

## LAND TAX MANAGEMENT ACT.

### Act No. 26, 1956.

An Act to make provision relating to the imposition, assessment and collection of a land tax upon unimproved values of certain lands; to repeal the Land and Income Tax Assessment Act of 1895, and certain other Acts; to amend the Landlord and Tenant (Amendment) Act, 1948, as amended; and for purposes connected therewith. [Assented to, 31st October, 1956.]

Elizabeth II,  
No. 26, 1956.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

#### PART I.

##### PRELIMINARY.

**1.** (1) This Act may be cited as the "Land Tax Management Act, 1956".

Short title,  
and division  
into Parts.

(2) This Act is divided into Parts as follows:—

PART I—PRELIMINARY.

PART II—ADMINISTRATION.

PART III—LAND TAX.

PART IV—RETURNS, ASSESSMENT AND LIABILITY.

PART V—OBJECTIONS AND APPEALS.

PART VI—COLLECTION AND RECOVERY OF LAND TAX.

PART

No. 26, 1956.

PART VII—VALUATION OF LANDS.

DIVISION 1—*Unimproved Value of Land.*DIVISION 2—*Valuations by Western Lands Commissioner.*

PART VIII—MISCELLANEOUS.

PART IX—GENERAL.

SCHEDULE.

**Construction.** 2. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected.

**Definitions.** 3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Act” includes regulations.

cf. Act No.  
22, 1910  
(Common-  
wealth), s. 3.

“Agent” includes every person who in the State, for or on behalf of any person out of the State (in this definition termed “the principal”) has the control or disposal of any land belonging to the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land.

“Assistant Commissioner” means the Assistant Commissioner of Land Tax.

“Commissioner” means the Commissioner of Land Tax.

cf. Act No.  
22, 1910  
(Common-  
wealth), s. 3.

“Company” includes all bodies or associations corporate or unincorporate.

cf. *Ibid.*

“Joint owners” means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have a life or greater interest in shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners.

“Land

“Land tax” means the land tax imposed as such by any Act, as assessed under this Act. Nc. 26, 1956.

“Land used for primary production” means land used primarily for— cf. Act No. 4905 (Vic.) s. 2.

- (a) the cultivation thereof for the purpose of selling the produce of such cultivation;
- (b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or
- (c) the keeping of bees thereon for the purpose of selling their honey,

and includes all land owned by a society registered as a rural society under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts.

“Mortgage” includes any charge whatever upon land, or interest therein, howsoever created, for the securing of money. cf. Act No. 22, 1910 (Commonwealth), s. 3.

“Mortgagee” includes every person entitled at law or in equity to a mortgage or any part thereof. cf. *Ibid.*

“Owned” and similar expressions have a meaning corresponding with that of owner. cf. *Ibid.*

“Owner” in relation to land, includes every person who jointly or severally, whether at law or in equity— cf. *Ibid.*

- (a) is entitled to the land for any estate of freehold in possession; or
- (b) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;

and includes every person who, by virtue of this Act, is deemed to be the owner.

“Person”

No. 26, 1956.

“Person” includes a company.

“Prescribed” means prescribed by this Act or by the regulations thereunder.

“Public authority” means the Metropolitan Water Sewerage and Drainage Board, the Hunter District Water Board, the Broken Hill Water Board, the Maritime Services Board of New South Wales, the Electricity Commission of New South Wales, the Housing Commission of New South Wales, the Water Conservation and Irrigation Commission, the Metropolitan Meat Industry Board, the Commissioner for Railways, the Commissioner for Government Transport, the Commissioner for Motor Transport, the Commissioner for Main Roads, the Sydney Harbour Transport Board, the Grain Elevators Board of New South Wales, the Board of Fire Commissioners of New South Wales, the Public Trustee (other than in his representative capacity), the Government Insurance Office of New South Wales, the Rural Bank of New South Wales, the Milk Board, the Joint Coal Board, the State Mines Control Authority, the Local Government Superannuation Board, and any public body declared by the Governor by order published in the Gazette to be a public authority.

“Regulations” means regulations made under this Act.

cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 3.

“Taxpayer” means any person chargeable with land tax.

cf. *Ibid.*

“Trustee”, in addition to every person appointed or constituted trustee by act of parties by order or declaration of a court or by operation of law, includes—

- (a) an executor or administrator, guardian, committee, receiver, or liquidator; and
- (b)

- (b) every person having or taking upon himself the administration or control of land affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control or management of the land of a person under any legal or other disability. No. 26, 1956.

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PART II.

ADMINISTRATION.

4. (1) The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint a Commissioner of Land Tax who may sue and be sued by that name and who shall be responsible for the due administration of this Act. Commissioner,  
Assistant  
Commissioner and  
other  
officers.

(2) The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint an Assistant Commissioner of Land Tax who shall exercise and perform such powers, authorities, duties and functions as he is required to exercise and perform by this Act or by the Commissioner.

(3) In the event of the absence, incapacity, or suspension of the Commissioner his powers, authorities, duties and functions may be exercised and performed during such absence, incapacity, or suspension by the Assistant Commissioner.

(4) In the event of the absence, incapacity, or suspension of both the Commissioner and Assistant Commissioner the Governor may, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer of the Public Service to exercise and perform the powers, authorities, duties and functions of the Commissioner.

(5)

No. 28, 1956.

(5) (a) The Commissioner may by writing under his hand delegate to the Assistant Commissioner or any other person any powers, authorities, duties and functions conferred or imposed upon him by this Act, except this power of delegation.

(b) Every delegation under this Act shall be revocable at will but any delegation shall not prevent the exercise of any power, authority, duty or function by the Commissioner.

(c) Where the exercise or discharge by the Commissioner of any power, authority, duty or function is dependent upon the opinion or belief of the Commissioner in relation to any matter, that power, authority, duty or function may be exercised or discharged by the delegate upon the opinion or belief of that delegate.

(6) The Governor may, under and subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint and employ such other persons as may be deemed necessary for the carrying out of this Act.

(7) For the purposes of this Act the Minister may, with the approval of the Minister of the Department concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

Notification  
of appoint-  
ment.

5. A notification in the Gazette that any person has been appointed as Commissioner, Assistant Commissioner, or other person for the purposes of this Act, shall be conclusive evidence of such appointment.

Secrecy.  
cf. Act No.  
48, 1941,  
s. 8.

6. (1) A person appointed or employed under this Act or whose services are made use of pursuant to subsection seven of section four of this Act shall not either directly or indirectly except in the performance of any power, authority, duty or function under this Act, and either while he is, or after he ceases to be so appointed or employed, make a record of, or divulge or communicate to any person, any information acquired by him respecting the affairs of any other person disclosed or obtained under the provisions of this Act.

(2)

(2) A person appointed or employed under this Act or whose services are made use of pursuant to subsection seven of section four of this Act shall not be required to produce in any court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his powers, authorities, duties or functions under this Act, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act. No. 26, 1956.

(3) Any person appointed or employed under this Act or whose services are made use of pursuant to subsection seven of section four of this Act shall, if and when required by the Commissioner to do so, make an oath or declaration in the manner and form prescribed to maintain secrecy in conformity with the provisions of this section.

Penalty: Two hundred and fifty pounds or imprisonment for twelve months.

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PART III.

LAND TAX.

7. Subject to the provisions of this Act, land tax at such rates as may be fixed by any Act shall be levied and paid upon the unimproved value of all lands situated in New South Wales which are owned by taxpayers, and which are not exempt from taxation under this Act.

Land tax on unimproved value.  
cf. Act No. 22, 1910 (Commonwealth), s. 10.

8. Land tax shall be charged on land as owned at midnight on the thirty-first day of October immediately preceding the year for which the land tax is levied.

Date of ownership for purposes of land tax.  
cf. *Ibid.* s. 12.

In this section "year" means the period of twelve months commencing on the first day of November.

9.

No. 23, 1956.

Taxable  
value.

9. (1) Land tax shall be payable by the owner of land upon the taxable value of all the land owned by him and not exempt from taxation under this Act.

