

WESTERN AUSTRALIA.

LAND TAX ASSESSMENT ACT
1976-1982.

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Approved for Reprint 1 December 1982.

WESTERN AUSTRALIA.

LAND TAX ASSESSMENT.

No. 14 of 1976.

[As amended by Acts—

No. 76 of 1978,¹ assented to 20 October 1978;

No. 18 of 1979, assented to 30 August 1979;

No. 29 of 1980, assented to 28 October 1980;

No. 10 of 1982,² assented to 14 May 1982;

No. 11 of 1982, assented to 14 May 1982,

and reprinted pursuant to the Amendments Incorporation Act 1938.]

**AN ACT relating to the Assessment and Collection
of a tax upon land.**

[Assented to 3 June 1976.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Land Tax Assessment Act 1976-1982*. Short title.
Amended by
No. 11 of
1982, s. 1.

2. This Act shall come into operation on the 1st July 1976. Commence-
ment.

¹ Came into operation on 1 July 1979; see section 2 and *Gazette* 11/5/79, p. 1211.

² Came into operation on 1 July 1982; see section 2 (1) and *Gazette* 25/6/82, p. 2079.

Repeal and
saving.

3. (1) The Land Tax Assessment Act 1907-1973 is hereby repealed.

(2) Without limiting the operation of the Interpretation Act 1918 to or in relation to the repeal effected by subsection (1)—

(a) any assessment which might have been made under the repealed Act but was not so made, may be made under the provisions of the repealed Act, and all proceedings may be taken thereon, and all other consequences shall ensue thereon, as if that Act had not been repealed;

(b) any assessment made under the repealed Act and any assessment made under paragraph (a) of this subsection may be re-opened, altered, amended, or otherwise dealt with, under the provisions of the repealed Act and all proceedings may be taken thereon, and all other consequences shall ensue thereon, as if that Act had not been repealed.

(3) Notwithstanding subsection (2), any rebate under the provisions of section 8A of the repealed Act shall not be applicable unless an application is made to the Commissioner within twelve months from the time when the erection of the residence concerned was completed on the land, and any such rebate shall not be made in respect of more than the four years of assessment immediately preceding the date that the erection of the residence was completed.

Arrange-
ment.

4. The arrangement of this Act is as follows—

PART I.—PRELIMINARY.

PART II.—ADMINISTRATION.

PART III.—LIABILITY TO TAXATION.

PART IV.—EXEMPTIONS AND CONCESSIONS.

PART V.—RETURNS.

PART VI.—VALUATIONS.

PART VII.—ASSESSMENTS.

PART VIII.—OBJECTIONS AND APPEALS.

PART IX.—RECOVERY OF TAX.

PART X.—MISCELLANEOUS.

SCHEDULE.

5. (1) In this Act, unless the context otherwise requires—

Interpreta-
tion.
Amended by
No. 76 of
1978, s. 70;
No. 29 of
1980, s. 2.

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

(a) has the control or disposal of any real or personal property owned by the principal, or the control, receipt, or disposal of any rents or proceeds derived from any such property; or

(b) directly or indirectly, whether by negotiation, or otherwise howsoever, sells or disposes of any such property, or offers any such property for sale or disposition, or solicits or procures the sale or disposition thereof;

“Commissioner” means the person holding or performing the duties of the office of Commissioner of State Taxation under the Public Service Act 1978;

“concession” means assessment and payment of tax under this Act at fifty per centum of the rate imposed by the Land Tax Act 1976;

“exemption” means an exemption from assessment and taxation under this Act;

“exempt land” means land that is exempted from assessment and taxation under this Act;

Land Tax Assessment.

“exempt purpose” in relation to any land means a purpose for which the land is used or reserved and by virtue of which it becomes exempt land;

“joint owners” means persons who own land jointly or in common, whether as partners or otherwise;

“land” includes all tenements and all interests therein;

“land tax” means the tax assessed under this Act or imposed by the Land Tax Act 1976 and includes any additional taxes, interest, or penalties prescribed by this Act or the Land Tax Act 1976 and any law costs incurred in the recovery of land taxes levied under those Acts, including any fee paid for registration of a memorial pursuant to subsection (1) of section 46 or for subsequent endorsement of the title and land register or record pursuant to subsection (3) of that section, and the expression “tax” has the same meaning;

“local authority” means a municipality constituted under the Local Government Act 1960;

“Local Court” means a Local Court established under the Local Courts Act 1904;

“lot” means a defined portion of land depicted on a plan or diagram publicly exhibited in the public office of the Department of Lands and Surveys, or deposited in the Office of Titles or Registry of Deeds and for which a separate Crown grant or certificate of title has been or can be issued or depicted on a subdivisional plan or diagram, whether so exhibited or deposited or not, but which is, whether before or after the coming into operation of the Town

Planning and Development Act Amendment Act 1956, approved by the Board, and includes the whole of any land the subject—

- (a) of a Crown grant issued under the Land Act 1933;
- (b) of a certificate of title issued under the Transfer of Land Act 1893;
- (c) of a survey into a lot pursuant to a direction given under section 17 of the Land Act 1933;
- (d) of a part-lot shown on a plan of subdivision or diagram deposited in the Department of Lands and Surveys, Office of Titles or Registry of Deeds;
- (e) of a conveyance registered under the Registration of Deeds Act 1856; or
- (f) of a lot depicted on a strata plan, or of a home unit entitlement as provided in section 19;

“municipal district” has the same meaning as is from time to time ascribed thereto by the Local Government Act 1960;

“owned” and similar expressions have a meaning corresponding with that of “owner” under this Act;

“owner” in relation to any land includes—

- (a) every person entitled to the land for any estate of freehold in possession;
- (b) every person entitled to the land under any lease or licence from the Crown with or without the right of acquiring the fee-simple; and
- (c) every person entitled to use the land for a business, commercial, professional, or trade purpose under an agreement or arrangement with

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the Crown, or any agency or instrumentality of the Crown, or a local authority or any public statutory authority,

and includes every person who by virtue of this Act is deemed to be an owner;

