

WESTERN AUSTRALIA.

LAND TAX ASSESSMENT.

No. 15 of 1907.

[As amended by Acts:

No. 14 of 1917, assented to 28/3/17;
No. 24 of 1918, assented to 13/6/18;
No. 17 of 1922, assented to 10/2/22;
No. 40 of 1922, assented to 23/12/22;
No. 36 of 1924, assented to 31/12/24;
No. 42 of 1930, assented to 24/12/30;
No. 42 of 1931, assented to 3/12/31;
No. 40 of 1932, assented to 30/12/32;
No. 41 of 1932, assented to 30/12/32;
No. 8 of 1936, assented to 3/12/36;
No. 13 of 1937, assented to 21/12/37;¹
No. 11 of 1945, assented to 13/12/45²
No. 40 of 1948, assented to 21/12/48;³
No. 87 of 1956, assented to 18/1/57;⁴
No. 33 of 1959, assented to 30/10/59;
No. 68 of 1960, assented to 2/12/60;
No. 104 of 1965, assented to 17/12/60;
No. 113 of 1965, assented to 21/12/65;⁵
No. 56 of 1968, assented to 13/11/68;⁶
No. 95 of 1969, assented to 17/11/69;⁷
No. 21 of 1970, assented to 8/5/70;⁸
No. 101 of 1970, assented to 8/12/70;⁹
No. 13 of 1971, assented to 4/10/71;¹⁰
No. 19 of 1973, assented to 6/6/73;¹¹
No. 22 of 1973, assented to 6/6/73.

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to regulate the Assessment of Land for the purposes of Taxation.

[Assented to 20th December, 1907.]

BE it enacted—

PRELIMINARY.

1. This Act may be cited as the *Land Tax Assessment Act, 1907-1973*.

Short title.
Amended by
No. 22 of
1973, s. 1.

¹ Came into operation 24/12/37. See *Gazette* 24/12/37, p. 2169.
² Operates from 1/7/44 (see section 3 of No. 11 of 1945).
³ Operates from 1/7/47 (see section 5 of No. 40 of 1948).
⁴ Operates from 1/7/56 (see section 3 of No. 87 of 1956).
⁵ Decimal Currency Act, 1965, came into operation 14/2/66.
⁶ Section 6 deemed to have operated on 30/6/68 (see section 2 of No. 56 of 1968).
⁷ Section 3 deemed to have operated on 30/6/69 (see section 2 of No. 95 of 1969).
⁸ Came into operation 1/7/70. See *Gazette* 26/6/70, p. 1831.
⁹ Sections 5 and 6 deemed to have operated on 30/6/70 (see section 2 of No. 101 of 1970).
¹⁰ Deemed to have come into operation on 30/6/71 (see section 2 of No. 13 of 1971).
¹¹ Came into operation 1/7/73. See *G.G.* 22/6/73, p. 2378.

Interpreta-
tion.
Amended by
No. 40 of
1948, s. 3;
No. 87 of
1956, s. 10;
No. 104 of
1965, s. 3;
No. 21 of
1970, s. 4.

2. In this Act, unless the context otherwise requires,—

“Agent” includes every person who, in Western Australia, for or on behalf of any other person outside of Western Australia (hereinafter called the “principal”)—

- (1) has the control or disposal of any real or personal property belonging to the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such property; or
- (2) directly or indirectly, whether by sample, price-list, negotiation, or otherwise howsoever, sells or disposes of such property, or offers or exposes such property for sale or disposition, or solicits or procures the sale or disposition thereof; or
- (3) has the control, receipt, or disposal of any income belonging to the principal, or directly or indirectly remits the same to the principal.

“Commissioner” means the person holding the office of Commissioner of State Taxation under the Public Service Act, 1904.

“Improved land” means land to which improvements within the meaning of this Act have been made.

“Improvements” includes houses and buildings, fencing, planting, roads made or macadamised by the owner, excavations for holding water, wells, pumps, windmills, and other apparatus for raising water, drains, ring-barking, clearing from timber, or scrub, or poison plants, or noxious weeds, or laying down in grass or pasture, and any other improvements whatsoever, the benefit of which is unexhausted at the time of valuation, but does not include any railways or tramways constructed under any Act or any provisions thereof.

“Land” includes all lands, tenements, and hereditaments, whether corporeal or incorporeal, in Western Australia, and also includes all chattel and other interests therein.

“Land tax” means the land tax imposed by any Act in force for the time being as assessed under this Act or any Act amending the same.

“Local authority” means a Council of a Municipality constituted under the Local Government Act, 1960.

“Non-resident agent” includes every person who acts as agent without having a fixed and permanent place of business or abode in Western Australia.

“Owner,” as applied to any estate or interest in land, includes every person who is, jointly or severally, whether at law or in equity—

- (a) entitled to land for any estate of freehold in possession; or
- (b) entitled to land for any leasehold estate or interest granted under the Land Act, 1898,¹ or any amendment thereof, or under any Land Regulations thereby repealed, with or without the right to acquire the freehold; or
- (c) entitled to land for any such estate or interest as aforesaid as a married woman, to her separate use, otherwise than through trustees; or
- (d) who is a settlor, grantor, assignor, or transferor of land comprised in any settlement, grant, assignment, transfer, conveyance, or other instrument, not made *bona fide*; or

¹ Now Land Act, 1933.

Land Tax Assessment.

- (e) entitled to land partly in one and partly in another or others of the aforesaid ways; or
- (f) entitled to receive, or in actual receipt, 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.

“Person” includes “company” or any “body corporate.”

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

Provided that where, under this Act, anything is required to be done in the “prescribed form” it shall be sufficient if such thing be done substantially in the form so prescribed, or to the effect thereof.

“Public notice” means a notice inserted in the *Government Gazette* or published in any newspaper circulating in a town or district.

“Registered” means registered in the office of the Land Titles Office, the Registry of Deeds, the Department of Lands and Surveys, or the Department of Mines under the provision of any Act in force in Western Australia for the registration of titles to land, deeds, and other instruments.

“Regulations” means the regulations for the time being in force under this Act.

“Taxpayer” means any person liable to pay tax, whether in his own behalf or in a representative capacity, or who, whether liable to taxation or not, is by this Act required to make any return relating to land tax assessment.

“This Act” means this Act and the regulations thereunder.

“Trustee,” in addition to every person appointed or constituted such by act of parties, order or declaration of a court, or by operation of law includes an executor or administrator, and every person having or taking upon himself the administration or control of real or personal property affected by a trust, or acting in any fiduciary capacity, or having the direction, control or management of the real or personal property of any person under legal disability.

“Unimproved value” means—

- (a) in respect of land granted in fee simple, the capital sum for which the fee simple in such land would sell under such reasonable conditions of sale as a *bona fide* seller would require assuming the actual improvements (if any) had not been made; and
- (b) in respect of land held under contract for conditional purchase under the Land Act, 1898,¹ or any amendment thereof or any land regulation thereby repealed, the capital sum of which the fee simple of such land would sell on the assumption that the taxpayer is the owner in fee simple under such reasonable conditions of sale as a *bona fide* seller would require, assuming the actual improvements (if any) had not been made; and
- (c) in respect of any land held otherwise than under a pastoral lease, within the meaning of the Land Act, 1933-1946,¹ for any leasehold estate or interest, without the right of purchase, under the Land Act, 1898, or any amendment thereof, or any land regulation thereby repealed, a sum equal to twenty times the excess of

¹ See now Land Act, 1933-1972.

the amount of the fair annual rent at which the land would let under such reasonable conditions as a *bona fide* lessee would require, assuming the actual improvements (if any) had not been made, above the annual rent for the time being reserved by the lease, to be assessed under the Act; and until assessment, a sum equal to twenty times the amount of the annual rent reserved by the lease.