(2) The taxable value of all the land owned by a person is the total sum of the unimproved value of each parcel of the land, less the deduction, if any, prescribed by subsection three of this section.

(3) (a) Where all the land owned by a person is land used for primary production the deduction shall be—

- (i) where the total unimproved value of the land does not exceed ten thousand pounds, an amount equal to such total unimproved value;
- (ii) where the total unimproved value of the land exceeds ten thousand pounds but is less than fifteen thousand pounds, an amount equal to ten thousand pounds less two pounds for every one pound by which such total unimproved value exceeds ten thousand pounds.

(b) Where none of the land owned by a person is land used for primary production the deduction shall be—

- (i) where the total unimproved value of the land does not exceed five thousand pounds, an amount equal to such total unimproved value;
- (ii) where the total unimproved value of the land exceeds five thousand pounds but is less than seven thousand five hundred pounds, an amount equal to five thousand pounds less two pounds for every one pound by which such total unimproved value exceeds five thousand pounds.

(c) Where part only of the land owned by a person is land used for primary production, the deduction shall be—

- (i) where the total unimproved value of all land owned by him does not exceed five thousand pounds, an amount equal to such total unimproved value;

(ii)



(ii) where the total unimproved value of all land owned by him exceeds five thousand pounds but is less than fifteen thousand pounds, the sum of the following amounts:—

- (a) an amount which bears the same proportion to the deduction which would be applicable if all the land owned by him were land used for primary production as the unimproved value of that part of the land used for primary production bears to the total unimproved value of all the land owned by him; and
- (b) an amount which bears the same proportion to the deduction which would be applicable if none of the land owned by him were land used for primary production as the unimproved value of such part of the land as is not land used for primary production bears to the total unimproved value of all the land owned by him.

(d) Where land owned by a person is being used, either wholly or in part, for the purpose of maintaining a registered flock of stud merino sheep, the deduction shall be the deduction (if any) prescribed by paragraph (a) or (c) of this subsection and an amount calculated at the rate of three pounds for every stud merino ewe owned by that person.

For the purpose of this paragraph "registered" means registered in the New South Wales section of the Australian Stud Merino Flock Register compiled by the New South Wales Sheepbreeders' Association and the number of stud merino ewes owned by a person shall be the total number of such ewes shown in the Annual Flock Return furnished by that person for the purposes of the Australian Stud Merino Flock Register as being owned by that person as at the thirty-first day of December immediately preceding the year for which land tax is being levied.

No. 26, 1956.

Land  
exempted  
from tax.  
cf. Act No.  
22, 1910  
(Common-  
wealth),  
s 13.

**10.** (1) Except where otherwise expressly provided in this Act the following lands shall be exempt from taxation under this Act:—

- (a) land owned by the Crown, or by a council of an area or a county council within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, or by any public authority;
- (b) land owned by any marketing board constituted under the Marketing of Primary Products Act, 1927, as amended by subsequent Acts;
- (c) land owned by or in trust for any incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929, as amended by subsequent Acts, or any private hospital or rest home licensed under the Private Hospitals Act, 1908, as amended by subsequent Acts;
- (d) land owned by or in trust for a charitable or educational institution if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;
- (e) land owned by or in trust for a religious society, where the land is held solely for, or the proceeds of the land are devoted solely to, religious, charitable or educational purposes, including the support of the aged or infirm clergy or ministers of the society, or their wives or widows or children;
- (f) land owned by or in trust for any association of employees or employers registered as an organization under the Conciliation and Arbitration Act 1904 (as amended by subsequent Acts) of the Parliament of the Commonwealth, or any trade union of employees, or any association of persons or of incorporated companies registered under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, as an industrial union of employers and land owned by any company in which shares representing not less than eighty-five

eighty-five per centum of the paid-up capital thereof are held by or in trust for any association or trade union referred to in this paragraph; <sup>No. 26, 1956.</sup>

- (g) land owned by or in trust for any person or society and used or occupied by that person or society solely as a site for—
- (i) a place of worship for a religious society, or a place of residence for any clergy or ministers or order of a religious society;
  - (ii) a place licensed under Part VII of the Child Welfare Act, 1939, as amended by subsequent Acts, or a school registered under section ten of the Public Instruction (Amendment) Act, 1916, as amended by subsequent Acts;
  - (iii) a building owned and solely occupied by a society, club or association not carried on for pecuniary profit;
  - (iv) a charitable institution not carried on for pecuniary profit;
  - (v) a public cemetery or crematorium;
  - (vi) a public garden, public recreation ground or public reserve;
  - (vii) a fire brigade, ambulance or mines rescue station;
- (h) land owned by, or in trust for, any club or body of persons, and used primarily and principally for the purposes of cricket, football, golf, bowling, tennis or other athletic sports or exercises and not used for the pecuniary profit of the members of that club or body;
- (i) land owned by, or in trust for, any club or body of persons, formed for promoting or controlling horse-racing, trotting-racing or greyhound-racing and used primarily and principally for the holding of meetings for horse-racing, trotting-racing or greyhound-racing;
- (j)

No. 25, 1956.

- (j) land used and occupied for the purpose of holding agricultural shows, or shows of a like nature and owned by, or held in trust for, a society which is established for the purpose of holding such shows and is not carried on for the pecuniary profit of its members and applies its revenues substantially towards the promotion or holding of such shows;
- (k) land owned by any society registered under the Friendly Societies Act, 1912, as amended by subsequent Acts;
- (l) land owned by a hospital benefits or medical benefits organization registered under the National Health Act 1953 (as amended by subsequent Acts) of the Parliament of the Commonwealth;
- (m) land owned by any building society established or registered or deemed to be established or registered as a building society under the Building and Co-operative Societies Act, 1901, or the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, or by any association of any such societies formed under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts;
- (n) land owned by any gas or electricity supply authority specified in the regulations to the extent, and from the date (whether that date is before or after the commencement of the regulations), prescribed by the regulations in respect of such authority;
- (o) land owned by the Returned Sailors, Soldiers and Airmen's Imperial League of Australia (New South Wales Branch) and being the site of Anzac House.

(2) Where a building, erected on land to which sub-paragraph (iii) of paragraph (g) of subsection one of this section would refer if the building were solely used or occupied by the persons or bodies specified in that

that sub-paragraph, is partly used or occupied, or is intended to be partly used or occupied, by persons other than those persons or bodies, the unimproved value of that land shall, for the purposes of the assessment of those persons or bodies, be reduced to an amount which bears the same proportion to that unimproved value as the rental value of the part so used or occupied, or intended to be so used or occupied, by those other persons bears to the total rental value of the building.

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(3) For the purposes of sub-paragraph (iii) of paragraph (g) of subsection one of this section, the use or occupation of any building or part of any building by any society, institution, club or association not carried on for pecuniary profit, which is affiliated with the owner of the land on which the building is erected, or with which that owner is affiliated, or which is controlled by or controls that owner, shall not be deemed to be use or occupation by a person other than the owner.

**11.** With respect to land which under section ten of this Act is exempt from land tax the exemption shall be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land.

Limitation  
of exemp-  
tion.  
cf. Act No.  
22, 1916  
(Common-  
wealth),  
s. 14 (a).

#### PART IV.

##### RETURNS, ASSESSMENT AND LIABILITY.

**12.** (1) For the purposes of the assessment and levy of land tax for the period of twelve months commencing on the first day of November in each year, including the year one thousand nine hundred and fifty-six, every person required by the Commissioner by notice published in the Gazette to furnish a return shall furnish to the Commissioner in the prescribed manner within the time specified in the notice or such extended time as the Commissioner may allow a return setting forth a full and complete statement of all land owned by him at midnight on the thirty-first day of October then last past, with such other particulars as may be prescribed or as may be specified in the notice.

Taxpayer to  
furnish  
returns.

(2)

No. 26, 1956.