“parcel” means two or more lots of land in the same ownership which have common boundaries, and which, for good and sufficient reason, may be deemed by the Commissioner to be a single property for valuation and assessment under this Act;

“public notice” means a notice published 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, the Forests Department, or the Department of Mines under the provisions of any Act for the registration of titles to land, deeds, and other instruments;

“repealed Act” means the Act repealed by subsection (1) of section 3;

“Schedule” means the Schedule to this Act;

“section” means section of this Act;

“subsection” means subsection of the section in which the term is used;

“taxpayer” means any person liable to pay land 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 a land tax assessment;

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

- (a) an executor or administrator, guardian, committee of management, receiver or liquidator; and
- (b) every person having or taking upon himself the administration or control of land effected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control, or management of the land of a person under any legal disability;

“unimproved value” in relation to any land—

- (a) means the unimproved value of that land in force under the Valuation of Land Act 1978; or
- (b) where, for the purposes of the year of assessment commencing on the 1st July 1980 or any subsequent year of assessment, an increased unimproved value of any land (in this paragraph called “the new value”) comes into force as a result of a general valuation under the said Act, means—
 - (i) for the first year of assessment for which the new value is in force, the former value (that is, the unimproved value in force immediately before the new value came into force) plus one third of the difference between the new value and the former value;
 - (ii) for the second such year, the former value plus two thirds of such difference,

and thereafter has the meaning assigned by paragraph (a) of this definition;

“year of assessment” means the year commencing on the first day of July 1976, and each succeeding year thereafter commencing on the first day of July.

(2) The provisions of this Act have effect notwithstanding any provision to the contrary of the University of Western Australia Act 1911, the Western Australian Institute of Technology Act 1966, the Teacher Education Act 1972, the Murdoch University Act 1973, or any other Act, and, to the extent of any inconsistency between the provisions of this Act and the provisions of those other Acts or of any other Act, the provisions of this Act shall prevail.

PART II.—ADMINISTRATION.

Power of
Commissioner to
administer
Act.

6. (1) The Commissioner of State Taxation shall have the general administration of this Act.

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

Power of
delegation.

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

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

8. The Commissioner or any person authorized 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 council or any officer of a local authority, and all deeds, certificates, and other evidences of title, books, returns, accounts, and documents in the Land Titles Office, or the office for the Registration of Deeds or in any other public office, and may require and take copies thereof or extracts therefrom.

Power of inspection of public offices.

9. (1) The Commissioner or any person authorized by him in that behalf shall at all times have full and free access to all land, buildings, places, books, documents, and other papers for the purpose of ascertaining the ownership of any land or for any purpose relating to the assessment thereof, and may make extracts from or copies of any such books, documents or papers.

Other powers of inspection. Amended by No. 76 of 1978, s. 71.

(2) A person shall not obstruct the Commissioner or any person authorized by him in the exercise of his powers under subsection (1).

Penalty: Five hundred dollars.

10. (1) 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 authorized by him in that behalf, concerning any assessment, and to produce all books, documents, and other papers whatsoever in such person's custody or under his control relating thereto.

Attendance and giving evidence.

(2) The Commissioner may require such evidence to be given on oath, and either orally or in writing and for such purpose he or the officer authorized as mentioned in subsection (1) may administer an oath.

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

Secrecy.

(2) Subject to this section and section 12, a person to whom this section applies shall not, either directly or indirectly, except in the performance of a duty under or in connection with this Act—

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

Penalty: Five hundred dollars.

(3) A person to whom this section applies—

- (a) may produce in any court any document relating to the affairs of any other person of which he has the custody or to which he has access by virtue of his office or employment under or for the purposes of this Act; and
- (b) may divulge or communicate to any court any information concerning the affairs of any other person obtained by him by reason of such office or employment,

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

Information
obtained
under this
Act may be
used under
other Acts.

12. (1) Any information obtained by the Commissioner or any officer of the State Taxation Department in the performance of his duties under this Act may be used in connection with duties under any other Act administered by the Commissioner, and any such information may be used as evidence in any legal proceedings under any such Act.

(2) The Commissioner or any person authorized by instrument in writing under the hand of the Commissioner in that behalf may communicate or divulge to—

- (a) the Commissioner, Second Commissioner or Deputy Commissioner under any law of the Commonwealth relating to taxation or to any person authorized in writing by any such Commissioner, Second Commissioner or Deputy Commissioner to receive it; or
- (b) the Commissioner or any other officer of any State or Territory of the Commonwealth administering any law of the State or Territory relating to taxation or to any person authorized in writing by any such Commissioner or other officer to receive it,

any information concerning the affairs of any person disclosed or obtained under the provisions of this Act.

PART III.—LIABILITY TO TAXATION.

13. Subject to the provisions of this Act, an annual land tax at such rates as are fixed by the Land Tax Act 1976 shall be levied and paid upon the unimproved value of all land in the State that is not exempt land. Land tax.

14. Land tax shall be charged on land as owned at midnight on the 30th June immediately preceding the year of assessment for which the tax is levied. Date of charge.

15. (1) Land tax is payable by the owner of land upon the aggregated unimproved value of all the land owned by him that is not exempt land. Payable by owner.

(2) The aggregated value on which tax is to be levied is the total sum of the unimproved values of each taxable lot or parcel.

(3) This section does not apply to—

- (a) aggregate the value of lands held in severalty, in trust for different persons who are not for any reason liable to be jointly assessed for land tax under this Act; or
- (b) aggregate the value of land beneficially owned by a person with the value of other land held by him as trustee unless for any reason he is liable to be jointly assessed for land tax under this Act on the respective interests in those lands.

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

15A. (1) For the purposes of this section and of paragraph (b) (ii) of clause 10 of Part I of the Schedule—

- (a) “owner” means the owner of previously exempt land on the day on which the land is subdivided or, if the ownership changes on that day, the first owner on that day;

“previously exempt land” means any land which was exempt under clause 10 of Part I of the Schedule for any one or more years of assessment during the relevant period;

“the relevant period” means—

- (i) the five years of assessment reckoned retrospectively from and including the year of assessment in which the previously exempt land is subdivided; or
- (ii) the years of assessment reckoned from and including the year of assessment in which the

Liability
of owner
who
subdivides
certain
exempt
land.