- (d) in respect of a pastoral lease—a sum equal to twenty times the amount of the annual rent reserved by the lease.

“Year of assessment” means the financial year ending the thirtieth day of June for which the tax is imposed, and “the year next preceding the year of assessment” means the calendar year next preceding the said thirtieth day of June: Provided that for the eleventh and each succeeding year of assessment the words “the year next preceding the year of assessment” shall mean the period of twelve months next preceding the year of assessment.

OFFICERS.

Power of Commissioner to administer Act and annual report.

Repealed and re-enacted by No. 21 of 1970, s. 5.

3. (1) The Commissioner of State Taxation shall, subject to any direction of the Treasurer, have the general administration of this Act.

(2) The Commissioner shall furnish to the Treasurer annually for presentation to Parliament, a report on the working of this Act.

Power of Commissioner to delegate.
Repealed and re-enacted by No. 21 of 1970, s. 6.

4. (1) The Commissioner may, by instrument in writing under his hand, delegate to the person holding the office of Assistant Commissioner (Land Tax) or other officers of the staff assisting the Commissioner in the administration of this Act such powers, duties and functions other than the power of delegation conferred by this section as are conferred or imposed upon the Commissioner by or under this Act and which are specified in the instrument.

(2) A delegation under this section does not prevent the exercise of a power or the performance of a duty or function by the Commissioner.

5. [Repealed by No. 21 of 1970, s. 7.]

6. (1) This section applies to every person who is or has been the Commissioner or a member of the staff assisting the Commissioner in the administration of this Act.

Secrecy.
Repealed and
re-enacted
by No. 21 of
1970, s. 8.

(2) Subject to this section and section 79A of this Act, a person to whom this section applies shall not, either directly or indirectly, except in the performance of a duty under or in connection with this Act—

(a) make a record of, or divulge or communicate to any person any information concerning the affairs of any other person acquired by him by reason of his office or employment under or for the purposes of this Act;

or

(b) produce to any person any document furnished for the purposes of this Act.

Penalty: Five hundred dollars.

(3) A person to whom this section applies—

(a) may produce in any court any document relating to the affairs of any other person of which he has the custody or to which he has access by virtue of his office or employment under or for the purposes of this Act;

or

(b) may divulge or communicate to any court any information concerning the affairs of any other person obtained by him by reason of any such office or employment,

when required by that court so to do or when it is necessary to do so for the purposes of any proceedings for the recovery of any tax and fines, or of a prosecution under or arising out of, this Act.

7. [Repealed by No. 21 of 1970, s. 9.]

[Former section 8 repealed by No. 36 of 1924, s. 11.]

LAND TAX.

Land tax
No. 15 of
1907, s. 9.
Renumbered
s. 8 in 1924
reprint.
Amended by
No. 14 of
1947, s. 3.
No. 87 of
1956, s. 5.
No. 68 of
1960, s. 2.
No. 104 of
1965, s. 4.
No. 113 of
1965, s. 4(1).
No. 50 of
1968, s. 3.

8. (1) Subject to the provisions of this Act, there shall be levied and paid to the Commissioner, for the use of Her Majesty, at the times and in the manner hereinafter directed, a land tax, at such rate or rates as Parliament shall from time to time declare and enact, per dollar of the assessed value of all land situate in Western Australia, and not included in the exemptions specified in section ten.

(1a) For any year of assessment up to and including the year of assessment ending on the thirtieth day of June, nineteen hundred and sixty-eight, the tax referred to in subsection (1) of this section shall be levied and paid as follows:—

By every owner of land in respect of all land of which he is such owner for every dollar of the unimproved value thereof as assessed under the provisions of this Act.

In the case of an owner of several estates or parcels of land (not being a bare trustee of different estates for the benefit of different *cestuis que trust*), the aggregate of the value of such several estates or parcels shall be regarded for the purpose of taxation as if such aggregate represented the unimproved value of a single estate or parcel.

(1b) For the year of assessment ending on the thirtieth day of June, nineteen hundred and sixty-nine, and for each year of assessment thereafter, the tax referred to in subsection (1) of this section shall be levied and paid by every owner of land in respect of all land of which he is the owner for each dollar of the unimproved value thereof as assessed under the provisions of this Act, and for the purposes of this Act—

(a) in the case of an owner of several estates or parcels of land which are deemed to be improved land under section nine of this

Act (not being a bare trustee of different estates of such land for the benefit of different *cestuis que trust*) the aggregate of the value of such several estates or parcels shall be regarded for the purpose of taxation as if such aggregate represented the unimproved value of a single estate or parcel of such land; and

- (b) in the case of an owner of several estates or parcels of land which are not so deemed to be improved land (not being a bare trustee of different estates of such land for the benefit of different *cestuis que trust*) the aggregate of the value of such several estates or parcels shall be regarded for the purpose of taxation as if such aggregate represented the unimproved value of a single estate or parcel of such land.

(2) The person who, at noon on the thirty-first day of December in any year, is the owner of any land, shall, in respect of the land tax for the then current financial year, be deemed to be the owner of such land, and be liable to pay such tax on such land:

Provided that for the eleventh year of assessment, that is to say, the financial year ending the 30th day of June, 1918, and for each succeeding year of assessment, the person who, at noon on the thirtieth day of June in the year next preceding the year of assessment, is the owner of any land, shall, in respect of the land tax for the year of assessment, be deemed to be the owner of such land, and be liable to pay such tax on such land.

(3) [*Repealed by No. 104 of 1965, s. 4.*]

(4) Where the land tax payable under this section in respect of the whole of the land owned by a person is less than two dollars, the Commissioner may remit the tax.

(5) For the year of assessment ending the thirtieth day of June, one thousand nine hundred and sixty-one, and for each year of assessment thereafter up

to and including the year of assessment ending on the thirtieth day of June, nineteen hundred and sixty-eight, where a person was at noon on the thirtieth day of June last preceding any such year of assessment—

- (a) the owner of only land that is deemed to be improved land under section nine of this Act, the amount of land tax payable under this Act in respect of that land shall be decreased by an amount that equals ten per centum of the amount that would, but for this section, be otherwise payable in respect of that land;
- (b) where at that time a person is the owner of land that is so deemed to be improved land and land that is not so deemed to be improved land, the amount of land tax payable under this Act in respect of those lands, shall be decreased by an amount that equals ten per centum of the amount of the land tax which would be levied under this Act if the land that is so deemed to be improved land were the only land owned by that person.

Rebate of
tax where
owner
erects
dwelling on
land.
Added by
No. 56 of
1968, s. 4;
Amended by
No. 22 of
1973, s. 2.

