No 17 of 1984, Act No 14 of 1985, Act No 4 of 1988 and Act No 21 of 1989

Printed on the authority of the Administrator