Inserted by
No. 29 of
1980, s. 3.

previously exempt land is subdivided retrospectively to the year of assessment which commenced on the 1st July 1980,

whichever is the lesser period;

“the taxable portion of the land” means the previously exempt land—

- (i) after subtracting the lot or parcel of land on which, at the time of subdivision, is situated a dwellinghouse the occupancy of which gives rise to an exemption or partial exemption of the land under clause 10 of the Schedule; or
 - (ii) where there is no such lot or parcel, or any such lot or parcel is less than 2.023 4 hectares, after subtracting an area of 2.023 4 hectares;
- (b) land is subdivided when—
- (i) a plan of subdivision of the land is approved by the Town Planning Board for the purposes of subsection 2 of section 20 of the Town Planning and Development Act 1928; or
 - (ii) a transfer, conveyance, lease or mortgage of any land is approved by the said Board under subsection (1) (a) of section 21 of the said Act or an application for the issue of a certificate of title is approved by it under subsection (2) of the said section, and the effect of the Board's so doing is to approve a dealing with a part of the land which is less than a whole lot;

- (c) an approval referred to in paragraph (b) of this subsection shall be conclusively presumed to have been given on the date appearing in the Town Planning Board's approval as endorsed on the plan, instrument or application referred to in the said paragraph.

(2) Where during or after the year of assessment commencing on the 1st July 1980 any previously exempt land is subdivided the owner of the land is, notwithstanding clause 10 of Part I of the Schedule, liable to pay land tax on the taxable portion of the land assessed in accordance with the following provisions of this subsection—

- (a) subject to paragraph (b) of this subsection, the tax shall be assessed—
 - (i) for each year of assessment during the relevant period, at the rate imposed by the Land Tax Act 1976, on the unimproved value, as determined under section 26, of the taxable portion of the land; and
 - (ii) shall be so assessed in respect of each such year as if the taxable portion of the land were the only land of the owner liable to land tax for that year;
- (b) if land tax has already been charged on any part of the taxable portion of the land under section 14 for any year of assessment and—
 - (i) if no partial exemption from assessment and taxation applied to that part for that year under clause 10 of the Schedule, no land tax shall be assessed under paragraph (a) of this subsection on that part for that year; or

(ii) if a partial exemption applied to that part, or any interest therein, for that year under the said clause, land tax shall be assessed for that year under paragraph (a) of this subsection only on the part of the land, or an interest in the land, to which the partial exemption applied;

(c) for the purposes of paragraph (a) of this subsection, the unimproved value of the taxable portion of the land shall be the same proportion of the unimproved value of the whole of the previously exempt land, determined under section 26, as the area of the former bears to the area of the latter.

(3) Nothing in this section affects the liability of any person for land tax on the taxable portion of the land for any year of assessment after that in which the land is subdivided.

16. (1) Joint owners of land shall be assessed and liable for land tax according to the provisions of this section. Joint owners.

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

(3) The provisions of this section do not apply to the owners of home units within the meaning of section 19 who are liable for taxation on the unimproved value of their respective interests as provided in that section.

17. Where any agreement has been made for the sale of land, whether before or after the coming into operation of this Act, the purchaser shall be deemed Buyer in possession liable.

to be the owner of the land for the purposes of this Act so soon as he has obtained possession of the land so purchased, whether the agreement has been completed by transfer or conveyance or not.

Seller to remain liable until delivery of possession.

18. Where any agreement has been made for the sale of land, whether before or after the coming into operation of this Act, and whether the sale has been completed by transfer or conveyance or not, the seller shall be deemed to remain the owner of the land for the purposes of this Act until possession of the land has been delivered to the purchaser.

Assessment of certain home unit owners. Amended by No. 76 of 1978, s. 72.

19. (1) For the purposes of this section—

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

(a) contains two or more such parts, each of which is designed for use as a self-contained unit for living purposes; and

(b) is erected on land that is owned—

(i) by two or more persons as tenants in common, each of whom is the registered proprietor under the Transfer of Land Act 1893, of one or more undivided shares in the whole of the land and is lawfully entitled, by virtue of an agreement entered into between him or his predecessor in title and all other owners of undivided shares in the land or their predecessors in title, to the exclusive right to occupy a specified part of the building; or

(ii) by a body corporate in which all issued shares are owned by persons, each of whom is

lawfully entitled, by virtue of his ownership of shares in the body corporate, to the exclusive right to occupy a specified part of the building;

“improvements” means the value of all works actually effected to land, whether above or below the surface, and includes fixtures, but does not include machinery, whether fixed to land or not;

“merged improvements” means any works in the nature of draining, filling, excavation, grading or levelling of the land, retaining walls or other structures or works for that purpose, the removal of rocks, stone or soil, and the clearing of timber, scrub or other vegetation;

“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—
 - (i) merged improvements; and

Land Tax Assessment.

- (ii) 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 and including details required by him, 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 and including details required 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, subject to any exemption that is applicable, 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 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) 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)—

- (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 a form approved by the Commissioner, for the revocation of the application of this section or until the Commissioner, irrespective of whether those owners have 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) on or in respect of that land; and
- (c) where the owner of a home unit assessed under subsection (3) is the owner of any other 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 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).

(5) Subject to paragraph (a) of subsection (4), an application made in accordance with the provisions of subsection (2) shall be given effect to by the Commissioner with respect to the year of assessment immediately following that in which the application is received by the Commissioner.

(6) Where, immediately before the coming into operation of this Act, section 8C of the repealed Act applied to and in relation to an application made to the Commissioner in accordance with that section in respect of any matter on which applications could be made thereunder, this section applies to and in relation to that application as though it were an application made to the Commissioner in accordance with this section on a like matter on which applications may be made under this section.

Agents,
trustees,
etc., how
chargeable.

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

(2) Every such agent and trustee shall, subject to the provisions of subsection (6), be chargeable with the land tax payable in respect of such land in the same manner as if such land were his own; but he shall be assessed in respect thereof in a representative character only, and the provisions of subsection (3) of section 15 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 authorized 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 an 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 provided by this Act.