8A. (1) Where—

- (a) an owner of land has, in respect of the year of assessment ending on the thirtieth day of June, nineteen hundred and sixty-nine, or any year of assessment thereafter, been assessed for land tax in respect of an estate or parcel of land that was not deemed to be improved land at the rate declared by Parliament for such an estate or parcel;
and
- (b) that owner erects on the estate or parcel a dwelling house and in so doing effects on the estate or parcel sufficient improvements to cause the estate or parcel to become land that is deemed to be improved land,

the owner of the estate or parcel is, subject to subsection (2) and subsection (3a) of this section, on making application in the prescribed manner, entitled, in respect of the land tax referred to in paragraph (a) of this subsection, to a rebate calculated in accordance with the provisions of subsection (3) of this section.

(2) A rebate shall not be made under this section—

- (a) in respect of the land tax assessed for any year of assessment other than the last four years of assessment preceding the year of assessment in which the estate or parcel became improved land; or
- (b) in respect of the land tax assessed for any year of assessment if, the area of land comprised by the lot on which the dwelling house was erected did not also wholly comprise a lot on the thirtieth day of June in the year next preceding that year of assessment.

(3) For the purposes of subsection (1) of this section, the amount of the rebate to be made to an owner in respect of a year of assessment referred to in paragraph (a) of that subsection is—

- (a) where the owner erects, in any period of twelve months ending on the thirtieth day of June in any year, a dwelling house on only one such estate or parcel of land—the amount ascertained by deducting from the amount of land tax that would have been payable by him for that year of assessment had that estate or parcel been the only land of that owner on the thirtieth day of June in the year next preceding that year of assessment, the amount of land tax that would have been payable by him for that year of assessment had that estate or parcel

been, on the lastmentioned day, land that was deemed to be improved land and the only land of which he was, on that lastmentioned day, the owner;

- (b) where the owner erects, in any period of twelve months ending on the thirtieth day of June in any year, a dwelling house on each of two or more such estates or parcels of land—the amount ascertained by deducting from the amount of land tax that would have been payable by him for that year of assessment had those estates or parcels been the only land of that owner on the thirtieth day of June in the year next preceding that year of assessment, the amount of land tax that would have been payable by him for that year of assessment had those estates or parcels been, on that lastmentioned day, land that was deemed to be improved land and the only land of which he was, on that lastmentioned day, the owner.

(3a) A rebate shall not be made under this section in respect of the land tax assessed for a year of assessment in respect of an estate or parcel if a rebate has been made under section 8E of this Act in respect of that estate or parcel for that year of assessment.

(4) In this section—

“dwelling house” includes a partly erected dwelling house and a building comprising two dwellings on ground level, each being complete and self-contained units for living purposes, but does not include any other building containing more than one dwelling or self-contained unit for living purposes and such a building that is partly erected;

“lot” has the same meaning as is given to that term by section two of the Town Planning and Development Act, 1928.

8B. (1) Subject to the succeeding provisions of this section, where on the thirtieth day of June in the year next preceding any year of assessment—

- (a) a person is ordinarily resident on an estate or parcel of land not exceeding 4 047 square metres in area which is deemed to be improved land, and of which he is the owner;
- (b) the improvements on the estate or parcel consist of a dwelling house only or of a dwelling house and outbuildings only;
- (c) the estate or parcel is used for residential purposes only; and
- (d) the estate or parcel is specifically zoned under the provisions of—
 - (i) a town planning scheme in force under the Town Planning and Development Act, 1928, other than the Metropolitan Region Scheme; or
 - (ii) by-laws made under section two hundred and forty-eight of the Local Government Act, 1960,

applicable to the estate or parcel so as to permit it being then lawfully used for a purpose other than the purpose for which it is then being used,

land tax shall not be levied or paid for that year of assessment in respect of the amount by which the unimproved value of the estate or parcel as assessed under this Act on that day exceeds the unimproved value that the estate or parcel would have had on that day if it had been an estate or parcel on which only a dwelling house could have been lawfully erected.

(1a) The provisions of this section shall not be applied in respect of any year of assessment to any estate or parcel of land exceeding 2023 square metres in area unless the Commissioner is satisfied that, on the thirtieth day of June immediately preceding that year of assessment, the estate or parcel was incapable of subdivision into two or more estates or parcels or such a subdivision was impracticable.

Alleviation
of Tax for
certain
owners of
land.
Added by
No. 56 of
1968, s. 5.
Amended by
No. 13 of
1971, s. 3;
No. 19 of
1973, s. 4.

(2) The provisions of this section do not apply unless the owner of the estate or parcel ordinarily residing on it on the day specified in subsection (1) of this section—

- (a) was also the owner of the estate or parcel immediately before it first became zoned as specified in paragraph (d) of that subsection; or
- (b) is the surviving spouse of the person who was the owner of the estate or parcel immediately before it first became zoned as specified in paragraph (d) of that subsection.

(3) The provisions of this section shall not be applied to any land until the owner thereof has applied in the prescribed manner to have those provisions applied to that land, but where such an application has been made, the provisions shall, insofar as they are capable of so being applied, be applied to that land in respect of any year of assessment referred to in that subsection.

(4) In this section, “dwelling house” includes a building comprising two dwellings on ground level, each being complete and self-contained units for living purposes, but does not include any other building containing more than one self-contained unit for living purposes.

Assessment
of certain
home unit
owners.
Added by
No. 101 of
1970, s. 3.

8C. (1) For the purposes of this section—

“home unit” means a part of a building,
which building—

- (a) contains two or more such parts, each of which is designed for use as a self-contained unit for living purposes; and
- (b) is erected on land that is owned—
 - (i) by two or more persons as tenants in common, each of whom is the registered proprietor under the Transfer of

Land Act, 1893, of one or more undivided shares in the whole of the land and is lawfully entitled, by virtue of an agreement entered into between him or his predecessor in title and all other owners of undivided shares in the land or their predecessors in title, to the exclusive right to occupy a specified part of the building;

or

- (ii) by a body corporate in which all issued shares are owned by persons, each of whom is lawfully entitled, by virtue of his ownership of shares in the body corporate, to the exclusive right to occupy a specified part of the building;

“owner”, in relation to a home unit, means the person who—

- (a) is the registered proprietor of an undivided share in the land whereon the building, of which the home unit is part, is erected; or
- (b) is a shareholder in the body corporate which is the owner of the land whereon the building, of which the home unit is part, is erected,

as the case may be, and who is thereby entitled to the exclusive right to occupy that home unit.

(2) The provisions of this section do not apply to or in relation to the assessment for taxation of land on which home units are erected unless—

- (a) apart from the home units erected on the land, there are no other improvements effected on the land other than outbuildings, fences, garages or other improvements

that are, in each case, designed for the use or enjoyment of the owners of the home units;

- (b) the owners of all of the home units erected on the land apply, in a form approved by the Commissioner, to have the provisions of this section applied to that land; and
- (c) in the case of land owned by a body corporate, there is submitted to the Commissioner in a form approved by him a statement setting out the respective proportions of the value of the land to be ascribed, for the purposes of this section, to the respective owners of the home units erected thereon, and the Commissioner is satisfied that the statement represents a fair and reasonable apportionment of the interests of the respective home unit owners in that land for the purposes of this section.

