

WESTERN AUSTRALIA.



ANNO SEPTIMO

EDWARDI SEPTIMI REGIS,

XV.

No. 15 of 1907.

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

[Assented to 20th December, 1907.]

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

Preliminary.

1. This Act may be cited as the *Land and Income Tax Assessment Act, 1907*.

Short title.

N.S.W., No. 15 of
1895, s. 1.

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

Interpretation.

“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 Commissioner of Taxation.

“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.

“Income” includes profits, gains, rents, interest, salaries, wages, allowances, pensions, stipends, charges, and annuities.

“Income tax” means the tax or duty imposed or charged in respect of income by any Act in force for the time being as assessed under this Act, or any Act amending the same.

“Income chargeable” means the taxable amount less the deductions allowed under this Act.

“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 municipal council or road board.

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

“Non-resident trader” includes every person who carries on business in Western Australia without having a fixed and permanent place of business 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, 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
- (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 or income 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, or any amendment thereof or any land regulation thereby repealed, the capital sum for 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 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 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.

“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.

Officers.

Commissioner and officers may be appointed.
See N.S.W., No. 15 of 1895, s. 2.
Delegation of duties.
Ibid., s. 5.

3. The Governor may appoint a Commissioner of Taxation and such assessors and other officers as may be deemed necessary for carrying out the provisions of this Act.

4. The Commissioner may, with the approval of the Governor, delegate to any public officer such powers, duties, and functions by this Act or the regulations hereunder conferred or imposed upon him as it may be considered expedient by the Commissioner so to delegate.

5. A notification in the *Government Gazette* that any person therein named has been appointed an officer for the purposes of this Act shall be conclusive evidence of such appointment.

Gazette notice sufficient.
Ibid., s. 6.

6. Every person appointed or employed under this Act shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in his official capacity, and shall not communicate any such matter to any other person except in the performance of his duties under this Act.

Secrecy to be maintained.
N.S.W., No. 15 of 1895, s. 7.

7. (1.) Every person appointed or employed under this Act shall, before acting in the execution of his office, take and subscribe, before a justice of the peace, such oath of fidelity and secrecy as may be prescribed.

Oath of fidelity and secrecy.
Ibid., s. 8.

(2.) Every person who wilfully acts in contravention of the true intent of such oath shall be liable, on conviction, to imprisonment for any term not exceeding six months, with or without hard labour.

(3.) If the person acts in the execution of his office before he has taken the prescribed oath, he shall be liable to a penalty of not less than ten and not more than one hundred pounds.

8. The Governor may, by notice in the *Government Gazette*, declare that any magistrate of a local court shall be a Court of Review within the meaning of this Act; and thereupon every Court of Review, constituted as aforesaid, shall have jurisdiction, within such limits and in such cases as the Governor may prescribe in the said notice, to hear and determine, subject to the provisions of this Act, appeals from assessments made under this Act.

Court of Review.
Ibid., s. 9.

Land Tax.

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

Land tax.
See *ibid.*, s. 10.

Such land tax 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 pound 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 values 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.

(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.

(3.) In the case of any owner who has not been resident in the Commonwealth of Australia during any portion of the year next preceding the year of assessment, the rate shall be increased by fifty per centum; provided that this subsection shall not apply to any person absent from the Commonwealth of Australia on the public service, or to any person who, being a resident of the Commonwealth of Australia, has obtained a permit from the Commissioner to be absent from the Commonwealth for a period not exceeding two years.

Rebate of tax on improved land.

10. (1.) Every owner of improved land shall, in respect of such land, be entitled to a rebate of one-half of the tax levied on the unimproved value thereof as assessed under the provisions of this Act.

(2.) Land outside the boundaries of any municipality used solely or principally for agricultural, horticultural, pastoral, or grazing purposes, or for two or more of such purposes, shall not be deemed improved within the meaning of this section unless—

(a.) Improvements have been effected to an amount equal to one pound per acre, or one-third of the unimproved value of the land, whichever amount shall be the lesser; or

(b.) The Under Secretary for Lands certifies in writing that improvements to an amount prescribed or to be prescribed by the Land Act, 1898, or any amendment thereof, or the regulations thereunder, have been effected,

and the benefit of such improvements is unexhausted:

Provided that any improvements made on any one parcel of such land shall extend to any one other parcel belonging to the same owner if such parcels of land are not a greater distance apart than ten miles, measured from the nearest boundaries.

(3.) No other land shall be deemed improved within the meaning of this section unless improvements have been effected and continue thereon to an amount 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 fifty pounds per foot of the main frontage thereof; and when 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, such question shall be determined by the Court of Review.

(4.) Every parcel of land comprised within a common boundary fence shall be deemed improved within the meaning of this section if the prescribed improvements have been effected and continue on any part thereof.

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

Exemption.
See N.S.W., No. 15
of 1895, s. 11.

- (a.) All lands owned by or on behalf of His Majesty.
- (b.) Public roads and thoroughfares; public reserves for health, recreation, or enjoyment, public parks, university endowments, cemeteries, and commons.
- (c.) All lands owned by any person or society, and occupied or used exclusively for or in connection with any public hospital (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 any religious body, and occupied only for the purposes of such body; all lands on which is erected any municipal or State market, town hall, or municipal council chamber; and all lands owned by or vested in any municipal corporation, road board, or other statutory public body:

Provided that the exemption shall not apply to any such land which 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.

(2.) All lands the unimproved value of which does not exceed fifty pounds are exempted from assessment for taxation under this Act: But where the same person is owner of several parcels of land, this exemption shall not apply if the aggregate value of such several parcels exceeds fifty pounds.

(3.) All improved lands outside the boundaries of any municipality used solely or principally for agricultural, horticultural, pastoral, or grazing purposes, or for two or more of such purposes, shall be assessed after deducting the sum of two hundred and fifty pounds. Such deduction shall not be made more than once in the case of an owner of several estates or parcels of land, but

in every such case the aggregate of the values 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.