PART IV.—EXEMPTIONS AND CONCESSIONS.

21. (1) The classes of land respectively specified in Part I of the Schedule are exempted from assessment and taxation under this Act subject to the qualifications respectively specified in that Part and to clauses 1 and 2 of Part III of the Schedule.

Exemptions
and
concessions
for
specified
land.

(2) The concessions specified in Part I of the Schedule apply subject to clause 3 of Part III of the Schedule.

(3) Land of the class specified in Part II of the Schedule is subject to assessment and taxation under this Act at fifty per centum of the rate imposed by the Land Tax Act 1976.

(4) The concession specified in subsection (3) applies subject to clause 3 of Part III of the Schedule.

22. (1) Where a lot or parcel, or part of a lot or parcel, of land in one of the classes mentioned in subsection (1) of section 21 is not exempt land by reason of one or more of the qualifications so

Power of
Commis-
sioner to
exempt land.

mentioned, the Commissioner may for reasonable cause shown by the person who is apart from this section liable to pay land tax in respect of that lot or parcel, or part thereof, exempt it, or part of it, from assessment and taxation under this Act.

(2) A person who is dissatisfied with the decision of the Commissioner on an application by that person for exemption under subsection (1) may within forty-two days, or such further time as the Treasurer may for reasonable cause shown by that person, allow, after service by post of notice of the decision, post to or lodge with the Treasurer an appeal in writing against the decision stating fully and in detail the grounds on which he relies.

(3) The obligation to pay, and the right to receive and recover land tax shall not be affected by any appeal to the Treasurer, but if the person succeeds on the appeal the amount (if any) of the tax received by the Commissioner in excess of the amount which, according to the decision on the appeal is payable by him, shall forthwith be repaid to him by the Commissioner.

(4) The Treasurer shall, with all reasonable despatch, consider the appeal and may either disallow it or, for reasonable cause shown by the person making the appeal, allow it wholly or in part.

(5) The Treasurer shall give to the person making the appeal written notice of his decision on the appeal.

[23.¹ *Repealed by No. 11 of 1982, s. 3.*]

¹ Section 3 (2) of Act No. 11 of 1982 reads as follows—

(2) Section 23 of the principal Act applies to the year of assessment which commenced on 1 July 1981 notwithstanding that the repeal thereof takes effect during that year of assessment.

PART V.—RETURNS.

24. (1) Subject to this section, every person who is the owner of land in this State personally, or in any representative capacity, shall furnish to the Commissioner an annual return setting forth a full and complete statement of all land owned by him at midnight on the 30th June last past, with such particulars as are required by the Commissioner, and detailed in the return form provided by the Commissioner.

Requirement
for
lodgement of
returns.
Amended by
No. 18 of
1979, s. 2.

(2) The Commissioner shall give or cause to be given not less than thirty clear days' public notice of the requirement to furnish returns as provided in subsection (1), and in the public notice shall state the place where the return forms may be applied for and obtained and the date by which the returns shall be submitted.

(3) The Commissioner may at any time require any person to furnish a further or fuller return, or a copy of a return previously lodged, for the purposes of the assessment and taxation under this Act.

[(4) *Repealed by No. 18 of 1979, s. 2.*]

(5) Any return made or purporting to be made or signed by or on behalf of any person for the purposes of this Act shall be taken and deemed to be duly made by or on behalf of that person unless it is proved that the return was not so signed or made.

(6) The fact that land may be exempt land does not of itself relieve any person from the obligation to furnish returns under this section in respect of that land.

(6a) The Commissioner may, by notice, relieve any person or class of persons from the obligation to furnish annual returns under subsection (1) and may, by further notice, re-impose that obligation upon that person or upon persons of that class or any of them.

(6b) In subsection (6a) "notice" means public notice or notice in writing served on the person or persons to whom the notice applies.

(6c) The fact that a person may, by virtue of a notice under subsection (6a), be relieved from the obligation to furnish annual returns under subsection (1) does not affect the liability of that person, or any other person, to pay land tax.

(7) Joint owners liable under this Act to be jointly assessed and taxed shall be jointly and severally responsible for the due furnishing of returns, and liable in respect of any default in connection therewith, but it shall be sufficient that a single full and complete return is furnished on behalf of the joint owners.

(8) The Crown, an agency or instrumentality of the Crown, or a local authority or any other public statutory authority is not required to furnish a return pursuant to this section.

Additional
tax for late
returns and
omissions in
returns.

25. (1) Any person who fails to duly furnish any return or copy thereof or information as and when required by this Act or by the Commissioner shall, if a taxpayer, be liable, apart from any other penalty provided by this Act, to pay on demand by the Commissioner, by way of additional tax an amount of not exceeding ten per centum of the amount of tax assessable to him, in addition to any sum by way of a penalty which may become payable by him in accordance with section 39, but the Commissioner may in any particular case, for reasonable cause shown by the taxpayer, remit all or part of the additional tax.

(2) Any person failing to furnish a required return shall not be relieved from any penalty provided in this section by reason only of his having received no notice to furnish the return.

PART VI.—VALUATIONS.

26. For the purposes of this Act the unimproved value of any land shall be the unimproved value as on the 30th June last preceding the year of assessment for which the valuation is required.

Unimproved value of land.
Substituted by No. 76 of 1978, s. 73.
Amended by No. 29 of 1980, s. 4.

PART VII.—ASSESSMENTS.

27. (1) Subject to this Act the Commissioner shall, for each year of assessment, cause an assessment to be made for each owner of land subject to land tax.

Assessment to be made.
Amended by No. 29 of 1980, s. 5.

(2) The Commissioner shall, subject to this Act, also cause an assessment to be made for an owner of land who becomes liable to taxation under section 15A.

28. (1) As soon as reasonably practicable after a taxpayer's assessment is made, the Commissioner shall cause a notice in writing of the assessment to be served on the taxpayer.

Notice of assessment.

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

29. The Commissioner shall, in a notice of assessment of land tax, furnish such particulars of the assessment as he consider necessary, and of the amount of tax payable and the date when payment shall be due.