(3) For the purposes of this Act, land tax shall be levied and paid by each owner of a home unit erected on land to which this section applies, on such part of the unimproved value of that land as—

- (a) in the case where the owner of the home unit is the registered proprietor of an undivided share in the land—bears to that unimproved value the same proportion as his undivided share in the land bears to the whole of the land;
- (b) in the case of an owner who is a shareholder of shares in the body corporate which owns the land—bears to that unimproved value the same proportion as the proportion of that owner's interest in the land as ascribed to him in the statement submitted to and accepted by the Commissioner under paragraph (c) of subsection (2) of this section bears to the total interests of all the shareholders in the land.

(4) Where, pursuant to an application made in accordance with this section by the owners of all the home units erected on any land, the provisions of this section are applied to the land, and each of those owners is separately assessed for land tax in accordance with subsection (3) of this section—

- (a) the provisions of this section continue to apply to and in relation to the assessment for taxation of that land and to the owners for the time being of those home units until all of the owners for the time being of those home units apply in the form approved by the Commissioner for the revocation of the application of this section or until the Commissioner, irrespective of whether those owners have so applied, by notice served on the owners for the time being of all the home units, revokes the application of this section;
- (b) land tax shall not be assessed in any way other than in accordance with subsection (3) of this section on or in respect of that land; and
- (c) where the owner of a home unit assessed under subsection (3) of this section is the owner of any other improved land, the part of the value of the land on which the home unit of which he is the owner is erected and in respect of which tax is assessed and levied upon him shall be deemed to be improved land for the purposes of all other provisions of this Act and as such shall be deemed to have the value assessed under subsection (3) of this section.

(5) Subject to paragraph (a) of subsection (4) of this section, an application made in accordance with the provisions of subsection (2) of this section shall be given effect to by the Commissioner—

- (a) if the application is received by him before the first day of March, nineteen hundred

and seventy-one—with respect to the year of assessment ending the thirtieth day of June, nineteen hundred and seventy-one;

- (b) if the application is received by him after that date—with respect to the year of assessment immediately following that in which the application is received by the Commissioner.

Commis-
sioner may
determine
tax not to
be levied on
part of
assessed
value of
certain land.
Added by
No. 101 of
1970, s. 4.
Amended by
No. 19 of
1973, s. 4.

8D. (1) For the purposes of this Act the Commissioner may, with the approval of the Treasurer, determine that, in respect of any year of assessment specified in the determination, no land tax shall be levied on such part of the unimproved value as assessed of any estates or parcels of rural land as exceeds, in relation to any such estate or parcel, the sum per 4 047 square metres specified for the purpose in the determination for each 4 047 square metres or part thereof comprised by the estate or parcel.

(2) A determination may be made under subsection (1) of this section so as to have effect with respect to the year of assessment ending on the thirtieth day of June, nineteen hundred and seventy or any year of assessment thereafter.

(3) Where—

- (a) the making of a determination under subsection (1) of this section with respect to the year of assessment ending on the thirtieth day of June, nineteen hundred and seventy has effect so as to reduce the land tax payable for that year of assessment in respect of an estate or parcel of rural land; and
- (b) land tax was assessed on the estate or parcel for that year of assessment prior to the making of the determination and the amount of land tax so assessed has been paid to the Commissioner,

there is payable to the person who was the owner of the estate or parcel on the thirtieth day of June, nineteen hundred and seventy, the amount, if any, by which the land tax so paid exceeds the amount payable for that year of assessment in respect of that estate or parcel if the provisions of the determination are taken into account, and no other person is in any way entitled to any refund or rebate of, or amendment of assessment in respect of, any part of the land tax so paid to the Commissioner.

(4) Where in any other Act or law of the State, other than the Metropolitan Region Town Planning Scheme Act, 1959 or the Metropolitan Region Improvement Tax Act, 1959, reference is made to the unimproved value of any land within the meaning of, or as assessed, under this Act, that reference shall be read and construed as a reference to the unimproved value of that land within the meaning of, or as assessed, under the provisions of this Act as though the provisions of this section had not been enacted.

(5) In this section "rural land" means land which is improved land by virtue of the provisions of paragraph (e) or paragraph (f) of section nine of this Act and, in relation to the year of assessment ending the thirtieth day of June, nineteen hundred and seventy, means land which would have been improved land for that year of assessment by virtue of the provisions of either of those paragraphs if the provisions of those paragraphs had been in operation at the commencement of that year of assessment

8E (1) Where an owner of land is, in respect of the year of assessment ending on the thirtieth day of June, nineteen hundred and seventy-four or any year of assessment thereafter, assessed for land tax in respect of land that is not deemed to be improved land and consists of or includes a number of estates or parcels of land, each of which—

- (a) does not exceed 4 047 square metres in area and

Rebate of portion of tax payable for subdivided land. Added by No. 22 of 1973, s. 3.

- (b) was derived from a larger parcel or parcels of land which were subdivided by that owner and which, at the time of subdivision, exceeded 4.046 9 hectares in area,

the owner is entitled, on making application in the manner approved by the Commissioner, to a rebate of tax calculated in accordance with the provisions of subsection (2) of this section in respect of those estates or parcels.

(2) For the purposes of subsection (1) of this section, the amount of the rebate to be made to an owner in respect of a year of assessment referred to in that subsection is the amount ascertained by deducting from the amount of land tax that would have been payable by him for that year of assessment had the estates or parcels in respect of which the rebate is to be made been the only land of that owner on the thirtieth day of June in the year next preceding that year of assessment, the amount of land tax that would have been payable by him for that year of assessment had those estates or parcels been, on that lastmentioned day, land that was deemed to be improved land and the only land of which he was, on that lastmentioned day, the owner.

Improved
land.
Repealed and
re-enacted
by No. 68 of
1960, s. 3.
Amended by
No. 104 of
1965, s. 5;
No. 56 of
1968, s. 6;
No. 101 of
1970, s. 5;
No. 19 of
1973, s. 4.

9. (1) For the purposes of this Act land shall be deemed to be improved land—

- (a) [*Deleted by No. 101 of 1970, s. 5.*]
- (b) if improvements have been effected and continue thereon to an amount of not less than one-third of the unimproved value of the land, but it shall not be necessary in any case to effect improvements exceeding an amount equal to \$325 per metre of the main frontage thereof; and where any land is situated at the intersection of two roads or streets, one only of the frontages of such land shall be deemed the main frontage; and if any question shall arise as to which frontage is the main frontage, the question shall be determined by the Court of Review;

- (c) if in respect of each parcel of land comprised within a common boundary fence the prescribed improvements have been effected and continue on any part thereof;
- (d) if the land is not land that is deemed to be improved land under paragraph (a), (b) or (c) of this section and—
 - (i) a notice of intention to take or resume the land given under subsection (2) of section seventeen of the Public Works Act, 1902, is in force; or
 - (ii) the land is reserved for a public purpose under the Metropolitan Region Scheme in force under the Metropolitan Region Town Planning Scheme Act, 1959, and the Metropolitan Region Planning Authority has, on the application of the owner, issued a certificate for the purposes of this section specifying the extent to which the land is then so reserved,

and the owner of the land has applied in the prescribed manner to have the provisions of this paragraph applied to the land;

- (e) in the case of land situated within the metropolitan region as defined by the Town Planning and Development Act, 1928—if the land is in excess of 4 047 square metres in extent and the land is classified in a rural zone under Part III of the Metropolitan Region Scheme in force under the Metropolitan Region Town Planning Scheme Act, 1959, but any land so classified shall not be deemed to be improved land pursuant to this paragraph if—
 - (i) the land is also classified or zoned, under a town planning scheme in force under the Town Planning and Development Act, 1928 or by-laws in