(4.) All lands held under contract for conditional purchase, made before or after the commencement of this Act, under the Land Act, 1898, 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 one thousand acres of cultivable land or two thousand five hundred acres of grazing land, or of cultivable and grazing land mixed, as defined by the Land Act and its amendments.

Only owners of land specified in preceding section entitled to exemption.
N.Z., No. 49 of 1900, s. 17.

12. With respect to lands which by virtue of subsection one 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 His 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.

*Burden of Land Tax.—Contributions and provisions
as to Agents and Trustees.*

13. 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 His 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.
N.S.W., No. 15 of 1895, s. 12.

Contribution.

- (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.

(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.

14. 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.

Rules, etc., for calculation of values.
N.S.W., No. 15 of
1895, s. 13.

15. (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.

Agents, trustees, etc., how chargeable.
Ibid., s. 14.

(2.) Every such agent and trustee shall, subject to the provisions of subsection *six*, 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 *three* of section *nine* 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.

Income Tax.

Incomes liable to
taxation.
See N.S.W., No. 15
of 1895, s. 15.

16. (1.) Subject to the provisions of this Act and the regulations hereunder, there shall be charged, levied, collected, and paid to the Commissioner for the use of His Majesty, an income tax at such rate per pound as Parliament shall from time to time declare and enact in respect of the annual amount of all incomes exceeding two hundred pounds per annum—

- (a.) Arising or accruing to any person wheresoever residing, from any profession, trade, employment, or vocation carried on in Western Australia, whether the same is carried on by such person or on his behalf wholly or in part by any other person; or
- (b.) Arising or accruing to any person wheresoever residing, from any salary or allowance attached to or derived from any office or employment of profit in the Public Service of Western Australia, and upon every pension and allowance payable from the Consolidated Revenue Fund or any other public account; or
- (c.) Arising or accruing to any person wheresoever residing, from any kind of property, or from any other source whatsoever in Western Australia not included in the preceding paragraphs of this subsection.

(2.) Any person may in the prescribed manner deduct from his total annual income from all sources the sum of two hundred pounds, and the balance, if any, shall form the taxable amount of which the tax shall be levied.

(3.) On the income of an absentee, that is to say, a person who has not been resident in the Commonwealth of Australia during any part of the year next preceding the year of assessment, but who is not absent on the public service, the tax shall be payable at the declared rate with an additional fifty per centum for any such year.

(4.) Income shall be deemed to have accrued to a person within the meaning of this section, although the same is not actually paid over to such person, but is credited in account or re-invested or accumulated or capitalised, or carried to any reserve, sinking, or insurance fund, however designated, or otherwise dealt with in his name or interest, or on his behalf.

17. Whenever any person is assessed for income tax on profits derived directly during any year from the ownership of any parcel of land, or derived directly from the use or cultivation of any parcel of land, such person may claim and shall be allowed an abatement of so much of the amount payable for income tax on the profits derived from the ownership of such parcel of land, or directly from the use or cultivation thereof, as equals the amount paid by him for land tax in respect of the same parcel of land.

Concession where land and income tax assessed on the same land.

Provided that any profits derived from—

- (a.) The quarrying, digging, treatment, and sale of stone, gravel, sand, clay, guano, or soil found on such land; or
- (b.) The cutting, treatment, and sale of timber found on such land,

shall not be deemed profits derived from the ownership, use, or cultivation of such land within the meaning of this section.

18. All gratuities, bonuses, and premiums, whether in money, or goods, or sustenance, or land allowed, given, or granted to any person in respect of, or for, or in relation to any employment or services of such person, shall be deemed to be income of such person to the amount of the value of such use and enjoyment, gratuities, bonuses, and premiums, respectively.

Gratuities, etc., chargeable as income.
S.A., No. 861 of 1904, s. 11.

Exemption of certain incomes.

See N.S.W., No. 15 of 1895, s. 17.

19. The following incomes, revenues, and funds shall be exempt from income tax:—

- (1.) The revenues of municipal corporations, road boards, or other statutory public bodies.
- (2.) The incomes of life assurance companies and of companies or societies not carrying on business for purposes of profit or gain; but this exemption shall not apply to incomes derived from interest on investments.
- (3.) The dividends and profits of the companies subject to duty under the Dividend Duties Act, 1902, or any amendment thereof.
- (4.) The dividends and profits of the Government Savings Bank and the Agricultural Bank.
- (5.) The funds and incomes of any registered friendly society or trade or industrial union.
- (6.) The incomes and revenues of all ecclesiastical, charitable, and educational institutions of a public character, whether supported wholly or partly, or not at all, by grants from the Consolidated Revenue Fund.
- (7.) The income derived or received by or on behalf of the Governor in respect of the salary and emoluments of his office.
- (8.) The income derived or received by or on behalf of any pensioner resident in Western Australia, in respect of his pension received from the Crown in Great Britain or the Government of any British possession: Provided that he satisfies the Commissioner that such pension is liable to income tax or a like tax in Great Britain or such possession, and that such tax has been duly paid.
- (9.) Income arising or accruing to any person from Western Australia Government debentures, inscribed stock, and Treasury bills.

The exemptions declared by subsections (1.) to (6.) hereof shall not extend to the salaries and wages of persons employed by any such corporation, public body, company, society, or institution, although the same are paid wholly or in part out of the income, revenues, or funds thereof.

Persons by whom income tax is payable.

See N.S.W., No. 15 of 1895, s. 18.

20. Subject to the provisions of this Act, income tax shall be payable—

- (1.) In respect of every incorporated company, by the public officer thereof.
- (2.) In respect of the income of every person permanently or temporarily absent from or resident out of Western Australia, by the attorney or agent of such person; and for the purposes of this Act every person in Western

Australia having the receipt, management, disposal, or control of income on behalf of any person absent or resident as aforesaid, or remitting or paying income to such person, shall be deemed to be the agent of such person. The Commissioner may, if he thinks necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Act.