(2) The Commissioner may at any time require any person to furnish a return or a further and fuller return setting forth a full and complete statement of all or any land owned by him, or in respect of which he is agent or trustee, at midnight on the thirty-first day of October in any year including the year one thousand nine hundred and fifty-six, with such other particulars as the Commissioner requires, and whether or not any return has previously been made by that person in respect of land owned by him, or in respect of which he is agent or trustee, on that date.

(3) All the provisions of this Act shall extend and apply to any return made or required in accordance with subsection two of this section and the Commissioner may cause assessments to be made upon or in respect of that return in such manner as is necessary.

Returns deemed to be duly made. cf. Act No. 22, 1910 (Commonwealth), s. 16.

**13.** Any return purporting to be made or signed by or on behalf of any person shall be deemed to have been duly made and signed by him until the contrary is proved.

Assessments to be made. cf. *Ibid.* s. 18.

**14.** Subject to this Act the Commissioner shall from the returns and from any other information in his possession or from any one or both of those sources, and whether any return has been furnished or not, cause an assessment to be made of the taxable value of the land owned by any taxpayer and of the land tax payable thereon.

Assessment in case of default or unsatisfactory return. cf. *Ibid.* s. 19.

**15.** If—

- (a) any taxpayer or person makes default in furnishing any return; or
- (b) the Commissioner is not satisfied with the return made by any taxpayer or person; or
- (c) the Commissioner has reason to believe that any person (though he may not have furnished a return) is a taxpayer;

the

the Commissioner may make an assessment of the amount which, in his judgment, is the taxable value of the land owned by the taxpayer or person and of the land tax payable thereon, and the land tax so assessed shall be the land tax payable by that taxpayer or person until or unless the assessment is varied in accordance with the provisions of this Act. No. 26, 1956.

**16.** (1) Subject to the provisions of this section, the Commissioner may, of his own motion or upon an application received from a taxpayer, amend any assessment by making such alterations in or additions thereto or such further alterations in or additions thereto as he thinks necessary to ensure its completeness and accuracy. Amendment  
of  
assessments.

(2) An amendment may be made under this section—

- (a) where an application by a taxpayer under this section is made within three years after the service of notice of the assessment or any amendment thereof and the taxpayer has supplied to the Commissioner within that period or such further period as the Commissioner may allow all information required for the purpose of deciding the application—at any time;
- (b) where the Commissioner is of the opinion that a taxpayer has attempted to evade the payment of land tax by failing to lodge a complete and accurate return—at any time;
- (c) in any other case—within three years after the service of notice of the assessment or of any amendment thereof.

(3) Where any amendment of an assessment has been made in accordance with this section and a period of more than three years has elapsed since the service of notice of the original assessment any further amendment

**No. 28, 1956.** amendment of the assessment shall, subject to the provisions of this section, be limited to the matter the subject of such prior amendment, notice of which was served within the previous three years.

(4) Where the amendment of an assessment has the effect of imposing any fresh liability, or increasing any existing liability—

- (a) the taxpayer shall be liable to pay the difference between any land tax which he has paid and the land tax which he ought to have paid if the assessment had been originally made as altered or added to; and
- (b) the alteration or addition shall, unless it has been made with the consent of the taxpayer, be subject to objection.

(5) Where an alteration in an assessment has the effect of reducing the taxpayer's liability the Commissioner shall refund any land tax overpaid.

Validity of  
assessment.  
Act No. 22,  
1910 (Com-  
monwealth),  
s. 22.

**17.** The validity of any assessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

Evidence.  
*Ibid.* s. 23.

**18.** (1) The production of any assessment or of any document under the hand of the Commissioner or Assistant Commissioner purporting to be a copy of an assessment shall—

- (a) be conclusive evidence of the due making of the assessment; and
- (b) be conclusive evidence that the amount and all the particulars of the assessment are correct, except in proceedings on appeal against the assessment, when it shall be prima facie evidence only.

(2)



(2) The production of any document under the hand of the Commissioner or Assistant Commissioner, purporting to be a copy of or extract from any return or assessment, shall for all purposes be sufficient evidence of the matter therein set forth, without producing the original. No. 26, 1956.

**19.** (1) As soon as conveniently may be after a taxpayer's assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on him. Notice of assessment. Act No. 22, 1910 (Commonwealth), s. 24.

(2) The omission to serve any such notice shall not invalidate the assessment.

**20.** The owner of any freehold estate less than the fee-simple (other than an estate of freehold arising by virtue of a lease for life under a lease or an agreement for a lease) shall be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder. Owner of freehold. cf. *Ibid.* s. 25.

**21.** Any person to whom the Crown has contracted to grant the fee-simple in any land under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or under any other Act relating to the alienation or disposal of lands of the Crown, and any person who under any such Act holds land under a lease from the Crown in perpetuity, shall be deemed to be the owner of the land in fee-simple. Conditional purchases, etc.

**22.** No deduction from the unimproved value of any land shall be allowed in respect of any mortgage, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to payment of any unpaid purchase money shall be assessed and liable for land tax as if he were the owner of an unencumbered estate. Mortgages. cf. *Ibid.* s. 31.

**23.**

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Mortgagees.  
cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 32.

**23.** (1) A mortgagee or other person owning any estate or interest in land by way of security for money shall not be liable to land tax in respect of that mortgage, estate or interest:

Provided that a mortgagee in possession of land, or any other person in possession of land by way of security for money shall, so long as such possession continues (though not to the exclusion of the liability of any other person) be deemed to be the owner of the land; and the mortgagor shall be deemed to be the primary taxpayer, and the mortgagee in possession to be the secondary taxpayer; and there shall be deducted from the land tax payable by the latter in respect of the land such amount (if any) as is necessary to prevent double taxation:

Provided further that the foregoing proviso shall not apply—

- (a) to any mortgagee or person in possession whose possession began before the first day of November, one thousand nine hundred and fifty-six, until a period of three years has elapsed since that date; or
- (b) to any mortgagee or person in possession whose possession began on or after the first day of November, one thousand nine hundred and fifty-six, until a period of three years after he has entered into possession;

but any such mortgagee or person in possession shall, if the mortgagor makes default in the payment of land tax in respect of the land during or after the said period of three years, be responsible for the payment of the land tax due by the mortgagor, which payment shall be deemed to be made by him on behalf of the mortgagor.

(2) For the purposes of this section a mortgagee in possession shall include a mortgagee of land who is using such land, or who is in receipt of the rents or profits of such land, or who is in receipt of the income from any business carried on on such land, or who has appointed a receiver of the rents or profits of such land.

**24.** Any person in whom land is vested as a trustee shall be assessed and liable in respect of land tax as if he were beneficially entitled to the land:

Trustees.

Provided that where he is the owner of different lands in severalty, in trust for different persons who are not for any reason liable to be jointly assessed, the land tax so payable by him shall be separately assessed in respect of each of those lands:

cf. Act  
No. 22, 1910  
(Common-  
wealth),  
s. 33.

Provided also that when a trustee is also the beneficial owner of other land, he shall be separately assessed for that land, and for the land of which he is a trustee, unless for any reason he is liable to be jointly assessed independently of this section.

**25.** Subject to this Act, the owner of any equitable estate or interest in any land shall be assessed and liable in respect of land tax as if he were the legal owner of the estate or interest; and the owner of the legal estate shall be deemed to be the primary taxpayer, and the owner of the equitable estate shall be deemed to be the secondary taxpayer; and there shall be deducted from the land tax payable by the latter in respect of the land such amount (if any) as is necessary to prevent double taxation.

Equitable  
owner.  
cf. *Ibid.*  
s. 35.

**26.** (1) Where, before or after the commencement of this Act, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

Purchaser  
and vendor.  
cf. *Ibid.*  
s. 37.

- (a) the purchaser shall be deemed to be the owner of the land (though not to the exclusion of the liability of any other person) so soon as he has obtained possession of the land;
- (b) the vendor shall be deemed to remain the owner of the land (though not to the exclusion of the liability of any other person) until possession of the land has been delivered to the purchaser and at least fifteen per centum of the purchase money has been paid;

(c)

No. 26, 1956.