- force under section two hundred and forty-eight of the Local Government Act, 1960, for an excepted use or purpose;
- (ii) the Town Planning Board has, under the Town Planning and Development Act, 1928, approved a subdivision of the land by which some or all of the land is to be divided into lots of 4 047 square metres or less in extent;
 - (iii) pursuant to Part IV of the Metropolitan Region Scheme, approval has been given for the commencement and carrying out of development on the land for an excepted use or purpose; or
 - (iv) the land is being used, whether lawfully or otherwise, for an excepted use or purpose other than for the provision of only one place of residence;
- (f) in the case of land situated outside the metropolitan region as defined by the Town Planning and Development Act, 1928—if the land is in excess of 4 047 square metres in extent, but any land shall not be deemed to be improved land pursuant to this paragraph if—
- (i) the land is also classified or zoned, under a town planning scheme in force under the Town Planning and Development Act, 1928 or by-laws in force under section two hundred and forty-eight of the Local Government Act, 1960, for an excepted use or purpose;
 - (ii) the Town Planning Board has, under the Town Planning and Development Act, 1928, approved a subdivision of the land by which some

or all of the land is to be divided into lots of 4 047 square metres or less in extent; or,

- (iii) the land is being used, whether lawfully or otherwise, for an excepted use or purpose other than for the provision of only one place of residence.

(2) Where—

- (a) during the year of assessment ending on the thirtieth day of June, nineteen hundred and seventy-one or any year of assessment thereafter, any land becomes specifically classified or zoned, in the manner specified in subparagraph (i) of paragraph (e) or subparagraph (i) of paragraph (f) of subsection (1) of this section, for an excepted use or purpose; and
- (b) immediately before the land so becomes specifically classified or zoned for an excepted use or purpose, the land was improved land pursuant to paragraph (e) or paragraph (f) of subsection (1) of this section,

the land shall, on application being made by the owner in the form approved by the Commissioner, continue to be improved land until—

- (c) the land would, apart from the operation of subparagraph (i) of paragraph (e), or subparagraph (i) of paragraph (f), of subsection (1) of this section, have ceased to be improved land by reason of subparagraph (ii), (iii) or (iv) of paragraph (e) or subparagraph (ii) or (iii) of paragraph (f), of that subsection, as the case may be; or
- (d) the expiration of the three years of assessment next following the year of assessment in which the land is so specifically classified or zoned for an excepted use or purpose,

whichever is the lesser period.

(3) For the purposes of this section, the following are excepted uses or purposes, namely, residences, flats, trade, businesses, industry (not being businesses or industry specified in paragraph (g) of subsection (1) of section ten of this Act), commerce or any other use or purpose prescribed for the purposes of this subsection.

Exemption.
No. 15 of
1907, s. 11.
Renumbered
s. 10 in 1924
reprint.
Amended by
No. 17 of
1922, s. 4;
No. 36 of
1924, s. 4;
No. 11 of
1945, s. 2;
No. 40 of
1948, s. 4;
No. 87 of
1956, s. 7;
No. 33 of
1959, s. 2;
No. 104 of
1965, s. 6;
No. 113 of
1965, s. 4;
No. 95 of
1969, s. 3;
No. 101 of
1970, s. 6;
No. 13 of
1971, s. 4;
No. 19 of
1973, s. 4.

10. (1) The lands and classes of lands hereinafter specified are exempted from assessment for taxation under this Act, viz.:—

- (a) All lands owned by or on behalf of Her Majesty.
- (b) Public roads and thoroughfares; public reserves for health, recreation, or enjoyment, public parks, university endowments, cemeteries, and commons.
- (ba) All lands owned by or vested in any local authority.
- (c) All lands owned by any person or society, and occupied or used exclusively for or in connection with any public hospital, or any hospital conducted by or on behalf of any religious body (whether supported wholly or partly by grants from the Consolidated Revenue Fund or not), benevolent institution, public charitable purpose, church, chapel for public worship, or the site of a residence of a minister of religion ministering at some place of public worship, or the site of, or occupied for the purposes of, a school attached to or connected with any place of public worship, or as a mechanics' institute, or school of art; all lands the property of and belonging to or held in trust for the benefit of any religious body; all lands on which is erected any municipal or State market and all lands owned by or vested in any statutory public body:

Provided that the exemption shall not apply to any such land which (not being the site of, or intended site of, or occupied

for the purposes of a school or hall used or to be used for educational purposes the property of and belonging to a religious body) is a source of profit or gain to the users or owners thereof.

- (d) All lands held as mining tenements within the meaning of the Mining Act, 1904.
- (e) All lands dedicated to, or vested in trustees and used for zoological, agricultural, pastoral, or horticultural show purposes, or other public or scientific purposes.
- (f) Land held by—
 - (i) any person who is in receipt of an age pension, an invalid pension or a widow's pension, under the provisions of the Social Services Act, 1947-1958 (Commonwealth Act), or of that Act as amended at any time.
 - (ii) any member of the Forces within the meaning of the Repatriation Act, 1920-1958 (Commonwealth Act), or of that Act as amended at any time, who is in receipt of a service pension under the provisions of Division 5 of Part III. of that Act.
 - (iii) any widow of a member of the forces within the meaning of the Repatriation Act, 1920-1956 (Commonwealth Act) or of that Act as amended at any time, or by a widowed mother of an unmarried member: Provided that this subparagraph shall not apply in respect of land held by the widow or widowed mother, the total value of which exceeds \$10 000, so far as concerns the amount by which such value is in excess of \$10 000.
- (g) Land used solely or principally for all or any of the following businesses, namely, an agricultural, pastoral, horticultural, apicultural, grazing, pig raising or poultry farming business.

- (h) Any estate or parcel of improved land not exceeding 2 023 square metres in area, where—
- (i) the owner is ordinarily resident on the land;
 - (ii) the land is used principally for residential purposes;
 - (iii) the improvements on the land consist of a dwelling house, or a dwelling house and outbuildings, only; and
 - (iv) the owner owns no other assessable land within the State.

(1a) The provisions of paragraph (h) of subsection (1) of this section shall not be applied to any land unless the owner has made an application to the Commissioner in a form approved by the Commissioner to have the provisions of that paragraph applied to the land.

See No. 36 of
1924, s. 4.

(2) All lands held under contract for conditional purchase, made before or after the commencement of this Act, under the Land Act, 1898,¹ or any amendment thereof, are exempted from assessment for taxation under this Act for the term of five years from the date of contract, or from the date of survey in the case of land not surveyed before the date of contract. But such exemption shall only apply to taxpayers who prove to the satisfaction of the Commissioner that they do not hold legally or equitably more than 400 hectares of cultivable land or 1 000 hectares of grazing land, or of cultivable and grazing land mixed, as defined by the Land Act and its amendments.

(3) Notwithstanding the provisions of subsection (1) of this section, land used for the purposes specified in paragraph (g) of that subsection and which is situated within the metropolitan region as defined

¹ See now Land Act, 1933-1972.

by the Town Planning and Development Act, 1928, shall not be exempted from assessment for taxation under this Act unless—

- (a) the land is improved land within the meaning of paragraph (e) of subsection (1) of section nine of this Act; or
- (b) the person or persons by whom the land is so used derive the whole or a substantial part of his or their income from that use of the land.