- (3.) In respect of the income of *cestuis que trust*, infants, lunatics, or persons under any legal disability, by the trustee, guardian, committee, or other person entitled for the time being to the receipt, management, disposal, or control of such income, or remitting or paying the same.
- (4.) In respect of the stakes won in any horse race on the racecourse of the Western Australian Turf Club or any other club or company, incorporated or otherwise, registered by the Western Australian Turf Club by the secretary of such club or company; and in respect of the stakes won in any horse race on any racecourse belonging to any unregistered person by the proprietor of such racecourse.
- (5.) In respect of income paid under the decree or order of any Court or Judge to any receiver or other person, by such receiver or person, and independently of the title to such income, or any contingency or uncertainty in respect of such title.
- (6.) In respect of every other income, and in all other cases, by the person to whom the income arises or accrues or who is legally or equitably entitled to the receipt thereof.

And the persons by whom income tax is payable under subsections (1.) to (4.) of this section, inclusive, shall be deemed to be "representative taxpayers" within the meaning of this Act. Nothing in this section shall be taken to relieve the person receiving the income from the representative taxpayer from any tax due or payable in respect thereof.

21. Every representative taxpayer, as regards the income to which he is entitled in his representative capacity, or of which in such capacity he has the management, receipt, disposal, remittance, payment, or control, shall be chargeable with the same income tax and be subject in all respects to the same liabilities as if the same were income arising or accruing to him beneficially, except that no such taxpayer shall be personally liable for the payment of income tax beyond the amount or value of the income of which he has, in such capacity as aforesaid, the management, receipt, disposal, or control:

Liability of representative taxpayer.
Ibid., s. 19.

Provided that nothing herein contained shall, in cases where the representative taxpayer acts as agent or trustee for several persons,

prevent such representative taxpayer from claiming that each agency or trust shall be treated separately for the purpose of claiming the exemption or abatement provided for in section *sixteen* of this Act.

Indemnity to representative taxpayer.
N.S.W., No. 15 of
1895, s. 20.

22. Every representative taxpayer who, as such, pays any tax or any sums imposed or incurred by way of fine under section *fifty-four* of this Act shall be entitled to recover from the person on whose behalf such tax or sums shall be paid, or to retain out of any moneys that may come to him in his representative capacity so much as shall be required to indemnify him in respect of such payments:

Provided that where any sum by way of fine under section *fifty-four* has been imposed or incurred through the neglect or default of the representative taxpayer, the amount of such fine shall not be chargeable against the person on whose behalf the tax shall be paid; and if deducted or retained by the representative taxpayer, shall be recoverable from him by the person so entitled as aforesaid as money received to the use of such person.

Trustees and receiver in certain cases need only give the name and residence of persons entitled to trust property.

Ibid., s. 21.

23. No trustee who has authorised the receipt of the profits arising from trust property by the person entitled thereto or his agent, where such person or agent has actually received the same under such authority and is resident in Western Australia, and no receiver of any person being of full age and resident in Western Australia (other than a married woman, lunatic, idiot, or insane person) who makes the returns prescribed by this Act and the regulations, specifying the name and residence of such person, shall be required to do any other act for the purpose of assessing the income of such person, unless the Commissioner requires the testimony of such trustee or receiver in pursuance of this Act or the regulations.

Income tax on debentures of companies.

Ibid., s. 22.

24. In any case where a company has at any time heretofore borrowed, or shall at any time hereafter borrow, money on debentures, such company shall be deemed to be the agent of every holder of such debentures.

Provision as to profits on imported goods.

Ibid., s. 23.

25. (1.) Where a person or company outside Western Australia (herein termed "the principal") by means of a company registered in Western Australia or carrying on business therein, or by means of a person in Western Australia (herein termed "the agent") sells or disposes of goods in Western Australia for the principal (whether the moneys arising therefrom are paid to or received by the principal directly or otherwise), the taxable amount of the income derived therefrom by the principal shall be assessed at an amount equal to five pounds per centum upon the total amount received for such goods, and the amounts so assessed shall, for the purposes of income tax, be deemed to be income derived by the agent, and the following provision shall apply:—

The agent shall, as regards such income, make the returns, be assessed, be liable to income tax, and otherwise be subject to the

provisions of this Act, to do all acts and things thereunder as if such income was actually the income of the agent, and in the case of such agent being a company as aforesaid, the provisions of section *forty-eight* hereof shall apply: Provided that nothing herein contained shall exempt or discharge the principal from liability to pay income tax on such income, and that the agent shall have the same right to indemnity against the principal in respect of the tax paid by him as is conferred upon the representative taxpayer by section *twenty-two*.

(2.) The Governor may by regulations prescribe for the making, obtaining, adjusting, and settling returns by or with any agent in such manner and form, with such particulars and proof as may be thought fit, and for the purpose of making, completing, and enforcing assessments under this section and otherwise generally for the purpose of giving effect to the provisions hereof.

26. (1.) It shall not be lawful for any non-resident agent to act as agent, or for any non-resident trader to carry on business in Western Australia, unless he is the holder of a warrant in that behalf under the hand of the Commissioner.

Non-resident agents and traders to hold Commissioner's warrant.

N.Z., No. 49 of 1900, s. 12.

(2.) Every such warrant shall be in the prescribed form, and shall be issued without fee by the Commissioner on application to him in that behalf.

(3.) In all proceedings against any person for breach of this section it shall lie on the defendant to prove that he is a warrant holder.

(4.) The Commissioner may from time to time, as he thinks fit, assess any specified non-resident agent or non-resident trader for income-tax in respect of any specific transaction, or of all transactions during any specified period, and may fix the amount of the tax at the rate then last in force (if the rate of tax is not then fixed by law), and on the assumption, subject to adjustment within the prescribed time at the instance of the Commissioner or taxpayer, that the specified transaction, or, as the case may be, all the transactions during the specific period, have produced a net profit of five per centum of the gross proceeds resulting therefrom.

(5.) The tax so fixed by the Commissioner shall be payable on demand, and shall be recoverable forthwith in the same manner in all respects as in the case of income-tax in arrear, but subject to adjustment as aforesaid.