Particulars in notice.

30. Where—

- (a) any taxpayer or person has not furnished a return, whether through default or because a notice under subsection (6a) of section 24 has relieved him from the obligation to do so;
- (b) the Commissioner is not satisfied with the return made by any taxpayer or person; or

Assessment in certain cases.
Amended by No. 18 of 1979, s. 3.

- (c) the Commissioner has reason to believe that any person (though he may not have furnished a return) is a taxpayer,

the Commissioner may make an assessment of the amount which, in his opinion, is the tax payable and the land tax so assessed shall be the land tax payable by that taxpayer or person until or unless the assessment is varied in accordance with the provisions of this Act.

Amendment
of
assessments.

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

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

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

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

subject to the provisions of this section, be limited to the matter the subject of such prior amendment notice of which was served within the previous three years.

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

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

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

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

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

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

(2) The production of any document under the hand of the Commissioner or Assistant Commissioner, purporting to be a copy of or extract from any return or assessment, shall for all purposes be sufficient evidence of the matter therein set forth, without producing the original.

Assessments
of trustees.

34. Any person in whom land is vested as a trustee shall be assessed and liable in respect of land tax as if he were beneficially entitled to the land, but—

- (a) where he is the owner of different lands in severalty, in trust for different persons who are not for any reason liable to be jointly assessed, the land tax so payable by him shall be separately assessed in respect of each of those lands; and
- (b) where a trustee is also the beneficial owner of other land, he shall be separately assessed for that land, and for the land of which he is a trustee, unless for any reason he is liable to be jointly assessed independently of this section.

PART VIII.—OBJECTIONS AND APPEALS.

Objection to
assessment.
Amended by
No. 76 of
1978, s. 74.

35. (1) Subject to section 37, a taxpayer who is dissatisfied with his assessment made by the Commissioner under this Act may, within forty-two days, or such further time as the Commissioner may, for reasonable cause shown by the taxpayer, allow, after service by post of the notice of assessment, post to or lodge with the Commissioner an objection in writing against the assessment, stating fully and in detail the grounds on which he relies.

[Former (2) deleted by No. 76 of 1978, s. 74.]

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

(3) (a) The Commissioner shall promptly serve upon the objector written notice of his decision on the objection and a brief statement of his reasons for that decision.

(b) Where the Commissioner decides to allow an objection, wholly or in part, he shall also advise the objector of any consequent amendment of assessment; and where the Commissioner decides to

disallow an objection, wholly or in part, he shall also advise the objector of the time within which and the manner in which an appeal against the decision may be made.

[(4) *Repealed and re-enacted as (3) by No. 76 of 1978, s. 74.*]

36. (1) A taxpayer who is dissatisfied with the decision of the Commissioner on an objection of the taxpayer may, within forty-two days, or such further period as the Commissioner may, for reasonable cause shown by the taxpayer, allow, after the service by post of notice of the decision of the Commissioner, in writing request the Commissioner to treat his objection as an appeal against the assessment.

Appeal against assessment. Amended by No. 76 of 1978, s. 75.

(2) Upon receipt of such request the Commissioner shall promptly refer the objection to a Land Valuation Tribunal under the Land Valuation Tribunals Act 1978 as an appeal.

(3) A taxpayer who is dissatisfied with a decision of the Commissioner to refuse to extend the time for service of an objection against an assessment or for requesting the Commissioner to treat his objection as an appeal against the assessment may serve on the Commissioner a notice requiring the Commissioner to refer such decision to a Land Valuation Tribunal under the Land Valuation Tribunals Act 1978 as an appeal.

(4) Upon receipt of such notice the Commissioner shall promptly refer the decision to a Land Valuation Tribunal as an appeal.

[(5)-(9) *Repealed by No. 76 of 1978, s. 75.*]

37. There shall be no objection or appeal in respect of a valuation of land the subject of an assessment under this Act, except in accordance with the Valuation of Land Act 1978.

Objection or appeal. Substituted by No. 76 of 1978, s. 76.

Liability to pay land tax not affected by objection or appeal. Inserted by No. 76 of 1978, s. 77.

37A. The obligation to pay and the rights to receive and recover land tax shall not be affected by any objection or appeal, whether in respect of an assessment or in respect of a valuation of land the subject of an assessment under this Act.

Amendment of assessment consequent on objection or appeal. Inserted by No. 76 of 1978, s. 77.

37B. The Commissioner shall issue a notice of an amended assessment of land tax when, in consequence of the allowance, wholly or in part, of an objection or appeal under this Act or under the Valuation of Land Act 1978, amendment of an assessment is necessary.

PART IX.—RECOVERY OF TAX.

When tax payable.

38. (1) Land tax shall, subject to the other provisions of this Act, be due and payable thirty days after the service by post of a notice of assessment.

(2) Where an assessment is amended in accordance with this Act the amended amount of land tax shall, subject to the other provisions of this Act, be due and payable thirty days after the service by post of the notice of amended assessment upon the taxpayer.

(3) The Commissioner may, for reasonable cause shown by a taxpayer, grant an extension of time for the payment of land tax for which that taxpayer is liable and where such an extension is granted—

- (a) it shall, subject to paragraph (c) of this subsection, be for such period as the Commissioner considers the circumstances warrant;
- (b) it may be subject to the payment of such instalments as the Commissioner considers the circumstances warrant;
- (c) the Commissioner may at any time, by notice served on the taxpayer, revoke the extension;

- (d) 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
- (e) interest, at such rate not exceeding ten per centum per annum as is fixed by the Commissioner, shall, unless the Commissioner, for reasonable cause shown by the taxpayer, 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 due and payable at the same time as the tax to which the extension relates and if after that time any part of the land tax is outstanding the interest thereon accrues from day to day and is due and payable as and when it accrues.

(4) The Commissioner may, for reasonable cause shown by the taxpayer, remit the whole or any part of the interest charged under this section.

39. (1) A person who fails to pay the amount payable by him in respect of land tax after the amount has become due shall, in addition to the amount of the land tax, pay by way of penalty a sum equal to ten per centum of that amount and that sum is, subject to subsection (2), due and payable immediately after the land tax in respect of which the penalty is incurred has become due.