11. With respect to lands which by virtue of subsection (1) of the last preceding section are exempt from land tax, the following provisions shall apply:—

- (1) The benefit of such exemption shall, in each case, 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, whether as purchaser, lessee, licensee, occupier, or otherwise howsoever; and every such person shall be liable to assessment and taxation in respect of such estate or interest.
- (2) In the case of land owned by or vested in Her Majesty on any express or implied trust, the person entitled in equity to the rents or profits of such land shall, for the purpose of assessment and taxation and to the extent to which he is so entitled, be deemed to be the owner of such land, and be liable to assessment and taxation in respect thereof.
- (3) If such trust is in favour of any public institution or department, the Governor may from time to time make regulations prescribing the person or authority to make returns, the mode of assessment, and the funds of such institution or department out of which the tax shall be paid.

Only owners of land specified in preceding section entitled to exemption. No. 15 of 1907, s. 12. Renumbered s. 11 in 1924 reprint.

Exemption
of certain
land
owners.
Added by
No. 95 of
1969, s. 4.
Amended by
No. 101 of
1970, s. 7.

11A. (1) This section applies with respect to the year of assessment ending on the thirtieth day of June, nineteen hundred and seventy-one and each year of assessment thereafter.

(2) Where the aggregate of the unimproved value, as assessed under this Act, of all the estates or parcels of improved land owned by a person does not exceed fifty thousand dollars, there shall, for the purposes of subsection (1b) of section eight of this Act, be deducted therefrom—

- (a) if that aggregate does not exceed ten thousand dollars—an amount equal to that aggregate; or
- (b) where that aggregate exceeds ten thousand dollars—an amount equal to ten thousand dollars less one dollar for every four dollars by which that aggregate exceeds ten thousand dollars.

(3) The provisions of this section do not apply for the purposes of ascertaining any rebate to which an owner may be entitled under section eight A of this Act.

Rebate of
land tax in
respect of
land used
for forestry
purposes.
Added by
No. 101 of
1970, s. 8.
Amended by
No. 19 of
1973, s. 4.

11B. (1) This section applies with respect to the year of assessment ending on the thirtieth day of June, nineteen hundred and seventy-one and each year of assessment thereafter.

(2) Where the Conservator of Forests appointed under the Forests Act, 1918 certifies in writing with respect to any land that—

- (a) the owner of the land is *bona fide* engaged in the business of growing or felling trees and that the land is held by him in connection with that business;
- (b) the owner of the land has practised conservation and improvement for forestry purposes on the land for not less than five years; and

- (c) the land carries an average stocking of trees not less than forty per centum of a fully stocked stand and the trees with which the land is stocked are of an acceptable species suitable for commercial forestry purposes,

the owner of the land is, subject to subsection (3) of this section, on making application in the manner approved by the Commissioner, entitled to a rebate of one-half of the land tax assessed in respect of that land for the year of assessment to which the certificate relates.

(3) The provisions of subsection (2) of this section do not entitle an owner of land to a rebate of land tax in respect of a year of assessment unless the total of the areas of land owned by him to which a certificate or certificates of the Conservator of Forests under that subsection for that year of assessment relate, is not less than 400 hectares.

BURDEN OF LAND TAX—CONTRIBUTIONS AND PROVISIONS AS TO AGENTS AND TRUSTEES.

12. If two or more persons are owners, whether jointly or severally or otherwise, of land subject to taxation under this Act, they shall each be liable to Her Majesty for the whole tax on such land; but any owner who has paid the tax may recover contribution as hereinafter provided—

Liability of co-owners. No. 15 of 1907, s. 13. Renumbered s. 12 in 1924 reprint.

- (1) A person who has paid the tax in respect of any land may recover, by way of contribution, from any other person having an estate therein a sum which bears the same proportion to the tax as the value of the estate of such other person in the unimproved value of the land bears to the whole unimproved value of the land; and a person who has paid the contribution payable in respect of an estate in land may recover as aforesaid from any person interested in such estate a sum which bears the same proportion to the amount of the contribution so paid as aforesaid as the value of the interest of such other person bears to the value of such estate.

Contribution.

- (2) Every person entitled to contribution in respect of land tax under this section may—
- (a) sue for the same as money paid to the use of the person liable to contribute at his request in any court of competent jurisdiction; or
 - (b) retain the amount of such contribution out of any moneys in his hands belonging or payable to the person liable to contribute; or
 - (c) deduct the same from any moneys payable to the person liable to contribute in respect of interest or debt, or other obligation.

Rules, etc.,
for calculation
of
values.
No. 15 of
1907, s. 14.
Renumbered
s. 13 in 1924
reprint.

13. The value of any interest or estate subject or liable to contribution to land tax under this Act shall be determined, so far as practicable, by reference to the "Tables for Calculation of Values" provided by the regulations.

Agents,
trustees,
etc., how
chargeable.
No. 15 of
1907, s. 15.
Renumbered
s. 14 in 1924
reprint.

14. (1) Every agent for any owner of any land subject to land tax under this Act who may be permanently or temporarily absent from Western Australia, and every trustee of any land subject to land tax under this Act, shall be assessed respectively in respect of such land the owner of which is represented by such agent, or in respect of such land the legal estate in which is vested in such trustee, whether solely or jointly with other trustees.

(2) Every such agent and trustee shall, subject to the provisions of subsection (6), be chargeable with the land tax payable in respect of such land in the same manner as if such land were his own; but he shall be assessed in respect thereof in a representative character only, and the provisions of subsection (3) of section eight shall apply, and each such assessment shall be kept separate and distinct from the individual assessment (if any) of such agent or trustee.

(3) Every such agent or trustee shall be answerable for the doing of all such acts, matters, or things as would be required to be done by the owner.

(4) Every such agent or trustee shall be subject to the same penalties or liability for any neglect, refusal, or default in respect of the obligations and requirements of this Act as the persons whom such agent or trustee represents would be subject to.

(5) Every such agent or trustee is hereby authorised to recover from any person for whom, or on whose behalf, he is compellable to pay and has paid land tax, the amount of the land tax so paid by him, or to retain out of any money which shall come to him in his representative character so much, from time to time, as shall be sufficient to pay such land tax.

(6) Such agent or trustee shall not be personally liable for land tax to any further or greater extent than to the amount of such funds or securities for money as are or may be in his hands, in his representative character or as trustee, or of which he shall have the controlling power, after receiving notice of such assessment as hereinbefore provided.

15-32. [*Repealed by No. 87 of 1956, s. 11.*]

ASSESSMENTS, RETURNS, ETC.

33. (1) The Commissioner shall, in the prescribed manner, give or cause to be given not less than thirty clear days' public notice of the time and place at which all persons liable to taxation personally, or in any representative capacity under the provisions of this Act, shall furnish returns for the purpose of assessment.

Commissioner to give notice of returns.
No. 15 of 1907, s. 32.
Renumbered s. 33 in 1924 reprint.
Amended by No. 24 of 1918, s. 8; No. 87 of 1956, s. 12.