27. Whenever the Commissioner has reason to believe that any taxpayer establishing or carrying on business in Western Australia intends to carry on such business for a short time only, he may at any time, and from time to time, require such taxpayer to give security by way of bond or by way of deposit to the satisfaction of the Commissioner for the due assessment and payment of income tax on the profits derived from any such business.

Temporary business—Security for payment of tax.

N.Z., reg. 1 of 1902.

Married women,
how liable.
N.S.W., No. 15 of
1895, s. 26.

Taxable amount,
how ascertained.
See *ibid.*, s. 27.

28. The income of a married woman shall be liable to assessment and taxation in like manner as if she were unmarried.

29. For the purpose of ascertaining the sum, hereinafter termed the "taxable amount," on which (subject to the deductions hereinafter mentioned) income tax is payable, the following directions and provisions shall be observed and carried out:—

- (1.) In assessing the income tax for any year, the amount of taxable income from all sources for the year next preceding the year of assessment shall, subject to the provisions of this section, be the taxable amount for the year of assessment, and for the first year of assessment, namely the financial year ending on the thirtieth day of June, one thousand nine hundred and eight, the "preceding year" shall be the calendar year one thousand nine hundred and seven, and so on.
- (2.) In any case in which profits or moneys derived from any business have been converted into stock-in-trade, or added to the capital of, or in any way invested in such business, a complete statement of the amount of such profits or moneys so converted or added or invested shall be made by such person in the prescribed form in his returns.
- (3.) No tax shall be payable in respect of income earned outside the State of Western Australia.
- (4.) Income received by a taxpayer in respect of a share in a company liable to pay income tax or dividend duty shall be deducted from the taxable amount, but such income shall be specified by the taxpayer in the returns made by him in the prescribed manner.
- (5.) In all other cases the taxable amount shall be the total amount of taxable income arising or accruing to any person from all sources, except to the extent of the exemptions provided by section *nineteen*.
- (6.) Shillings and pence and fractions thereof shall not be included in the taxable amount.

Deductions from
taxable amount.
See *ibid.*, s. 28.

30. From the taxable amount so ascertained as aforesaid, every taxpayer shall be entitled to deductions in respect of the annual amount of—

- (1.) Losses, outgoings, and expenses actually incurred in Western Australia by the taxpayer in the production of his income; that is, income which is not exempt from income tax under section *nineteen* of this Act.
- (2.) Sums expended by the taxpayer for repairs of premises let or intended to be let to tenants.

- (3.) Every premium or sum paid by the taxpayer on the insurance of his own life or that of his wife, or for a deferred annuity or other provision for his wife or children, or in respect of any fidelity guarantee or bond which such taxpayer is required to provide for the exercise of his profession, trade, employment, or vocation: Provided that in no case shall any deduction be allowed under this subsection beyond the sum of fifty pounds in the aggregate.
- (4.) Sums expended for repairs of premises occupied for business purposes, and for the repair or alteration of machinery, implements, utensils, and articles employed by the taxpayer for the purposes of his business. Such sums shall be estimated on the annual average of the sums expended for such purposes during the two years preceding the year of assessment, or, if such average cannot be struck, the amount to be deducted shall be the sum expended for such purposes during the year immediately preceding the year of assessment.
- (5.) Such sum as the Commissioner may think just and reasonable as representing the diminished value (*i.e.*, for the purpose for which they were intended in a going concern), by reason of wear and tear, during the year, of any machinery, implements, utensils, and articles used by the taxpayer for the purposes of his business: Provided that, where in any business income is set apart by the taxpayer by way of a fund to cover the depreciation of such machinery, implements, utensils, and articles, the amount so set apart for the year immediately preceding the year of assessment shall, subject to the approval of the Commissioner, be the sum to be deducted for depreciation: Provided that in no case shall any allowance be made for the depreciation of buildings.
- (6.) Notwithstanding the limitation in subsection (1.) hereof, the Commissioner shall, in cases in which it may seem to him just, allow losses, outgoings, and expenses, even if incurred beyond the State.
- (7.) Where any taxpayer occupies and actually uses for the sole purposes of his business any business premises or any portion thereof of which he is the owner, he shall be entitled, in any return of income derived from such business, to claim as an outgoing a sum computed at the rate of four pounds per centum per annum on the actual value of his interest in such business premises or portion thereof. Claim for deduction in respect of business premises.
- (8.) Where a taxpayer employs his sons or daughters over the age of sixteen years in his trade or occupation, such Deduction for services of sons and daughters.

sum may be deducted for their services as to the Commissioner may seem reasonable.

- (9.) Where a taxpayer, either alone or with other persons, carries on or is interested as a partner in more than one business, and makes a profit in one or more of such businesses and a loss on another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits.

For the purposes of this and the preceding section the word "business" shall be taken to include any profession, trade, employment, or vocation.

- (10.) A sum representing ten pounds for each child under the age of sixteen years, residing with and dependent upon the taxpayer.

What deductions
not allowed.
See N.S.W., No. 15
of 1895, s. 29.

31. No deduction shall, unless where specified in regard to subsection (5.) hereof, be made in respect of any of the following matters:—

- (1.) The cost incurred in the maintenance of any taxpayer his family or establishment.
- (2.) Domestic or private expenses.
- (3.) Payments of any kind made by husband to wife or by wife to husband.
- (4.) Any loss or expense which is recoverable under any insurance or contract of indemnity.
- (5.) Income tax or land tax.
- (6.) Income earned in Western Australia and carried to any reserve fund, or capitalised in any way.

Nor as regards income derived from any profession, trade, employment, or vocation, in respect of any of the following matters:—

- (7.) Disbursements or expenses of any kind not wholly and exclusively incurred in the production of the assessable income from such profession, trade, employment, or vocation.
- (8.) The rent or value of or cost of repairs or alterations of any premises not occupied for the purposes of the profession, trade, employment, or vocation, or of any dwelling-house or domestic premises, except such part thereof as may be occupied for the said purposes.
- (9.) Investment of capital; expenditure of capital; loss of capital withdrawn from the business; money used or intended to be used as capital therein; money used in the improvement of premises occupied therefor; interest which might have been made on such capital or money if laid out at interest.
- (10.) Any debts owed to the taxpayer, except such as shall be proved to the satisfaction of the Commissioner to be bad

or doubtful; and deductions for doubtful debts shall be made according to the value at which the Commissioner shall estimate them.

