

LAND TAX ASSESSMENT.

No. 101 of 1970.

AN ACT to amend the Land Tax Assessment Act,
1907-1970.

[Assented to 8th December, 1970.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Land Tax Assessment Act Amendment Act, 1970*.

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1st August,
1960 and
amended by
Acts Nos. 68
of 1960, 104
and 113 of
1965, 56 of
1968, 95 of
1969 and 21
of 1970.

(2) In this Act the Land Tax Assessment Act, 1907-1970 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Land Tax Assessment Act, 1907-1970.

2. (1) The provisions of this Act, other than sections 5 and 6, shall come into operation on the date on which it receives the Royal Assent. Commence-
ment.

(2) Sections 5 and 6 of this Act shall be deemed to have come into operation on the thirtieth day of June, 1970.

3. The principal Act is amended by adding after section 8B the following section— S. 8C added.

8C. (1) For the purposes of this section— Assessment
of certain
home unit
owners.
“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 un-
divided 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. .

4. The principal Act is amended by adding a section as follows—

S. 8D added.

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 acre specified for the purpose in the determination for each acre or part thereof comprised by the estate or parcel.

Commissioner may determine tax not to be levied on part of assessed value of certain land.

(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. .

S. 9 amended.

5. Section 9 of the principal Act is amended—

- (a) by adding after the section number "9." the subsection designation "(1)";
- (b) by deleting paragraph (a);
- (c) by deleting the passage, "in the case of any other land," in line one of paragraph (b);

- (d) by substituting for the passage, "land." in the last line of paragraph (d), the passage "land;";
- (e) by adding after paragraph (d) the following paragraphs—
 - (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 one acre 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 one acre 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 one acre 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 one acre 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. ; and
- (f) by adding the following subsections—
 - (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. .

S. 10
amended.

6. Section 10 of the principal Act is amended—

(a) by deleting paragraph (g) of subsection (1) and substituting the following paragraph—

(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. ; and

(b) by adding after subsection (2) the following subsection—

(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 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. .

S. 11A
amended.

7. Subsections (1) and (2) of section 11A of the principal Act are repealed and re-enacted, as follows—

(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.

8. The principal Act is amended by adding after section 11A the following section—

S. 11B
added.

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

Rebate of
land tax in
respect of
land used
for forestry
purposes.

(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 one thousand acres. .

S. 52
amended.

9. Section 52 of the principal Act is amended—

(a) by adding after the word, “that” in line fourteen of subsection (2), the passage, “, subject to subsection (3) of this section,”; and

(b) by adding after subsection (2) the following subsection—

(3) Where the Commissioner has, pursuant to subsection (2) of this section, extended the time for the payment of tax—

(a) the Commissioner may at any time, by notice served on the taxpayer, revoke the extension;

(b) the tax to which the extension relates becomes due and payable fourteen days after the expiration of the period for which the extension was granted or the service on the taxpayer of notice of the revocation of the extension, whichever first happens; and

(c) interest, at such rate not exceeding ten per centum per annum as is fixed by the Commissioner, shall, unless the Commissioner

otherwise determines, be charged on such of the amount of land tax to which the extension relates as is from time to time outstanding,

and any interest so charged is a debt due to Her Majesty and may be sued for and recovered in like manner as provided by this Act with respect to land tax. .