- (c) the vendor shall be deemed to be the owner of the land (though not to the exclusion of the liability of any other person) where—
- (i) under the provisions of the agreement for sale he resumes possession of the land without rescinding the agreement or appoints a receiver of the rents and profits of the land; or
  - (ii) under the provisions of the agreement for sale or under any arrangement with the purchaser he secures the use of the land, or receives the rents and profits of the land or the income from any business carried on on the land:

Provided that the Commissioner may exempt the vendor from the operation of paragraph (b) of this subsection if he is satisfied that the agreement for sale was made in good faith, and not for the purpose of evading the payment of land tax, that the purchaser has obtained possession of the land and still remains in possession thereof, and that the agreement for sale is still in force; as to all which matters the decision of the Commissioner shall be final and conclusive.

(2) In estimating the amount of purchase money which has been paid, all money—

- (a) owing by the purchaser to the vendor, and secured by any mortgage on the land; or
- (b) lent to the purchaser by the vendor; or
- (c) owing by the purchaser to any other person, and directly or indirectly guaranteed by the vendor,

shall be deemed to be unpaid purchase money.

(3) When by virtue of this section the purchaser and vendor of any land are both liable for land tax in respect thereof, the purchaser shall be deemed to be the primary taxpayer and the vendor to be the secondary taxpayer;

taxpayer; and there shall be deducted from the land tax payable by the vendor in respect of the land such amount (if any) as is necessary to prevent double taxation: No. 23, 1956.

Provided that where by operation of paragraph (c) of subsection one of this section the vendor is deemed to be the owner of the land, the vendor shall, if the purchaser makes default in payment of land tax in respect of the land, be responsible for the payment of the land tax due by the purchaser, which payment shall be deemed to be made by the vendor on behalf of the purchaser.

**27.** (1) Joint owners of land shall be assessed and liable for land tax in accordance with the provisions of this section. Joint  
owners.  
cf. Act  
No. 22, 1910  
(Common-  
wealth),  
s. 38.

(2) Joint owners (except those of them whose interests are exempt from taxation under section ten of this Act) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner so exempt) as if it were owned by a single person, without regard to their respective interests therein or to any deductions to which any of them may be entitled under this Act, and without taking into account any land owned by any one of them in severalty or as joint owner with any other person.

(3) Each joint owner of land shall in addition be separately assessed and liable in respect of—

- (a) his individual interest in the land (as if he were the owner of a part of the land in proportion to his interest), together with
- (b) any other land owned by him in severalty; and
- (c) his individual interests in any other land.

(4) The joint owners in respect of their joint assessment shall be deemed to be the primary taxpayer, and each joint owner in respect of his separate assessment to be a secondary taxpayer; and from the land tax payable in respect of his interest in the land by each joint owner under subsection three of this section there shall be deducted such amount (if any) as is necessary to prevent double taxation.

No. 26, 1956.

Separate  
parcels  
used for  
partnership  
purposes.

**28.** Where separate parcels of land are owned by different persons, and such parcels are occupied, controlled, or used by such persons in partnership, such persons shall, for the purposes of this Act, be deemed to be joint owners of such parcels, and to hold such parcels in such shares or proportions as the Commissioner may determine.

Companies  
having sub-  
stantially  
the same  
shareholders.  
cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 40.

**29.** (1) Any two or more companies which consist substantially of the same shareholders may, if the Commissioner thinks fit, be deemed to be a single company, and shall be jointly assessed and liable accordingly, with such rights of contribution or indemnity between themselves as is just.

(2) Two companies may be so deemed to consist substantially of the same shareholders if—

- (a) shares representing not less than three-fourths of the paid-up capital of each of those companies are held by or on behalf of shareholders of the other; or
- (b) shares representing not less than three-fourths of the paid-up capital of one of those companies are held by or on behalf of the other; or
- (c) shares representing not less than three-fourths of the paid-up capital of one of those companies (in this paragraph referred to as the first company) are held by or on behalf of the other (in this paragraph referred to as the second company) together with shareholders of the second company; and shares in the second company are held by or on behalf of shareholders of the first company representing a proportion of the paid-up capital of the second company not less than the difference between three-fourths and the proportion represented by the second company's shares in the paid-up capital of the first company.

(3) The term "shareholder" in this section includes all persons on whose behalf a share in the company is held by a trustee or by any other person.

**30.** Any person who is entitled to receive the income of a business carried on on land by some other person in whom the legal estate in such land is vested shall be deemed (though not to the exclusion of the liability of any other person) to be the owner of the land; and the owner of the legal estate shall be deemed to be the primary taxpayer, and such first-mentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the land tax payable by the latter in respect of the land such amount (if any) as is necessary to prevent double taxation.

No. 26, 1956.

Person entitled to income of business.

**31.** Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the commencement of this Act, the person making the same shall, so long as he remains or is in possession or in receipt of the rents and profits of the land, whether on his own account or on account of any other person, be deemed (though not to the exclusion of the liability of any other person) to be the owner of the land.

No disposition to be effective while possession retained. cf. Act No. 22, 1910 (Commonwealth), s. 42.

**32.** (1) Where land is occupied, controlled, or used by a person who is not the owner and there is no lease or agreement for a lease for a definite term in respect of the occupancy, control, or user of the land, the person occupying, controlling, or using the land shall be deemed (though not to the exclusion of the liability of any other person) to be the owner of the land:

Occupation, control, or use of land. cf. *Ibid.* s. 42A.

Provided that the Commissioner may exempt the person occupying, controlling, or using the land from the provisions of this section, if he is satisfied that the arrangement is of a temporary nature, as to which matter the decision of the Commissioner shall be final and conclusive.

(2) The owner of the land shall be deemed to be the primary taxpayer and the person so occupying, controlling, or using such land to be the secondary taxpayer; and from the land tax payable by the latter there shall be deducted such amount (if any) as is necessary to prevent double taxation.

**33.**

**No. 26, 1956.** **33.** Where under this Act—

Deductions  
to prevent  
double  
taxation.  
cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 43.

- (a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and
- (b) it is provided that there shall be deducted from the land tax payable by the secondary taxpayer, in respect of the land or interest, such amount (if any) as is necessary to prevent double taxation,

the amount of the deduction (if any) shall be the lesser of the following amounts:—

- (i) the amount of land tax payable in respect of the land or interest by the secondary taxpayer; or
- (ii) the amount of land tax (if any) payable in respect of the land or interest by the primary taxpayer aggregated with the amount of land tax (if any) payable in respect of the land or interest by a precedent secondary taxpayer (if any):

Provided that the secondary taxpayer shall be assessed and liable in respect of the land or interest, notwithstanding that the primary taxpayer is exempt from taxation in respect of the land or interest, or that there is no primary taxpayer in respect of the land or interest.

Meaning of  
land tax  
payable in  
respect of  
certain  
land.  
cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 43A.

**34.** Where in this Act reference is made to the land tax payable by a person in respect of any land or interest, the reference is to so much of the whole land tax payable by him as bears to the whole land tax payable by him the proportion which the unimproved value of the land or interest referred to bears to the unimproved value of all the land (including any interest in land) owned by him.

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PART V.

OBJECTIONS AND APPEALS.

Appeal.

**35.** (1) Any taxpayer who is dissatisfied with an assessment made by the Commissioner under this Act or with any alteration in or addition to any assessment may, within thirty days after service of the notice of assessment



assessment or of the alteration in or addition to an assessment, or within such further time as the Commissioner may allow, post to or lodge with the Commissioner an objection in writing against the assessment, alteration, or addition, stating fully and in detail the grounds on which he relies.

(2) No objection shall be made to the Commissioner under this Act in respect of so much of any assessment as relates to the valuation of land shown therein if such valuation is the unimproved value of such land under this Act.

(3) The Commissioner shall, with all reasonable despatch, consider the objection and may either disallow it or allow it either wholly or in part.

(4) The Commissioner shall give to the objector written notice of his decision on the objection.