Penalty for
late
payment.

(2) In subsection (1) "land tax" does not include additional tax payable under section 25 or interest payable under subsection (3) of section 38.

(3) The Commissioner may, for reasonable cause shown by the taxpayer, remit all or part of the penalty incurred, and refund the amount of any penalty paid under this section.

Land tax and
penalty a
debt due to
Her Majesty.

40. Land tax, when it becomes due or is payable, is a debt due to Her Majesty, and payable to the Commissioner.

Tax
recoverable
by the
Commis-
sioner.

41. Any land tax may be sued for and recovered by action in any court of competent jurisdiction by the Commissioner suing on behalf of Her Majesty:

Procedure
in Local
Court.

42. With respect to proceedings in a Local Court for the recovery of tax—

- (a) 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, is made to the clerk of the court in which the summons was issued, judgment shall be given for the amount claimed, without the necessity of the Commissioner, or anyone on his behalf, appearing in court or proving the liability of the defendant and the non-payment of the tax; and
- (b) 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 amount was payable, with such further and other particulars as the Commissioner may think necessary.

Mode of
service when
defendant
absent.

43. If, in any proceedings for the recovery of tax against any taxpayer who has been assessed, 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 the court to the contrary, good service of any summons or

writ may, without leave of the court, be effected on him by posting it, or a copy thereof, in a letter addressed to him at his last known place of business or abode in Western Australia.

44. In all proceedings under this Act the Commissioner may appear by any officer in the Public Service of the State, and the appearance of such an officer, and his statement that he so appears by authority of the Commissioner, shall be sufficient evidence of that authority for all purposes.

Commis-
sioner may
appear by
public
officer.

45. (1) Subject to section 47, land tax shall, until payment, be a first charge, whether registered or not, and whether or not a memorial has been registered under section 46, upon the land taxed in priority over all other encumbrances whatsoever, and where the land taxed comprises two or more lots or parcels the land tax payable on the land taxed shall be a first charge on each and every such parcel and notwithstanding any disposition of the land or any part thereof the land or part shall continue to be liable in the hands of any purchaser or holder for the payment of the land tax so long as it remains unpaid.

Tax to be a
first charge
on the land.

(2) Subsection (1) does not apply to or in relation to land owned by, or vested in, the Crown, or any agency or instrumentality of the Crown, or a local authority or any other public statutory authority.

46. (1) Where, in relation to any land, payment of land tax is in arrear, the Commissioner may deliver a memorial, in the prescribed form, to that effect to the Registrar of Titles, or the Registrar of Deeds, as the case requires, who, on payment of any fee which may be prescribed therefor under the Transfer of Land Act 1893 or the Registration of Deeds Act 1856, as the case requires, shall register the memorial and endorse or note the title and land register or record, in respect of that land.

Prohibition
on dealings
in land.

(2) When the memorial is registered the Registrar of Titles, or the Registrar of Deeds, as the case requires, is prohibited from registering and from accepting for registration an instrument affecting the land without the consent of the Commissioner until the land ceases under subsection (3) to be bound by this subsection.

(3) When the payment in respect of which a memorial is registered under this section ceases to be in arrear, the commissioner shall deliver to the Registrar of Titles, or the Registrar of Deeds, as the case requires, a certificate signed and dated by the Commissioner certifying that the payment has ceased to be in arrear and the Registrar of Titles, or the Registrar of Deeds, as the case requires, shall, on payment of any fee which may be prescribed therefor under the Transfer of Land Act 1893 or the Registration of Deeds Act 1856, as the case requires, endorse the title and land register or record to that effect and thereupon the land ceases to be bound by subsection (2).

(4) Subsections (1), (2) and (3) do not apply to or in relation to land owned by, or vested in, the Crown or any agency or instrumentality of the Crown, or a local authority, or any other public statutory authority.

Bona fide
purchaser
for value
and his
successors
in title.

47. Where land the subject of a charge under section 45 is purchased by a *bona fide* purchaser for value and at the time of the purchase—

- (a) there is, in relation to the land, no memorial registered under section 46; and
- (b) the Commissioner issues a certificate to the purchaser under section 48, other than a certificate to which subsection (3) of that section applies, and the certificate states that there is no assessed land tax outstanding in relation to the land,

the charge shall be of no effect against that purchaser and his successors in title to the land.

48. (1) The Commissioner shall on application by the purchaser of any land issue a certificate showing if there is any assessed land tax charged on the land described in the application.

Certificates
as to land
tax charges.

(2) The Commissioner may release the land taxed or any part thereof from the charge in respect of land tax thereon on payment of an amount he calculates to be not less than the proportion of the tax referable to the land or part of the land.

(3) Where an application is made under this section requiring the Commissioner to calculate the tax applicable to any lot, parcel or interest for the assessment year in which the land is sold, and the annual assessment for that year has not issued, the certification specified in subsection (1) of this section shall be an estimate only, and where that estimate is less than the proportionate amount properly chargeable on assessment any underpaid tax remains the liability of the owner shown in that assessment, and continues to be a first charge on the land in the hands of any subsequent owner while the tax remains unpaid.

(4) For the purposes of this section or for any similar purpose under this Act the proportionate amount of land tax applicable to any lot, parcel or interest in land included in the whole of the land taxed under this Act, shall be that proportion of the assessed taxes that the unimproved value of the lot, parcel or interest bears to the total of the unimproved values of all of the land taxed.

49. Nothing in section 48 shall be construed as altering or affecting the liability to taxation, and incidence of tax as provided elsewhere in this Act.

Construction
of s. 48.

50. (1) Whenever any land tax payable in respect of any land remains unpaid for a period of two years, the Commissioner may, notwithstanding any judgment against the person chargeable with

Power of
sale.

the land tax, so long as such judgment remains unsatisfied, cause to be published, for three consecutive weeks in the *Government Gazette*, a notice specifying the land, and the amount of tax due in respect thereof, and stating that if such amount is not paid within one year from the first publication of the notice the Commissioner intends to apply to the Supreme Court for an order for the sale of the land.