Assessments, Returns, etc.

32. (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 the assessment.

Commissioner to give notice of returns.
N.S.W., No. 15 of 1895, s. 30.

(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.

(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, and of the particulars of the income, 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.

Taxpayers to furnish returns.

(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.

Commissioner may
require further
returns.

(8.) The Commissioner may, when and so often as he thinks necessary, require any person to make further or fuller returns respecting any matter of which a return is authorised or prescribed by this Act or the regulations.

(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 value of lands or amount of income taxable hereinbefore declared.

Assessment-books
when to be made.
See N.S.W., No. 15
1895, s. 31.

33. (1.) From the returns furnished to the Commissioner, or, in regard to land, from the current valuation of the local authority in whose district the land is situated, or from any other available sources, the Commissioner shall, as soon as may be, cause assessment-books to be prepared, as hereinafter provided.

(2.) The assessment-books in respect of land tax shall contain particulars arranged in the prescribed manner of all lands liable to land tax, and shall remain in force until new assessment-books shall be completed and notice thereof given to the persons concerned.

(3.) The assessment-books in respect of income tax shall be so prepared as to show the gross and taxable amounts of the income of every taxpayer, the income chargeable, and the amount of the tax to be paid by each taxpayer, the name and occupation of such taxpayer, together with such other particulars as may be prescribed:

Provided that any alteration or correction in any assessment-book authorised to be made on appeal from assessments or on order of a court as hereinafter provided, shall be made forthwith:

Provided further, that if, upon completion of the assessment by the assessors, and after the sittings of the Court of Review, it is at any time found that the assessed value or amount of any land or income is higher than is declared in the return or returns relating thereto, such excess shall be liable to taxation, and the tax levied in respect thereof shall be paid by the person chargeable, or if such person is deceased shall be recoverable from his personal representatives, notwithstanding that the year for which the tax was originally assessed and paid has closed, or that such person, or his representatives, may hold a receipt in full for the tax paid for the said year.

Assessment-book
may be added to
and amended whilst
in force.
Ibid., s. 32.

34. (1.) During the time that any assessment-book is in force the Commissioner may, from time to time, —

(a.) Place thereon the name of any person of whose liability to taxation he is satisfied, and erase therefrom the name of any person not so liable; or

(b.) In his discretion, whether notice of appeal has been given or not, alter or reduce any assessment or class of assessments and order a refund of any excess of tax that may have been paid in respect thereof; or

(c.) Place thereon any lands which may have become vested in or owned by any person since the making of the last assessment which he is satisfied are liable to taxation, or erase therefrom any lands no longer so liable.

(2.) The prescribed notice shall be given to the persons affected of any addition to, or amendment of, the assessment-book, or any assessment, unless such addition or amendment has been made with the consent of the person affected.

(3.) Every person affected by any such addition or amendment shall be entitled to appeal therefrom in the same manner as from an original assessment. All notices and other proceedings prescribed with respect to original assessments, and appeals therefrom, and the hearing thereof shall, so far as possible, apply with respect to such additions or amendments and appeals therefrom.

(4.) Subject to such right of appeal as aforesaid, every assessment so added to, reduced, or amended shall have the same effect and be accompanied by the same consequences as an original assessment.

(5.) If the Commissioner thinks that any assessment made by an assessor is unfair or incorrect, he may direct another assessment to be made.

35. No assessment-book in respect of land tax or income tax shall be deemed incomplete, and no notice given in respect of land tax or income tax shall be deemed to have been or to be invalid by reason of any errors or omissions in any such book or notice:

Assessment-books not deemed incomplete by reason of errors.
N.S.W., No. 21 of 1897, s. 6.

But the Commissioner may add to the book the assessment and other prescribed particulars in respect of any land or income which may be ascertained to be liable to land tax or income tax.

36. Where any addition to or amendment of the assessment-book 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.

Due date where assessment-book is amended.
N.S.W., No. 28 of 1900, s. 6.

37. The Commissioner may from time to time make new assessments of all or any lands liable to land tax, and shall, on any such assessment being made, insert the same, with the prescribed particulars, in the assessment-book then in force.

New assessments.
See *ibid.*, s. 4.

Power to use other assessments.

N.S.W., No. 15 of 1895, s. 33.

38. In the preparation of any assessment-book in respect of land tax, the Commissioner may, if he thinks proper, use or adopt so much of any assessment then in force which shall have been made by, or by the authority of, the council or board of any municipality or road district or any other authority empowered by law to make assessments of land, as may be applicable to or useful for the purpose of making any assessment under this Act.

Power to inspect rate-books, etc.

Ibid., s. 34.

39. (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.

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

Assessor may enter and ask questions.

Ibid., s. 35.

40. 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.

Trustees jointly and severally responsible for returns.

Ibid., s. 36.

41. 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.

Ibid., s. 37.

42. (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.

Provision when name of owner unknown.

Ibid., s. 38.

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

44. (1.) If any person makes default in furnishing any return of lands or income, or if the Commissioner is not satisfied with the return made by any person, he may make an assessment of the value or amount on which, in his judgment, tax ought to be charged, and the tax shall be payable accordingly.

Default assessment.
N.S.W., No. 15 of
1895, s. 39.

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

45. The assessment-book, in respect of land tax, or a copy thereof, shall be open to inspection at such place or places and subject to such conditions and the payment of such fee as shall be prescribed.

Assessment-book
open to inspection
Ibid., s. 40.

46. Upon the completion of every assessment-book in respect of income tax, such book, or a copy thereof shall be deposited in the taxation office. Such book or copy shall not be open to public inspection, but every taxpayer shall be entitled to a copy of the entries therein relating to the assessment of his income certified by or on behalf of the Commissioner.