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after service of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

**36.** (1) The fact that an appeal in accordance with section thirty-five of this Act is pending shall not in the meantime interfere with or affect the assessment appealed from, and the land tax may be levied and recovered on the assessment as if no appeal were pending.

Fending appeal not to affect assessment. cf. Act No. 22, 1910 (Commonwealth), s. 45.

(2) If the assessment is altered on appeal a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

**37.** (1) An appeal to the Supreme Court under section thirty-five of this Act shall be heard by a single judge of that Court.

Appeals to Supreme Court. cf. *Ibid.* s. 44M.

(2) A taxpayer shall be limited, on the hearing of the appeal, to the grounds stated in his objection.

(3)

No. 26, 1956.

(3) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment appealed from.

(4) On the hearing of the appeal, the Court may make such order as it thinks fit, and may reduce, increase or vary the assessment.

(5) An order of the Court shall be final and conclusive on all parties except as provided in this section.

(6) The costs of the appeal shall be in the discretion of the Court.

(7) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the Full Court of the Supreme Court upon any question which in the opinion of the Court is a question of law.

(8) The Full Court shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(9) The Commissioner or a taxpayer may appeal to the Full Court of the Supreme Court from any order made under subsection four of this section.

Power  
to make  
rules of  
court.

**38.** (1) The judges of the Supreme Court or any five of them may make rules of court regulating the practice and procedure in relation to appeals to the Supreme Court under this Part of this Act, and to cases stated to the Court under this Part of this Act.

(2) All such rules of court shall—

- (a) be published in the Gazette;
- (b) take effect on the date of publication or from a later date to be specified in the rules; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

No. 26, 1956.

## PART VI.

### COLLECTION AND RECOVERY OF LAND TAX.

**39.** (1) Land tax for each year shall be due and payable thirty days after service of the notice of assessment.

Date of payment of land tax.

cf. Act No. 22, 1910

(Commonwealth), s. 49 (1), (2).

(2) Where an assessment is amended in accordance with this Act and a liability to pay additional land tax is thereby imposed upon the taxpayer, the additional land tax shall be due and payable thirty days after the service of the notice of the amendment of the assessment.

**40.** If the land tax or the additional land tax payable on an amended assessment is not paid before the expiration of the time allowed in section thirty-nine of this Act or such further time as is allowed by the Commissioner under section forty-one of this Act additional land tax equal to ten per centum of the amount unpaid shall be payable by way of penalty.

Additional land tax in case of default.

cf. Act No. 22, 1910 (Commonwealth), s. 50.

**41.** The Commissioner may, in such cases as he thinks fit—

Extension of time for and payment by instalments.

(a) extend the time for payment of any land tax or additional land tax, whether by way of penalty or otherwise; or

cf. *Ibid.* s. 49A.

(b) permit the payment of any land tax or additional land tax, whether by way of penalty or otherwise, to be made by such instalments and within such time as he considers the circumstances warrant; or

(c) remit the whole or any part of the additional land tax imposed under section forty of this Act.

**42.**

No. 26, 1956.

Recovery  
of land tax.

**42.** (1) Any land tax shall be deemed, when it becomes due or is payable, to be a debt due to Her Majesty, and shall be collected and received by the Commissioner on account of and shall be paid into the Consolidated Revenue Fund.

(2) Any land tax unpaid may be recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Substituted  
service.  
cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 52.

**43.** If in any proceedings against a taxpayer for the recovery of land tax the defendant—

(a) is absent from Australia and has not, to the knowledge of the Commissioner after reasonable inquiry in that behalf, any attorney or agent in Australia on whom service of process can be effected; or

(b) cannot after reasonable inquiry be found,

service of any process in the proceedings may, without leave of the court, be effected on him by posting the same or an office copy thereof in a letter addressed to him at his last known place of business or abode in Australia, or by fixing the same on a conspicuous part of the land to which the land tax relates.

Provision  
when land  
tax not  
paid during  
lifetime.  
cf. *Ibid.*  
s. 53.

**44.** The following provisions shall apply in any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full and complete returns:—

(a) The Commissioner shall have the same powers and remedies against the executors and administrators of the taxpayer in respect of the estate of the taxpayer as he would have had against the taxpayer in his lifetime.

(b) The executors and administrators shall make such returns as the Commissioner requires for the purpose of a full assessment.

(c) The assessment shall be at the rates payable in respect of the years for which the land tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional)

be

be such amount not exceeding treble the amount of the difference between the land tax so assessed and the amount actually paid by the taxpayer as the Commissioner may determine, and shall be a first charge on all the taxpayer's estate in the hands of the executors and administrators. No. 26, 1956.

- (d) No lapse of time shall prevent the operation of this section, and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the amount payable as in the case of ordinary assessments and taxation.

**45.** No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of land tax. Statutes of Limitations, cf. Act No. 22, 1910 (Commonwealth), s. 54.

**46.** (1) Where a taxpayer makes a default in the payment of land tax then, without in any way releasing him from his liability, the following provisions shall apply as long as the default continues:— Remedy against other persons where taxpayer makes default, cf. *Ibid.* s. 55.

- (a) If the land tax is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the land tax, and it may be recovered from him as if he were the defaulting taxpayer.
- (b) All payments made under this section by a lessee or occupier shall be deemed to be made on behalf of the defaulting taxpayer:

Provided that the responsibility of the lessee or occupier under this section shall only be to the extent of any rent or payments due by him to the taxpayer at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

(2) Any payment to the Commissioner under this section shall be a valid discharge to the lessee or occupier for such rent or payments due by the lessee or occupier to the taxpayer as against all other persons whomsoever. **47.**

No. 26, 1956.

Land tax  
to be first  
charge on  
land.cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 56.

**47.** Land tax shall until payment be a first charge upon the land taxed in priority over all other encumbrances whatever, and notwithstanding any disposition of the land it shall continue to be liable in the hands of any purchaser or holder for the payment of the land tax so long as it remains unpaid:

Provided that no such charge shall be of effect as against a bona fide purchaser for value who, at the time of purchase, made due inquiry but had no notice of the liability:

Provided further that a purchaser shall be deemed to have made due inquiry who has made inquiry in the prescribed manner at the office of the Commissioner.

The Commissioner shall on application of the purchaser of any land and on payment of the prescribed fee issue a certificate showing if there is any land tax due and unpaid on the land described in the application.

The regulations may provide that the prescribed fee shall be paid by affixing to the application a duty stamp of an amount equal to the amount of the prescribed fee.

Recovery of  
land tax  
paid on  
behalf of  
another  
person.  
cf. *Ibid.*  
s. 57.

**48.** Every person who, under any provision of this Act, pays any land tax for or on behalf of any other person, shall be entitled to recover the same from that other person as a debt, together with the costs of recovery, or to retain or deduct same out of any money in his hands belonging or payable to that other person.

Contribution  
from  
taxpayers  
jointly  
liable.  
cf. *Ibid.*  
s. 58.

**49.** Where two or more persons are jointly liable to land tax, they shall each be liable for the whole land tax on the land, but any of them who has paid the land tax may recover contributions as follows:—

- (a) A person who has paid the land tax in respect of any land may recover by way of contribution from any other person jointly liable with him a sum which bears the same proportion to the land tax as the value of the estate of such other person bears to the whole value of the land.

(b)

- (b) Every person entitled to contribution in respect of land tax under this section may sue therefor in any court of competent jurisdiction as money paid to the use of the person liable to contribute at his request; or may retain or deduct the amount of the contribution out of any moneys in his hands belonging or payable to the person liable to contribute. No. 26, 1956.

**50.** (1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Auditor-General and the Under Secretary of the Treasury that—

- (a) a person liable to pay land tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of land tax will entail serious hardship; or
- (b) owing to the death of a person who, if he had lived, would have been liable to pay land tax, the dependants of that person are in such circumstances that the exaction of the full amount of land tax will entail serious hardship;

the Board may waive the payment of the land tax either wholly or in part.