(2) The Commissioner, by petition to the Supreme Court or any Judge thereof, may apply for a sale of so much of the land described in the 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 and all costs of and attending the application, and of attending the sale of the land, and that the proceeds be applied in accordance with paragraph (a) of section 51.

Application
of proceeds
of sale.

51. Where any sale of any land has been ordered and effected under section 50—

- (a) the Court or a Judge shall order payment of the said tax, costs, and expenses to be first made out of the proceeds of sale, and the balance of the proceeds of the 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;
- (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;

- (c) the conveyance or transfer shall vest the land, estate, or interest sold in the purchaser as completely and effectually as if the conveyance or transfer had been executed by the owner of the land, estate, or interest; and
- (d) 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 it, and notwithstanding any provision of that Act to the contrary, production of the certificate of title shall not be required; but for the purposes of registration the Registrar of Titles 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, in which case the purchaser shall be entitled to receive a certificate of title to the land purchased.

PART X.—MISCELLANEOUS.

52. (1) A body corporate which owns land in this State may, by instrument in writing served on the Commissioner, appoint a person who resides in this State as the representative of the body corporate for the purposes of this Act, but where such a representative has not been so appointed or after being so appointed he ceases to reside in this State or his whereabouts are unknown to the Commissioner, every person who resides in this State and is acting, or appearing to act, in the management of the affairs of the body corporate, or as attorney or agent of the body corporate shall be a representative of the body corporate for the purposes of this Act.

Duties and liabilities of a representative of a body corporate.

(2) Such a representative shall do all things that are required to be done under this Act by the body corporate and where there is more than one such

representative they are jointly and severally liable to do so, and any such thing done by him or them is deemed to have been done by the body corporate.

(3) Any notice, process, or proceeding that may, under this Act, be served on or taken against the body corporate may be served on or taken against such a representative or, where there is more than one such representative, may be served on or taken against any one of them, and when it is served on or taken against him it is deemed to have been served on or taken against the body corporate.

(4) Any contravention of the provisions of this Act by such a representative shall be deemed to be such a contravention by the body corporate, and both he and the body corporate are liable for the penalty provided for the contravention but not so that the penalty is paid twice.

(5) The provisions of subsections (1), (2), (3), and (4) are in addition to and not in derogation of the obligations and liabilities of the body corporate under this Act, and the provisions of subsection (3) as to service are without prejudice to any other method of due service on the body corporate.

Offence by
occupier or
person in
possession.

53. An occupier, or a person in possession, of any land who when requested by the Commissioner or any officer duly authorized in that behalf to—

- (a) disclose the name of the owner of the land or of the person entitled to receive the rents and profits of the land; or
- (b) give any information in his possession which is lawfully required for the purposes of this Act,

fails to do so or wilfully makes a false statement in respect thereof, commits an offence.

Penalty: Five hundred dollars.

54. A person who—

Penalty for making false returns, etc.

- (a) fails to furnish any returns within the required time;
- (b) 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;
- (c) wilfully evades or attempts to evade assessment or taxation; or
- (d) without just cause shown by him fails to attend and give evidence when required by the Commissioner or any officer duly authorized by him in that behalf, or to truly and fully answer any questions put to him, or to produce any books or papers required of him by the Commissioner or such an officer,

is liable to a penalty of not less than twenty dollars nor more than five hundred dollars; and in any case where the offence was a wilful evasion of assessment or taxation, or a wilful attempt to evade assessment or taxation, the person offending is liable to be assessed and charged treble the amount of the tax to which such person would otherwise be liable.

55. A person who obstructs any officer acting in the discharge of his duties under this Act or wilfully fails to answer or gives any false or evasive answer to any lawful question put by such an officer relating to any land belonging to such person, commits an offence.

Penalty for obstructing officers.

Penalty: Five hundred dollars.

56. Every person, whether a taxpayer or not, shall comply with any demand or requirement made under or for the purposes of this Act by the Commissioner or person duly authorized by the Commissioner in that behalf.

Requirements of Commissioner to be complied with.

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

57. 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 of in any way affecting the incidence of any assessment or tax, or displacing the benefit of any exemption, authorized 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 coming into operation of this Act) be wholly void and inoperative as against the Commissioner so far as such contract, agreement, or understanding purports or is intended to have or might have that effect, but without prejudice to the validity of such contract, agreement, or understanding, in any other respect or for any other purpose.

General penalty.

58. A person who contravenes any of the provisions of this Act is, except where otherwise expressly provided, liable to a penalty not exceeding five hundred dollars.

Extended time for laying complaints.

59. Notwithstanding the provisions of any other Act, proceedings for an offence against this Act may be brought within the period of three years after the commission of the alleged offence.

Immunity of Commissioner and persons authorized by him.

60. No liability shall attach to the Commissioner, or any person duly authorized by him, for any act or omission by him in good faith and in the exercise or purported exercise of his powers and functions, or in the discharge or purported discharge of his duties, under this Act.

Evidentiary provisions.

61. The production of a copy of the *Government Gazette* or a copy of a newspaper circulating in a town or district containing any notice purporting to

be published in pursuance of this Act shall be conclusive evidence that the notice was duly published on the date shown on the copy of the *Government Gazette* or that newspaper, as the case may be.

62. (1) The Governor may make such ^{Regulations.} regulations as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations—

- (a) may require any agency or instrumentality of the Crown, or a local authority or any other public authority to furnish to the Commissioner details of any land owned by or vested in it and which any other person is entitled to use for a business, commercial, professional, or trade purpose under an agreement or arrangement with it; and
- (b) may impose charges for information supplied by or on behalf of the Commissioner to taxpayers or the public but so that the charges imposed do not exceed the costs of supplying the information.

(3) The regulations—

- (a) may be limited in their application to time, place, or circumstance; and
- (b) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer a discretionary authority.

(4) The regulations may provide penalties not exceeding two hundred dollars for contravention of any of the regulations.

Amended by
No. 29 of
1980, s. 6;
No. 10 of
1982, s. 28;
No. 11 of
1982 s. 4.

Section 21

SCHEDULE.

PART I.