Taxpayer may obtain
copy of entries
in assessment-books.
See *ibid.*, s. 41.

47. Upon the completion of the assessment-books the Commissioner shall give notice every year to every taxpayer whose name appears therein, with such particulars of the assessment as shall be considered necessary, and the amount of the tax which is payable. Such notice shall be designated the "Notice of Assessment of Land and Income Tax."

Notice to taxpayers.
Ibid., s. 42.

Provisions as to Companies.

48. (1.) Every incorporated company liable to land or income 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.
Ibid., s. 43.

(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 fifty pounds 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.

49. (1.) Any person sought to be charged with tax may, within thirty days after the notice of assessment for land or income tax, or of any altered, corrected, or additional assessment has been given, appeal therefrom to the Court of Review, upon the ground that he is not liable for the tax, or for any part thereof, or that the amount of such assessment is excessive.

(2.) Every appeal shall be commenced by such notices and in such manner as may be prescribed.

(3.) Public notice shall be given of the time and place appointed for the hearing of appeals, and such hearing may be adjourned from time to time to any time and place that may seem convenient.

(4.) The sittings of the Court of Review for the hearing of appeals shall not be deemed to be public, and the said Court shall at any time, on the application of the appellant, exclude from any such sitting, or require to withdraw therefrom, all or any persons whomsoever.

(5.) The Commissioner, or any person authorised by him, may appear in support of the assessment on the hearing of any appeal; and the appellant and any person who is interested in such appeal may appear in person, or by his solicitor or agent.

(6.) All appeals shall be heard and dealt with in alphabetical order; but where two or more appeals in any list of appeals relate to the same matter, they may be heard together.

(7.) The Court of Review may alter or order the alteration of the assessment-book in accordance with the decision given on any appeal, but may only make an order as to costs when the claim of the Commissioner shall be held to be unreasonable, or the grounds of appeal therefrom to be frivolous.

(8.) No magistrate sitting as a Court of Review shall, solely on account of his liability to be assessed under this Act, or of his liability to tax under any Act for the time being in force, be deemed to be interested in any matter upon which he may be called upon to adjudicate or determine.

(9.) The said court shall be a Court of Record, and shall have and possess, for the hearing and determination of appeals, within the limits of the jurisdiction hereinbefore defined, the same authority, rights, powers, privileges, and status as are conferred on local courts by the provisions of the Local Courts Act, 1904.

(10.) The provisions with regard to matters of procedure of the Local Courts Act, 1904, and the rules made thereunder shall, so far as they may be declared by regulations hereunder to be applicable, regulate the practice and procedure in connection with such appeals before a Court of Review.

50. (1.) Whenever any question at law shall arise in a case before the Court of Review, the said court shall, if required in writing by any of the parties within the prescribed time and upon the prescribed conditions, or may of its own motion, state and submit a case for decision of the Supreme Court thereon, which decision shall be conclusive.

Appeal to Supreme Court.
N.S.W., No. 15 of
1895, s. 45.

(2.) The Supreme Court shall have power to deal with the costs of and incidental to any case submitted under this section as it may think fit.

Right to recover tax
not suspended by
appeal.
N.S.W., No. 15 of
1895, s. 46.

51. The obligation to pay, and the right to receive and recover land or income tax shall not be suspended by any appeal, but if the appellant succeeds on such appeal the amount (if any) of the tax received by the Commissioner in excess of the amount which, according to the decision of such appeal, was properly payable by him, shall forthwith be repaid to him by the Commissioner.

Collection of Tax.

Administrative
powers.
See N.Z., No. 49 of
1900, s. 83.
Salary and wage
list to be furnished.

52. For the more effective administration of this Act, the following provisions shall apply:—

Access to buildings,
books, etc.

Evidence of any
person may be
required.

Oath may be
administered.

Returns of deposits
in banks, etc.

(1) Every person, local authority, and public or private body or society whatsoever, whether a taxpayer or not, and every department of the public service, shall from time to time furnish the Commissioner with a return of all persons employed by him or it, and the salary, wages, stipend, or other allowances or emoluments paid or allowed to each person so employed.

(2) The Commissioner or any person authorised by him in that behalf shall at all times have full and free access to all buildings, places, books, documents, and other papers, for the purpose of valuing or inspecting the same; and for such purposes may make extracts from or copies of any such books, documents, or papers.

(3) The Commissioner may, by notice in writing, require any person, whether a taxpayer or not, to attend and give evidence before him, or any officer authorised by him in that behalf, concerning any income or assessment, and to produce all books, documents, and other papers whatsoever in such person's custody or under his control relating thereto.

(4) The Commissioner may require such evidence to be given under oath, and either verbally or in writing; and for such purpose he or the officer authorised as aforesaid may administer an oath.

(5) Every banking company and every other company, firm, or person who in the course of business holds money by way of deposit and allows interest thereon shall furnish annual returns to the Commissioner of all the amounts in excess of fifty pounds paid or payable as interest on such money for the year or any part thereof, with the names, addresses, and occupations of the depositors; and for the purposes of this Act every such

banking or other company, firm, or person shall be deemed to be the agent of all depositors mentioned in the returns who are outside Western Australia.

53. A day or days shall be appointed from time to time in every year, by notice in the *Government Gazette*, on which the land and income tax shall be due and payable.

Notice in *Gazette* when tax payable. N.S.W., No. 15 of 1895, s. 47.

54. (1.) Every person who fails to pay the amount payable by him in respect of land tax or income tax respectively before the expiration of thirty days after the same has become due shall, in addition to the amount of such land or income tax, pay, by way of fine, a sum equal to ten pounds per centum thereof.

Fine on defaulting taxpayer. *Ibid.*, s. 48.

(2.) The Commissioner shall have power to remit any fine incurred, and to refund the amount of any fine paid under this section.

55. Land tax and income tax and every sum imposed or incurred by way of fine in addition to such tax shall be deemed, when the same becomes due or is payable, to be a debt due to His Majesty, and payable to the Commissioner in the manner and at the places prescribed.