(2) The Commissioner shall make such alterations in the amount of land tax payable and shall make such refund of land tax already paid as is necessary to give effect to the decision of the Board.

(3) A member of the Board may by writing under his hand appoint a person to act in his place at any meetings of the Board at which he is unable to be present, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

**51.** (1) In any case where it is shown to the satisfaction of the Board referred to in section fifty of this Act, that every reasonable effort has been made to recover land tax, or that it is impracticable without undue expense to recover land tax, it may direct the amount thereof to be written off.

(2)

Remission of land tax in cases of hardship. cf. Act No. 48, 1941, s. 330.

Writing off land tax. cf. Act No. 48, 1941, s. 331.

No. 26, 1956.

(2) The taxpayer shall not be released from his liability in consequence of any action taken by the Board under this section, and the Commissioner may at any future time take such action to recover any such tax as he considers the circumstances warrant.

Board's powers may be exercised by Commissioner in certain cases.

**52.** The Commissioner may exercise all the powers of the Board under section fifty of this Act in any case where the amount of land tax involved in respect of any one year does not exceed twenty pounds.

Definition of land tax for certain purposes of this Part.

**53.** Land tax—

- (a) for the purposes of sections fifty and fifty-one of this Act includes any costs incurred in attempting to recover land tax;
- (b) for the purposes of sections forty-two, forty-three, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of this Act includes additional land tax whether by way of penalty or otherwise.

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## PART VII.

### VALUATION OF LANDS.

#### DIVISION 1—*Unimproved Value of Land.*

Unimproved value.

**54.** (1) For the purposes of this Act the unimproved value of land, in relation to a year for which land tax is being levied, means:—

- (a) where the land is included in the valuation list or supplementary list last furnished under the Valuation of Land Act, 1916, as amended by subsequent Acts, by the Valuer-General to a council of an area within the meaning of the Local Government Act, 1919, as amended by subsequent



subsequent Acts, before the first day of that year, the unimproved value of such land as appearing in such valuation list or supplementary list immediately before the first day of the year; No. 26, 1956.

- (b) where the land is within an area within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, not being land to which paragraph (a) of this section applies, the unimproved value of such land as appearing in the valuation book of the council of such area immediately before the first day of that year.

In this paragraph "valuation book" means the valuation book in force for the rating year of the council current at the first day of the year for which land tax is being levied;

- (c) where the land is within the Western Division, not being land within an area within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, the unimproved value of such land as appearing in the valuation roll, kept by the Western Lands Commissioner in accordance with the provisions of this Part of this Act, immediately before the first day of that year;

- (d) where immediately before the first day of that year the land has no unimproved value under paragraph (a), (b) or (c) of this subsection by reason—

- (i) of the omission of the land from the valuation list, supplementary list, valuation book or valuation roll referred to in those paragraphs; or

(ii)

No. 23, 1956.

- (ii) that, where portion of a parcel has been sold, conveyed or resumed, the land is the portion so sold, conveyed or resumed or is the portion remaining, and no fresh valuation of the land has, since the sale, conveyance or resumption and before that day, been made and entered in the valuation list, supplementary list, valuation book or valuation roll, as the case may be, referred to in those paragraphs,

the unimproved value of such land, as at midnight on the day immediately preceding the first day of that year, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area, or the Western Lands Commissioner, upon a request in that behalf made to the Valuer-General, the council of the area or the Western Lands Commissioner, as the case may be.

(2) Where the unimproved value of land under paragraph (a) or (b) of subsection one of this section has been determined before the commencement of this Act and the owner of the land, being a person who was entitled to lodge an objection to such valuation in accordance with the provisions of the Valuation of Land Act, 1916, as amended by subsequent Acts, or the Local Government Act, 1919, as amended by subsequent Acts, has not lodged such objection, such owner may, not later than the thirty-first day of December, one thousand nine hundred and fifty-six, request the Valuer-General or the council of an area, as the case may be, to make or cause to be made a valuation including the unimproved value of such land as at midnight on the thirty-first day of October, one thousand nine hundred and fifty-six, and notwithstanding anything contained in paragraph (a) or (b) of subsection one of this section or any Act other than this Act the valuation so made shall until a further valuation

valuation of the land is made in accordance with the provisions of the Valuation of Land Act, 1916, as amended by subsequent Acts, or the Local Government Act, 1919, as amended by subsequent Acts, be the valuation of the land for the purposes of any Act other than this Act, and the unimproved value so determined shall be the unimproved value for the purposes of this Act. No. 26, 1956.

Any request made to the Valuer-General as aforesaid shall be accompanied by the fee which would be payable under the Valuation of Land Act, 1916, as amended by subsequent Acts, were such a request a request for a new valuation under the said Act, as so amended.

Any request made to a council as aforesaid shall be accompanied by such fee as the council may require.

(3) A person to whom a request for a valuation has been made under paragraph (d) of subsection one or under subsection two of this section shall, as soon as practicable after receipt of the request, make or cause to be made the valuation requested.

(4) A valuation made pursuant to paragraph (d) of subsection one or under subsection two of this section shall—

- (a) where it is made by the Valuer-General, be made under and subject to the Valuation of Land Act, 1916, as amended by subsequent Acts;
- (b) where it is made by the valuer appointed by the council of an area, be made under and subject to the Local Government Act, 1919, as amended by subsequent Acts;
- (c) where it is made by the Western Lands Commissioner, be made under and subject to this Part of this Act,

and, without prejudice to the generality of the foregoing provisions of this subsection, shall be subject to objection accordingly.

(5)

No. 26, 1956.

(5) Notwithstanding the fact that a request has been made for a valuation of land under subsection two of this section, land tax may, pending the making of such valuation, be assessed, levied and recovered on the unimproved value of the land under paragraph (a) or (b) of subsection one of this section as if no such request had been made.

(6) The fact that an objection under the Valuation of Land Act, 1916, as amended by subsequent Acts, the Local Government Act, 1919, as amended by subsequent Acts, or this Part of this Act, has been lodged against any such valuation as is referred to in paragraph (a), (b), (c) or (d) of subsection one or in subsection two of this section shall not affect the valuation which is objected to and land tax may be assessed, levied and recovered as if no objection were pending.

(7) Where—

(a) an objection has been lodged against any such valuation as is referred to in paragraph (a), (b), (c) or (d) of subsection one or in subsection two of this section and such valuation has been altered upon the determination of such objection;  
**or**

(b) an alteration of any such valuation has been made in any valuation list, supplementary list, valuation book or valuation roll for the purposes of correcting any clerical error or misdescription,

the valuation as so altered shall be the unimproved value of such land for the purposes of this Act in substitution for the valuation so objected to or altered.

(8) Where any valuation has been altered as aforesaid a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

DIVISION

DIVISION 2—*Valuations by Western Lands Commissioner.* No. 26, 1956.

**55.** This Division of this Part of this Act shall apply to lands within the Western Division not being lands within an area within the meaning of the Local Government Act, 1919, as amended by subsequent Acts. <sup>Application of Division.</sup>

**56.** The unimproved value of land is the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require, assuming that the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made. <sup>Unimproved value of land.</sup>

**57.** (1) The Western Lands Commissioner may for the purposes of this Act make valuations of the unimproved value of such lands to which this Division of this Part of this Act applies as he may deem necessary. <sup>Valuations.</sup>

Any such valuation shall be made:—

- (a) once at least in every six years;
- (b) for a valuation period, that is to say, for a period not exceeding six years.

Where portion of a parcel of land which has been valued is sold, conveyed or resumed fresh valuations shall be made of the portion sold, conveyed or resumed and of the portion remaining.

(2) For the purpose of making any valuation the Western Lands Commissioner may require the owner or occupier of any land or interest in land to furnish such information as may be necessary to enable a correct valuation to be made, and may also make use of any information in his possession.

(3) The Western Lands Commissioner or any person authorised by him in that behalf may at all reasonable times enter on any land for the purposes of this Part of this Act.

(4)

No. 28, 1956.

(4) The Western Lands Commissioner shall enter on a valuation roll kept for the purpose a record of all valuations made under this Part of this Act.