(2) Such notice shall state the place at which the prescribed forms of return may be applied for and obtained, and it shall be the duty of all such persons, and of all persons required by this Act or any regulation to furnish any such returns, to apply for the prescribed forms of returns.

(3) Any person failing to furnish any such return shall not be relieved from any penalty by reason only of his having received no notice to furnish the same, or of the prescribed form of return not having been delivered to him; but the Commissioner may, if he deems it so advisable, cause forms to be delivered by the assessors or sent by post.

Taxpayers to
furnish
returns.

(4) Every such person shall upon the publication of such notice, prepare and deliver, in the prescribed manner, within the period to be mentioned in such notice, to the person appointed to receive the same, a return in the form prescribed of the description, situation, and value of all land of which such person is owner or holder, or in respect of which he may be liable under this Act to taxation in any representative capacity, with all details in relation thereto which may be prescribed; and such return shall be signed by the taxpayer, or by his agent duly authorised in that behalf.

(5) Any return made or purporting to be made or signed by or on behalf of any person, or by the public officer of any company for the purposes of this Act, shall be taken and deemed to be duly made and signed by the person or by the public officer of the company affected, as the case may be, unless such person or public officer shall prove that such return was not made or signed as aforesaid.

(6) If any person fails to make such return, the Commissioner may appoint a person to make a return on behalf of such person, and the return made by the person so appointed shall be, for all the purposes of this Act, the return of the person liable to make the same.

(7) The returns furnished by or on behalf of every person required to furnish returns under this Act shall contain such particulars, be in such form, and be furnished to the Commissioner at such time as may respectively be prescribed or publicly notified.

(8) The Commissioner may, when and so often as he thinks necessary, require any person, whether liable to taxation or not, to make any return, or to make further or fuller returns, respecting the land of such person.

Commis-
sioner may
require
further
returns.

(9) All returns required to be furnished under this Act shall be delivered at or sent by letter posted to the prescribed address.

(10) No person shall be released from the obligations and penalties imposed by this Act or the regulations, in respect to the making of the returns herein mentioned, by reason only that such person may be within the exemptions as to the value of lands taxable hereinbefore declared.

34. (1) [*Repealed by No. 87 of 1956, s. 13.*]

Assessments.
No. 15 of
1907, s. 33.
Renumbered
s. 34 in 1924
reprint.
Amended by
No. 17 of
1922, s. 8;
No. 87 of
1956, s. 13.

(2) From the land returns, or from the current valuations of the local authority in whose district the land is situated, or from the departmental valuations made, or from any other available source, the Commissioner shall, as soon as may be, cause assessments to be made for the purpose of ascertaining the amount upon which land tax shall be levied.

(3) The Commissioner may, at any time, make such alterations in, or additions to, any assessment as he thinks necessary in order to insure its completeness and accuracy, notwithstanding that the land tax may have been paid in respect to the land included in the assessment:

Provided that every alteration, or addition, which has the effect of imposing any fresh liability, or increasing any existing liability, shall be notified to the taxpayer affected, and unless made with his consent, shall be subject to appeal:

Provided, further, that any alteration, or correction in the assessment authorised to be made on appeal from assessment, or by order of a court, as hereinafter provided, shall be made forthwith.

(4) Whenever it is discovered that owing to any mistake of fact any assessment is too low or excessive or otherwise erroneous, the Commissioner may, notwithstanding that the assessment has, before the discovery of such mistake, been adjudicated on by the Court of Review, amend the assessment by increasing, decreasing, or otherwise altering the same in such manner as in his judgment is just and necessary; and shall thereupon send notice of such amendment to the person concerned, and any such amendment and notice thereof shall be deemed to be and have effect as an assessment and notice thereof, and shall be subject to appeal and to the other incidents of assessments and notices of assessment accordingly.

Validity of
assessment.
No. 15 of
1907, s. 35.
Substituted
by No. 17 of
1922, s. 10.

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

Due date
where
assessment
is amended.
No. 15 of
1907, s. 36.
Amended by
No. 17 of
1922, s. 11.

36. Where any addition to or amendment of an assessment in respect to the land tax for any year has been made, the due date in respect of any amount payable by reason of such addition or amendment shall be the date of the giving of the notice of such addition or amendment to the person affected thereby.

Valuations
of land.
No. 15 of
1907, s. 37.
Substituted
by No. 42 of
1930, ss. 2
and 3.
See Com.
1910-11,
ss. 17, 18.

37. (1) For the purposes of section thirty-four of this Act, the Commissioner may from time to time make valuations of land liable to land tax, and from time to time may alter or amend any such valuation in order to ensure the correctness and accuracy thereof, but so that every valuation shall indicate the value of the land in the opinion of the Commissioner as on the thirtieth day of June last preceding the year of assessment for which such valuation is required.

(2) Every such valuation, until altered or amended by the Commissioner, shall be deemed to indicate from year to year the value of the land in the opinion of the Commissioner as on the thirtieth day of June next preceding each year of assessment subsequent to the making of such valuation.¹

[Former s.38 repealed by No. 17 of 1922, s.13.]

38. (1) The Commissioner or any person authorised in writing by him may at all reasonable times inspect, free of charge, all rate-books, assessment-books, and valuations relating to any land, and all other books and documents relating to any assessment or valuation in the custody of the town clerk, secretary, or other officer of any municipality or road board, and all deeds, certificates, and other evidences of title, books, returns, accounts, and documents in the Land Titles Office, or the office for the Registration of Deeds, or in any other public office; and may require and take copies thereof, or extracts therefrom.

Power to inspect rate-books, etc., No. 15 of 1907, s. 39. Renumbered s. 38 in 1924 reprint. Amended by No. 113 of 1965, s. 4.

(2) Any person obstructing or hindering any person so authorised shall be liable to a penalty not exceeding one hundred dollars.

39. Any assessor may enter at any reasonable hour, during the day-time, upon land or premises, for the purpose of assessing the same, and may put to the occupier or owner thereof any questions touching any of the particulars thereof which he is required to furnish under this Act or the regulations.

Assessor may enter and ask questions. No. 15 of 1907, s. 40. Renumbered s. 39 in 1924 reprint.

¹Section 37 of the Act as reprinted in the appendix to the sessional volume of the Statutes for the year 1924 was repealed by Section 2 of No. 42 of 1930 and the above Section 37 was enacted in place thereof by the said Section 2 of No. 42 of 1930. Section 3 of No. 42 of 1930 referring to the said Section 2 provides as follows:—

3. (1) The provisions of section two of this Act shall have effect as from and including the first day of July, one thousand nine hundred and thirty, and it shall be competent for the Commissioner to make valuations of land under section thirty-seven of the principal Act as amended by this Act for the purpose of ascertaining the amount of land tax to be levied for and in respect of the year of assessment commencing on the said date.

(2) If the Commissioner makes any valuation of land as aforesaid, any assessment of the same land previously made by him and which, by virtue of section thirty-seven of the principal Act hereby repealed, was still subsisting on the said first day of July, one thousand nine hundred and thirty, shall as from the making of such valuation cease to have any further effect, but, subject as aforesaid, all such assessments of land shall be deemed, for the purposes of section thirty-four of the principal Act, to indicate the value of the land in the opinion of the Commissioner from year to year as on each thirtieth day of June until the Commissioner makes a valuation of such land under section thirty-seven of the principal Act as amended by this Act.