Land and income tax, to be a debt due to His Majesty. *Ibid.*, s. 49.

56. Where the amount payable by any taxpayer, either in respect of land tax or income tax or in respect of both, exceeds the sum of twenty shillings, the same shall be payable in two equal half-yearly instalments, at such times as the Governor may direct by notice published in the *Government Gazette*.

Mode of payment.

57. Any land or income tax, together with any fines accrued, may be sued for and recovered by action in any court of competent jurisdiction by the Commissioner suing on behalf of His Majesty.

Tax recoverable the Commissioner. *Ibid.*, s. 51.

58. With respect to proceedings in a local court for the recovery of tax and fines, the following provisions shall have effect:—

Procedure. See *ibid.*, s. 52.

(1.) When a summons for the recovery of tax is issued and served, then unless, seven days before the day appointed for hearing, a statement in writing, by or on behalf of the defendant, showing a defence on the merits shall be made to the clerk of the court in which such summons was issued, judgment shall be given for the amount claimed, without the necessity of the Commissioner, or any one on his behalf, appearing in court, or proving the liability of the defendant and the non-payment of the tax.

(2.) It shall be sufficient in any such suit or proceeding if the particulars of demand state the amount sought to be recovered, the date on which the same was payable, with such further and other particulars as the Commissioner may think necessary.

Mode of service
when defendant
absent.

N.Z., No. 49 of 1900,
s. 74.

59. If, in any proceedings for the recovery of tax and fines against any taxpayer whose name is entered in an assessment-book, the defendant—

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

(b.) cannot, after reasonable inquiry, be found,—

then, notwithstanding any Act or rule of court to the contrary, good service of any summons or writ may, without leave of the court, be effected on him by posting the same, or a copy thereof, in a letter addressed to him at his last known place of business or abode in Western Australia, and, in the case of land tax, by affixing the same on a conspicuous part of the land to which the tax relates.

Commissioner may
appear by solicitor
or public officer.

Ibid., s. 75.

60. In all proceedings under this Act the Commissioner may appear either by solicitor or by any officer in the public service of the State; and the appearance of any such solicitor or officer, and his statement that he so appears by authority of the Commissioner, shall be sufficient evidence of such authority for all purposes.

Procedure when
name of owner can-
not be ascertained.

Ibid., s. 76.

61. Whenever, under the provisions of section *forty-three* of this Act, land is entered in the assessment-book under the designation of "the owner," proceedings for the recovery of the tax to which the owner of such land is liable may be taken, and judgment given against him and enforced under the designation aforesaid:

Good service of any notice, summons, or writ may be effected on him by affixing the same or a copy thereof on a conspicuous part of the land to which the tax relates, any Act or rule of court to the contrary notwithstanding.

Refunds.

See N.S.W., No. 17
of 1904, s. 4.

62. If the amount paid by any taxpayer is in excess of the amount properly chargeable under this Act, the Commissioner shall give a certificate to that effect, and shall refund the proper amount in each case to the taxpayer or person entitled to receive the same: Provided that the Commissioner shall not certify for any refund under this section unless the claim is made within one year of the date when the tax was due.

Recovery of Tax by Letting and Sale of Land.

Tax to be a first
charge upon the
land.

N.S.W., No. 15 of
1895, s. 54.

63. (1.) The land tax shall, by force of this Act, and without registration, be a first charge upon the land taxed, in priority to all sales, conveyances, transfers, leases, mortgages, charges, liens, rates, and encumbrances whatsoever, and notwithstanding any disposition of any land it shall continue to be liable, in the hands of any purchaser or holder thereof, for the payment of such tax so long as the same remains unpaid.

(2.) Whenever any land tax payable in respect of any land shall be unpaid for the space of two years, it shall be lawful for the Commissioner, notwithstanding any judgment in respect of such tax recovered against the person chargeable with the same so long as such judgment remains unsatisfied, to cause to be published, for three consecutive weeks in the *Government Gazette*, a notice specifying such land, and the amount of tax and fines due in respect thereof, and stating that if such amount is not paid within one year from the first publication of such notice the Commissioner will let the land for a term not exceeding three years, with tenant right to improvement reasonable and necessary in the case of a tenancy for a term of three years, or will apply to the Supreme Court for an order for the sale thereof.

Notice of intention to let or sell.

(3.) If, after one year from the first publication of such notice, the tax and fines due at the time of such first publication are still unpaid, the Commissioner may let such land, or any part thereof, as above provided, and may receive the rents and profits thereof, and apply the same towards the payment of the said tax, or part thereof, and of costs and expenses, and hold any surplus in trust for the rightful owners of such land.

Commissioner may let land.

(4.) The Commissioner, instead of letting such land, may, in like case, by petition to the Supreme Court or any judge thereof, apply for a sale of so much of the land described in such notice as may be necessary, and the court or judge, on being satisfied by affidavit or otherwise that the arrears are lawfully due, and were in arrear at the time of the first publication of such notice, and that all things required by this Act to be done by the Commissioner have been done, shall order the sale of the said land, or so much thereof as shall be sufficient to pay all arrears due up to the time of sale, together with any sum payable by way of fine, and all costs of and attending the application, and of and attending the sale of such land, and that the proceeds be paid into court.

Commissioner may apply to Supreme Court for sale.

64. Whenever any sale of any land, estate, or interest shall have been ordered and effected under the last preceding section—

Application of proceeds of sale.
N.S.W., No. 15 of 1895, s. 55.

- (a.) The court or a judge shall order payment of the said tax, fines, costs, and expenses to be first made out of the proceeds of sale, and the balance of the proceeds of such sale shall be paid into court, and after such advertisement as the court or judge may direct shall be applied as the court or judge may think proper for the benefit of the parties interested therein; and
- (b.) The conveyance or transfer, as the case may be, shall be executed by the officer of the court nominated by the court or judge for such purpose to the purchaser, in such form as shall be approved by the court or judge; and
- (c.) Such conveyance or transfer shall vest the land, estate, or interest sold in the purchaser as completely and

effectually as if such conveyance or transfer had been executed by the owner of such land, estate, or interest; and

- (d.) In cases where the land is under the provisions of the Transfer of Land Act, 1893, the Registrar of Titles shall, upon production to him of the transfer, register the same, and, notwithstanding any provision of the said Act to the contrary, production of the certificate of title shall not be required; provided that, for the purposes of registration the registrar shall, if necessary, do and perform all such acts and things as are provided for in the case of dealings with land where the certificate of title is lost or not produced, and in such case the purchaser shall be entitled to receive a certificate of title to the land purchased.