A valuation shall, subject to paragraph (d) of subsection one of section fifty-four of this Act, be deemed to be made as at the date on which the Western Lands Commissioner enters on such roll the record of such valuation.

Each entry in such valuation roll shall be signed or initialled by the Western Lands Commissioner or an officer approved in that behalf by the Western Lands Commissioner. The valuation roll so signed or initialled shall be conclusive proof of the making of the valuation on the date shown therein.

Such valuation roll may be kept in card, folder, or book form, or as the Western Lands Commissioner may direct.

Notice of valuations to be given.

**58.** (1) The Western Lands Commissioner shall give to each person whose estate or interest in land he has valued under this Part of this Act notice of such valuation stating a time within which such person may lodge with the Western Lands Commissioner a written objection to such valuation.

(2) Any such person may in or to the effect of the form prescribed object to any valuation under this Part of this Act within such time as is stated in such notice.

(3) No valuation under this Part of this Act shall be invalid because of any failure to give notice of valuation.

Alteration of valuation or reference of objection to Land and Valuation Court.

**59.** (1) On objection being made to any valuation, the Western Lands Commissioner may, if he sees fit, alter such valuation. Notice of the Western Lands Commissioner's decision shall be given to the objector.

An objector who is dissatisfied with the decision of the Western Lands Commissioner not being a decision altering the valuation to the extent claimed in the objection, or to such extent as may be agreed upon, may  
within

within sixty days after service of such notice, request No. 26, 1956.  
in writing the Western Lands Commissioner to treat his objection as an appeal and to forward it to the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921, as amended by subsequent Acts.

(2) The Western Lands Commissioner shall forward such objections together with a list thereof to the registrar of the Land and Valuation Court for hearing and determination by that Court.

**60.** The Land and Valuation Court shall hear and determine all such objections brought before it, and, if it decides that any valuation is erroneous, shall order the valuation to be altered accordingly. Powers of Court.

**61.** If on the hearing of any objection the Land and Valuation Court orders any valuation to be altered, the Western Lands Commissioner shall make all such consequential alterations as are necessary to give effect to the decision of the Court. Consequential alterations.

**62.** Any valuation made or valuation roll prepared by the Western Lands Commissioner during the year one thousand nine hundred and fifty-six and before the commencement of this Act shall have the same force and effect as if the provisions of this Division of this Part of this Act were in force at the time such valuation was made or valuation roll was prepared. Validation.

The Western Lands Commissioner shall after the commencement of this Act give notice of any valuation so made and the provisions of sections fifty-eight to sixty-one of this Act shall apply accordingly.

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## PART VIII.

### MISCELLANEOUS.

**63.** (1) Every company which is a taxpayer shall, unless exempted by the Commissioner, at all times be represented by a person residing in the State duly appointed Public officer of company. cf. Act No. 22, 1910 (Commonwealth), s. 61.

No. 26, 1956. appointed by the company or by its duly authorised agent or attorney, and with respect to every such company and person the following provisions shall apply:—

- (a) The person so appointed shall for the purposes of this Act be called the public officer of the company.
- (b) The company shall keep the office of public officer constantly filled, and no appointment of a public officer shall be deemed to be duly made until after notice thereof in writing, specifying the name of the officer and an address for service, has been given to the Commissioner.
- (c) If the company fails or neglects to duly appoint a public officer when and as often as such appointment becomes necessary, it shall be guilty of an offence.

Penalty: Fifty pounds for every day during which the failure or neglect continues.

- (d) Service of any document at the address for service or on the public officer of a company shall be sufficient service upon the company for all the purposes of this Act, and if at any time there is no public officer, then service upon any person acting or appearing to act in the business of the company shall be sufficient.
- (e) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties.
- (f) Everything done by the public officer which he is required to do in his representative capacity shall be deemed to have been done by the company.

(2) The absence or non-appointment of a public officer shall not exonerate the company from the necessity of complying with any of the provisions of this Act,

or



or from the penalties consequent on the failure to comply therewith, but the company shall be liable to the provisions of this Act as if there were no requirement to appoint a public officer. No. 26, 1956.

**64.** With respect to every agent, and with respect also to every trustee, the following provisions shall apply:— Agents and trustees.  
cf. Act No. 22, 1910  
(Commonwealth),  
s. 62.

- (a) He shall be answerable as taxpayer for the doing of all such things as are required to be done by virtue of this Act in respect of the land controlled or held by him in his representative capacity and the payment of land tax thereon.
- (b) He shall in respect of such land make the returns and be assessed thereon, but in his representative capacity only, and each return and assessment shall, except as otherwise provided by this Act, be separate and distinct from any other.
- (c) If he is an executor or administrator, the returns shall be the same as far as practicable as the deceased person, if living, would have been liable to make.
- (d) Where as agent or trustee he pays land tax, he is hereby authorised to recover the amount so paid from the person on whose behalf he paid it, or to deduct it from any money in his hands belonging to that person.
- (e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the land tax which is or will become due in respect of the land.
- (f) He is hereby made personally liable for the land tax payable in respect of the land if, while the land tax remains unpaid, he alienates, charges, or disposes of any real or personal property  
which

No. 26, 1956.

which is controlled or held by him in his representative capacity but he shall not be otherwise personally liable for the land tax.

- (g) If he is a trustee he may raise whatever moneys are necessary in order to pay the land tax by mortgage or charge with or without power of sale of any real or personal property held by him as such trustee, and may apply the money so raised or any other moneys in his possession as such trustee in paying the land tax.
- (h) He is hereby indemnified for all payments which he makes in pursuance of this Act, or by requirements of the Commissioner.
- (i) For the purpose of ensuring the payment of land tax, the Commissioner shall have the same remedies against all land or other property of any kind vested in or under the control or management or in the possession of any agent or trustee, as he would have against the land or other property of any other taxpayer in respect of land tax, and in as full and ample a manner.

Contracts to evade land tax void.

cf. Act No. 48, 1941, s. 325.

**65.** Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the commencement of this Act, shall so far as it has or purports to have the purpose or effect of in any way directly or indirectly—

- (a) altering the incidence of any land tax; or
- (b) relieving any person from liability to pay any land tax or make any return; or
- (c) defeating, evading, or avoiding any duty or liability imposed on any person by this Act; or
- (d) preventing the operation of this Act in any respect,

be absolutely void, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

**66.**

**66.** The Landlord and Tenant (Amendment) Act, No. 26, 1956, 1948, as amended by subsequent Acts, is amended—

Amendment  
of Act No.  
25, 1949.

- (a) by inserting next after subsection one of section twenty-one the following new subsection:—

Sec. 21.  
(Matters to  
be con-  
sidered.)

(1A) Subject to section twenty of this Act a Fair Rents Board in determining the fair rent of prescribed premises used for business or commercial purposes shall in addition to the matters specified in subsection one of this section have regard to land tax payable in respect of the premises by the lessor under the Land Tax Management Act, 1956, and the Land Tax Act, 1956, or any Act amending or replacing any such Act, or where such land tax is payable by the lessor in respect of the premises together with other lands, to the extent to which such land tax would be payable were the premises the only land in respect of which the lessor was liable for any such land tax.

- (b) by inserting at the end of subsection three of section 24A the following new paragraph:—

Sec. 24A.  
(Determina-  
tion based  
on increased  
outgoings.)

In the application of the foregoing provisions of this subsection to and in respect of premises to which this section applies and which are used for business or commercial purposes "rates" includes land tax payable in respect of the premises by the lessor under the Land Tax Management Act, 1956, and the Land Tax Act, 1956, or any Act amending or replacing any such Act, or where such land tax is payable by the lessor in respect of the premises together with other lands the land tax which would be payable were the premises the only land in respect of which the lessor was liable for any such land tax.

(c)

No. 26, 1956.

Sec. 32.  
(Variation  
of deter-  
mination.)