Trustees jointly and severally responsible for returns. No. 15 of 1907, s. 41. Renumbered s. 40 in 1924 reprint.

40. Joint owners or trustees of land in respect to which such owners or trustees are liable under this Act to be assessed and taxed shall be assessed jointly, but shall be jointly and severally responsible for the due furnishing of returns, and be in like manner liable in respect of the payment of the tax.

Partners assessed jointly as to land of firm. No. 15 of 1907, s. 42. Renumbered s. 41 in 1924 reprint.

41. (1) Co-partners shall be assessed jointly in the name of the firm or style of the co-partnership, in respect of land belonging to or held by such co-partners, and shall be chargeable jointly and severally with the land tax payable in respect thereof; and such assessment shall be kept separate and distinct from the individual assessment of any such partner.

(2) Every co-partner shall be separately responsible for the due furnishing of returns relating to such land, and liable in respect of any default in connection therewith.

Provisions when name of owner unknown. No. 15 of 1907, s. 43. Renumbered s. 42 in 1924 reprint. Amended by No. 17 of 1922, s. 14.

42. Where the name of an owner of any land cannot, after due inquiry, be found, such land shall be assessed in the name of "the owner," and he shall be liable to taxation by that designation.

Assessment in case of default. No. 15 of 1907, s. 44. Renumbered s. 43 in 1924 reprint. Amended by No. 17 of 1922, s. 15; No. 87 of 1956, s. 14.

43. (1) If—

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

the Commissioner may make an assessment of the amount upon which, in his judgment, land tax ought to be levied, and the person assessed shall be liable to pay land tax thereon, excepting so far as he establishes on appeal that the assessment is excessive.

(2) Every such assessment shall be subject to appeal.

[Former ss. 45 and 46 repealed by No. 17 of 1922, ss. 16 and 17.]

44. The Commissioner shall give the prescribed notice of assessment to every taxpayer, with such particulars of the assessment as he may consider necessary, and of the amount of tax payable and the date when payment will be due. Such notice shall be designated the Notice of Assessment of Land Tax.

Notice to taxpayer. No. 15 of 1907, s. 47. Renumbered s. 44 in 1924 reprint. Amended by No. 87 of 1956, s. 15; No. 68 of 1960, s. 4.

PROVISIONS AS TO COMPANIES.

45. (1) Every incorporated company liable to land tax shall at all times be represented by a person residing in Western Australia, nominated for that purpose; and a place within the said State shall be appointed, from time to time, by such company, at which any notices or other instruments under this Act affecting the company may be served or delivered, and the Commissioner shall be notified within one month thereafter of the making of such nomination and appointment.

Public officer of a company—duties and liabilities. No. 15 of 1907, s. 48. Renumbered s. 45 in 1924 reprint. Amended by No. 87 of 1956, s. 16; No. 113 of 1965, s. 4.

(2) Such person shall, for the purposes of this Act, be called the public officer of the company, and shall be nominated—

- (a) in the case of a company having a board of directors or managers in Western Australia, within one month after the commencement of this Act;
- (b) in the case of a company not having such board as aforesaid, within three months after the commencement of this Act:

Provided that, in default of such nomination for the purposes of the first assessment under this Act, the public officer of any company shall be such managing director, director, secretary, attorney, or other officer as the Commissioner shall nominate for that purpose.

(3) The office of public officer shall be kept constantly filled by every company.

(4) Every company failing or neglecting, within the time required by this Act, to nominate its public officer, or failing or neglecting to fill any vacancy in that office as prescribed, or to appoint a place at which notices or other instruments may be served or delivered, shall be liable to a penalty not exceeding one hundred dollars for every day during which such neglect shall continue.

(5) Every notice, process, or proceeding which under this Act, or the regulations, may be given to, or served upon, or taken against any company may be given to, served upon, or taken against its public officer; and if, at any time, there is no public officer, then any such notice, process, or proceeding may be given to, served upon, or taken against any officer or person acting or appearing to act in the management of the business or affairs of such company, or as attorney or agent for such company.

(6) Every public officer shall be answerable for the doing of all such acts, matters, or things as are required to be done under this Act or the regulations by a taxpayer, and in case of default shall be liable to the same penalties.

(7) Any act, return, or representation done or made by a public officer in respect of any matter or thing required to be done or performed under this Act or the regulations relating to the business of the company of which he is such public officer shall be deemed the act, return, or representation of such company, and shall be of the same force and effect and be accompanied by the same consequences as if done or made by such company.

(8) Every company established or beginning to carry on business in the State after the passing of this Act shall, in case of a company registered in the Commonwealth of Australia, within one month after its establishment or beginning to carry on

business, and in case of a company registered outside the Commonwealth of Australia, within three months after its establishment or beginning to carry on business, nominate a person to be its public officer, and appoint a place for delivery of notices and other instruments as aforesaid.

(9) The absence or non-appointment of a public officer shall not exonerate any company from the necessity of complying with the provisions of this Act or the regulations, or from the penalties consequent on the failure to comply therewith.

APPEALS.

46. (1) The Governor may, by notice in the *Gazette*, declare that any magistrate of a local court shall be a Court of Review to hear and determine appeals from assessments made under this Act.

Court of Review.
Added by No. 36 of 1924, s. 11 as s. 49.
Renumbered s. 46 in 1924 reprint.

(2) The Court of Review shall be a Court of Record, and shall have and possess, for the hearing and determination of appeals, within the limits of the jurisdiction, the same authority, rights, powers, privileges, and status as are conferred on Local Courts by the Local Courts Act, 1904.

See No. 15 of 1907, ss. 3, 49.

(3) The sittings of the Court of Review shall not be deemed to be public, and the Court shall at any time, on the application of either party, exclude from any such sitting, or require to withdraw therefrom, any person not concerned.

47. (1) A taxpayer who is dissatisfied with the assessment made by the Commissioner under this Act may, within forty-two days after service by post of the notice of assessment, post to or lodge with the Commissioner an objection in writing against the assessment, stating fully and in detail the grounds on which he relies:

Appeals.
Added by No. 36 of 1924, s. 11 as s. 50.
Renumbered s. 47 in 1924 reprint.
Amended by No. 87 of 1956, s. 8.

Provided that ninety days shall be allowed to the taxpayer resident in the North Province to lodge an objection.

(2) The notice of objection must, unless the tax has already been paid, be accompanied by payments of at least one-quarter the tax assessed.

(3) The Commissioner shall then 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 the service by post of notice of the decision of the Commissioner, in writing, request the Commissioner to treat his objection as an appeal and to forward it, as required by the taxpayer, either to the Court of Review, or to the Supreme Court.

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

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

(8) When the appeal is to the Supreme Court it shall be heard and determined by a single judge sitting in court or in chambers.

Power of
Court on
hearing of
appeals.
Added by
No. 36 of
1924, s. 11
as s. 51.

Renumbered
s.48 in 1924
reprint.

48. (1) On the hearing of the appeal, the Supreme Court, or the Court of Review, may make such order as it thinks fit, and may either reduce or increase the assessment.

(2) Such order shall be final and conclusive on all parties except as provided in this section.

(3) The court may, in its discretion, award costs where the claim of the Commissioner is held to be unreasonable, or the grounds of appeal therefrom to be frivolous.