Regulations, Penalties, etc.

Governor may make regulations.
N.S.W., No. 15 of 1895, s. 56.

65. The Governor may make regulations —

- (1.) Prescribing the duties of all persons engaged or employed under or in the administration of this Act;
- (2.) For the security to be given by any such persons, the limits of districts, and places within which any such persons are to act;
- (3.) Prescribing the returns to be furnished to the Commissioner, the form and contents thereof, and the time and mode of furnishing the same; and the form, time, and manner of giving notices of appeal;
- (4.) Prescribing the mode of payment of the tax or fine;
- (5.) Making provision for the assessment and taxation of taxpayers absent from or not permanently resident in Western Australia, whether they are or are not represented in Western Australia by agents;
- (6.) Providing, where there is no provision in this Act, or no sufficient provision, in respect of any matter or thing necessary to give effect to this Act, in what manner and form the deficiency shall be supplied;
- (7.) For any purpose, whether general or to meet particular cases, that may be desirable in order to carry out the objects and purposes of this Act, or to give effect to anything for which regulations are contemplated or required by this Act.

Publication of regulations.
Ibid., s. 58.

66. All such regulations shall be published in the *Government Gazette*, and shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament is then sitting, and if Parliament is not then sitting,

then within fourteen days after the beginning of the next session, and upon publication in the *Government Gazette* all such regulations shall have the force of law.

67. If the occupier or person in possession of any land when requested by the Commissioner or by any authorised officer, refuses to disclose the name of the owner of such land, or of the person entitled to receive the rents and profits thereof, or wilfully misstates the same or neglects or refuses to give any information in his possession, which is lawfully required by the Commissioner or any such officer for the purposes of this Act, he shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

Occupier refusing to give the name of owner liable to a penalty.

N.S.W., No. 15 of 1895, s. 59.

68. If any person—

- (a.) Fails or neglects to furnish any returns within the prescribed time; or
- (b.) knowingly and wilfully makes any false statement in any returns, or makes any false answer for the purpose of evading or enabling any other person to evade assessment or taxation; or
- (c.) by any falsehood, wilful neglect, fraud, art, or contrivance whatsoever evades or attempts to evade assessment or taxation,

Penalty for making false returns, etc.
Ibid., s. 60.

he shall be liable to pay for each offence under subsection (a) a penalty not exceeding twenty pounds, and for each offence under subsections (b) or (c) a penalty not exceeding one hundred pounds; and in any case where the offence was an evasion of assessment or taxation, or an attempt to evade assessment or taxation, the person offending shall be liable to be assessed and charged treble the amount of the tax to which such person would otherwise be liable.

69. Any person who obstructs or hinders any officer acting in the discharge of his duties under this Act or the regulations, or refuses or wilfully neglects to answer or gives any false or evasive answer to any lawful question put by any such officer relating to any land, property, or income belonging to such person, shall be liable to a penalty not exceeding fifty pounds.

Penalty for obstructing officers, etc.

Ibid., s. 61.

70. Every contract, agreement, or understanding, whether arrived at or evidenced by matter of record under seal or by writing or by parol, having or purporting to have or which might have the effect of removing, qualifying, or altering the operation of any assessment, return, exemption, or deduction, or of in any way affecting the incidence of any assessment, or tax, or displacing the benefit of any exemption or deduction, authorised by or consequent upon any provision of this Act shall (whether such contract, agreement, or understanding shall have been or be made before or after the passing of this Act) be wholly void and inoperative so far as

Contracts, etc., affecting assessment, incidence of assessment, etc., void.

Ibid., s. 63.

such contract, agreement, or understanding purports or is intended to have or might have the effect aforesaid, but without prejudice to the validity of such contract, agreement, or understanding in any other respect or for any other purpose :

Provided that the interest of the lessor in any lands subject to any such agreement made before the commencement of this Act by a lessee to pay the land tax shall, for the purpose of contribution under section *thirteen*, be calculated upon a basis excluding the value of the reversionary interest.

Penalties may be imposed by regulation.
N.S.W., No. 15 of 1895, s. 64.

71. Any person guilty of a breach of any of the provisions of this Act shall, except where otherwise expressly provided, be liable to a penalty not exceeding twenty pounds, and the Governor may, by regulation, impose a penalty not exceeding twenty pounds for the breach of any of the regulations under this Act.

Proceedings to be heard summarily.

72. All penalties imposed by this Act or by the regulations thereunder may be recovered summarily under the provisions of the Justices Act, 1902: But notwithstanding anything in the Justices Act, 1902, or in any other Act to the contrary, any information or complaint in respect of any penalty under this Act may be laid at any time within three years next after the date of the offence.

Action against officers, etc.
N.S.W., No. 15 of 1895, s. 66.

73. In any action against any officer or person for anything done in pursuance of this Act, or in the execution of the powers or authorities conferred thereby, or by the regulations, the defendant in such action may plead the general issue, and give the special matter in evidence at the trial.

Evidence.
Ibid., s. 67.

74. The production of the *Government Gazette* containing any regulations purporting to be regulations under this Act, or any notice purporting to be published in pursuance of this Act or the regulations, shall be conclusive evidence that such regulation or publication was duly made or published, and the production of any assessment-book, or of any document under the hand of the Commissioner purporting to be a copy of or extract from any assessment-book, shall be conclusive evidence of the making of the assessment, and except in the case of proceedings on appeal against the assessment (when the same shall be *prima facie* evidence only) shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such book or document are absolutely correct.