(c) (i) by omitting from paragraph (h) of subsection two of section thirty-two the word "or" where lastly occurring;

(ii) by inserting at the end of the same subsection the following word and new paragraph:—

or

(j) where the premises are prescribed premises used for business or commercial purposes, land tax has, since the determination, become payable or ceased to be payable in respect of the premises by the lessor under the Land Tax Management Act, 1956, and the Land Tax Act, 1956, or any Act amending or replacing any such Act.

Access to  
lands,  
buildings,  
etc.cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 64.

**67.** The Commissioner or any officer authorised by him in that behalf shall at all times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or documents of title, for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers.

Furnishing  
of  
valuation  
lists, etc.  
to Com-  
missioner.

**68.** The Valuer-General, the Western Lands Commissioner and the council of any area within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, shall when so requested by the Commissioner furnish to the Commissioner a copy of any valuation list, supplementary list or valuation roll kept or prepared by them and of any alterations and additions thereto.

Where any such roll or alterations or additions are so furnished by any such council the Commissioner shall pay to such council the prescribed fee.

**69.**

**69.** (1) The Commissioner may, by notice in writing, require any person, whether a taxpayer or not, to furnish him with such information concerning any land or assessment as he requires or to attend and give evidence before him, or before any officer authorised by him in that behalf concerning any land or assessment, and to produce all books, documents, or other papers whatever in his custody or under his control relating thereto.

No. 26, 1956.  
Power to obtain evidence.  
cf. Act No. 22, 1910 (Commonwealth), s. 65.

(2) The Commissioner may require the evidence to be given on oath, and either verbally or in writing, and for such purpose he, or the officer so authorised by him, may administer an oath.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

**70.** Any person who obstructs or hinders any other person acting in the exercise or discharge of any powers, authorities, duties or functions conferred or imposed by or under this Act shall be guilty of an offence.

Obstructing officers.  
cf. *Ibid.* s. 67.

Penalty: Fifty pounds.

**71.** (1) Any person who—

Offences.  
cf. *Ibid.* s. 68.

(a) fails or neglects duly to furnish any return or information as and when required by this Act or to comply with any requirement of the Commissioner made in pursuance of this Act; or

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner, or any officer duly authorised by him, or to answer truly and fully any questions put to him, or to produce any book or papers required of him by the Commissioner or any such officer; or

(c)

No. 28, 1956.

(c) makes or delivers a return or gives any information which is false in any particular or makes any false answer, whether verbal or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

Penalty: One hundred pounds.

(2) A prosecution in respect of an offence against paragraph (a) or paragraph (c) of subsection one of this section may be commenced at any time.

(3) Any person who, after conviction for an offence against this section, continues to fail to comply with the requirements of this Act, or of the Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence.

Penalty: Five hundred pounds and treble the amount of any land tax, payment whereof he has evaded or attempted to evade.

(4) It shall be a sufficient defence to a prosecution for an offence against paragraph (c) of subsection one of this section if the defendant proves that the false return, information or answer was made or given in good faith.

Failure to  
furnish  
returns.

cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 68A.

**72.** (1) Notwithstanding anything contained in section seventy-one of this Act, any person who—

(a) fails or neglects duly to furnish any return or information as and when required by this Act or by the Commissioner; or

(b) fails to include in any return any land owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional land tax at the rate of ten per centum per annum upon the amount

of

of land tax assessable to him (such percentage to be calculated for the period commencing on the last day allowed for furnishing the return or information and ending on the day upon which the return or information is furnished or the day upon which the assessment is made, whichever first happens), or the sum of one pound, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional land tax the amount of one pound or double the amount of the difference between the land tax properly payable and the land tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition to any additional land tax by way of penalty which may become payable by him in accordance with section forty of this Act: No. 26, 1956.

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional land tax payable under this subsection or any part thereof.

(2) If the Commissioner considers that the circumstances of any case warrant action being taken to recover the penalty provided by sections seventy-one and seventy-three of this Act, such action may be taken by the Commissioner, and in that case the additional land tax payable under this section shall not be charged.

**73.** Any person who, by any wilful act, default, or neglect, or by any fraud, art, or contrivance whatever, evades or attempts to evade assessment or taxation, shall be guilty of an offence. Evading taxation. cf. Act No. 22, 1910 (Commonwealth), s. 70.

Penalty: Five hundred pounds and treble the amount of the land tax payment whereof he has evaded or attempted to evade.

**74.** Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any land tax for which he would otherwise be liable. Penalties not to relieve from land tax. cf. *Ibid.* s. 72.

**75.**

No. 23, 1956.

Aiding or  
abetting  
offences.  
cf. Act No.  
22, 1910  
(Common-  
wealth),  
s. 73.

**75.** Whoever aids, abets, counsels, or procures, or by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence under this Act, shall be deemed to have committed that offence, and shall be punishable accordingly.

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## PART IX.

### GENERAL.

Service of  
notices.

**76.** Any notice or document required or authorised by this Act to be served or given shall be in writing and shall be sufficiently served or given—

- (a) if delivered personally;
- (b) if left at the last known place of abode or business in or out of New South Wales of the person on or to whom such notice or document is to be served or given;
- (c) if sent by prepaid letter post addressed to the person on or to whom such notice or document is to be served or given at his address for service or last known place of abode or business in or out of New South Wales.

In the case of paragraph (c) of this section the service or giving of a notice or document shall be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

Penalties.

**77.** The penalty pecuniary or other set out—

- (a) at foot of any section of this Act; or
- (b) at foot of any subsection of any section of this Act but not at the foot of the section; or
- (c)



- (c) at the foot of any paragraph of any section or No. 26, 1956.  
at the foot of any paragraph of any subsection  
of any section of this Act but not at the foot of  
the section,

shall indicate that any contravention of the section or of the subsection or of the paragraph respectively, whether by act or omission, shall be an offence against this Act punishable by a penalty not exceeding the penalty mentioned.

**78.** Any person guilty of a breach of this Act for General  
which no penalty is otherwise provided shall be liable to penalty.  
a penalty not exceeding one hundred pounds.

**79.** All proceedings for offences against this Act shall Recovery of  
be disposed of summarily before a court of petty sessions penalties.  
holden before a stipendiary magistrate.

**80.** The Commissioner shall furnish to the Minister Report to  
annually for presentation to Parliament a report on the Parli-  
working of this Act. ment.

**81.** (1) The Acts specified in the Schedule to this Act, Repeals.  
and to the extent to which they have not been already  
repealed, are hereby repealed.

(2) For all purposes in relation to land tax for any Savings.  
year before the year that commences on the first day of  
January, one thousand nine hundred and fifty-seven, the  
Acts specified in the Schedule to this Act and any  
regulation under any of those Acts continue to have effect  
as if this Act had not been enacted.

(3) Any person who has paid land tax pursuant Refunds.  
to any of the Acts specified in the Schedule to this Act  
in respect of the year that commenced on the first day of  
January, one thousand nine hundred and fifty-six, shall  
be refunded an amount equal to one-sixth of the land tax  
so paid by him.

**No. 26, 1956.** **82.** (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act.

Regulations.

- (2) The regulations shall—
- (a) be published in the Gazette;
  - (b) take effect from the date of such publication or from a later date to be specified in the regulations;
  - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(3) The regulations may impose penalties not exceeding fifty pounds for any breach thereof.

Sec. 81.

#### SCHEDULE.

No. of Act.	Title of Act.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.
59 Vic. No. 16 ...	Land Tax Act of 1895.
Act No. 21, 1897 ...	Land and Income Tax (Amendment) Act, 1897.
Act No. 37, 1898 ...	Land and Income Tax (Declaratory) Act, 1898.
Act No. 36, 1899 ...	Land Tax (Collection) Act, 1899.
Act No. 28, 1900 ...	Land Tax (Assessment Books) Act, 1900.
Act No. 46, 1900 ...	Land Tax (Contribution) Act, 1900.
Act No. 115, 1902 ...	Land Tax (Leases) Act, 1902.
Act No. 17, 1904 ...	Land and Income Tax (Amendment) Act, 1904.

LAND