1. (a) *Class of Land.*

Land owned by, or vested in, the Crown, or any agency or instrumentality of the Crown, or a local authority or any other public statutory authority.

(b) *Qualification.*

Where by virtue of the interpretation "owner" in section 5, the owner of any land of the class specified in paragraph (a) of this clause includes a person of the class specified in paragraph (b) or (c) of that interpretation, that land is not exempt land but that person, and only he, is liable for assessment and taxation under this Act in respect of that land.

2. (a) *Class of land.*

(i) Land owned by, vested in, or held in trust for any religious body and *bona fide* used or reserved as a site for religious purposes including a site for a church, or a chapel, for public worship and the residence of a minister of the religious body, or *bona fide* used or reserved as a site for educational purposes.

(ii) Any other land owned by, vested in, or held in trust for any religious body.

(b) *Qualifications.*

(i) Where land owned by, vested in, or held in trust for any religious body is used by the owner or any other person for business, commercial, professional, or trade purposes the owner of the land shall be liable for assessment and taxation under this Act at fifty per centum of the rate imposed by the Land Tax Act 1976.

(ii) Land of the class specified in subparagraph (ii) of paragraph (a) of this clause is exempt land, subject to all the other qualifications applicable thereto, only up to and including the year of assessment commencing on the 1st July 1977 but thereafter shall be subject to assessment and taxation under this Act at the rate imposed by the Land Tax Act 1976 unless it is used by the owner or any other person for business, commercial, professional, or trade purposes in which case the owner of the land shall be liable for assessment and taxation under this Act at fifty per centum of that rate.

SCHEDULE—*continued.*

- (iii) Where, after the 1st July 1978, land owned by, vested in, or held in trust for a religious body is sold or used for a purpose other than an exempt purpose specified in subparagraph (i) of paragraph (a) of this clause, and the land was, on the 30th June last preceding the day on which the land was sold or so used, exempt land by reason of being reserved for such an exempt purpose, the land shall be subject to assessment and taxation under this Act as if it had not been exempt land at the rate imposed by the Land Tax Act 1976 for the five years of assessment immediately before the land was so sold or used or for all the years of assessment as from and including the year of assessment in which it became such exempt land, whichever is the lesser period.

3. (a) *Class of land.*

- (i) Land owned by, vested in, or held in trust for—

- (I) The University of Western Australia constituted under the authority of the University of Western Australia Act 1911;
- (II) The Western Australian Institute of Technology established under the Western Australian Institute of Technology Act 1966;
- (III) the Teacher Education Authority established under the Teacher Education Act 1972 and constituent colleges within the meaning of that Act;
- (IV) Murdoch University established under the Murdoch University Act 1973;
- (V) any *bona fide* educational institution not carried on for the purpose of private profit or gain; or
- (VI) any college, hostel, or hall of residence, that is affiliated with any one of the bodies or institutions specified in items (I) to (V) both inclusive of this subparagraph, that has as its objects the provision of residence or education and residence of enrolled students of such a body or institution, and that is not carried on for the purpose of private profit or gain,

and *bona fide* used or reserved as a site for the purpose of providing facilities necessary for or conducive to the attainment of the objects of the body, institution, college, hostel, or hall of residence, as the case may be, and the performance of its functions.

*Land Tax Assessment.*SCHEDULE—*continued.*

- (ii) Any other land owned by, vested in, or held in trust for such a body, institution, college, hostel, or hall of residence as is specified in subparagraph (i) of this paragraph.

(b) *Qualifications.*

- (i) Where land owned by, vested in, or held in trust as specified in subparagraph (i) of paragraph (a) of this clause is used by the owner or any other person for business, commercial, professional, or trade purposes the owner of the land shall be liable for assessment and taxation under this Act at fifty per centum of the rate imposed by the Land Tax Act 1976.
- (ii) Land of the class specified in subparagraph (ii) of paragraph (a) of this clause is exempt land, subject to all the other qualifications applicable thereto, only up to and including the year of assessment commencing on the 1st July 1977 but thereafter shall be subject to assessment and taxation under this Act at the rate imposed by the Land Tax Act 1976 unless it is used by the owner or any other person for business, commercial, professional, or trade purposes in which case the owner of the land shall be liable for assessment and taxation under this Act at fifty per centum of that rate.
- (iii) Where, after the 1st July 1978, land owned by, vested in, or held in trust as specified in subparagraph (i) of paragraph (a) of this clause is sold or used for a purpose other than the exempt purpose specified in that subparagraph, and the land was, on the 30th June last preceding the day on which the land was sold or so used, exempt land by reason of being reserved for that exempt purpose, the land shall be subject to assessment and taxation as if it had not been exempt land at the rate imposed by the Land Tax Act 1976 for the five years of assessment immediately before the land was so sold or used or for all the years of assessment as from and including the year of assessment in which it became such exempt land, whichever is the lesser period.

4. *Class of land.*

Land used exclusively for the purposes of a public hospital, or any hospital conducted by or on behalf of any religious body.

SCHEDULE—*continued.*

5. *Class of land.*

All lands held as mining tenements within the meaning of the Mining Act 1904 unless the land is owned in fee simple in which case the owner of the land in fee simple is liable for assessment and taxation under this Act.

6. *Class of land.*

All lands dedicated to, or vested in trustees and used for zoological, agricultural, pastoral or horticultural show purposes, a historical society, a public museum, or other public purposes.

7. *Class of land.*

All lands owned by, vested in, or held in trust for a public charitable or benevolent institution and used exclusively for the public charitable or benevolent purposes for which the institution was established.

8. *Class of land.*

Land held by any widow of a member of the forces, or by the widowed mother of a member of the forces, who is in receipt of a pension under the provisions of Division I of Part III, of the Repatriation Act 1920 of the Parliament of the Commonwealth or the provisions of any Act passed in amendment or substitution of those firstmentioned provisions, to the extent of the first \$10 000 of the total assessable value of the land on which the widow or widowed mother would otherwise be assessed.

9. (a) *Class of land.*

Any lot or parcel of land not exceeding 2.023 4 hectares in area and on which is constructed a dwelling-house, or two or more lots of land which do not exceed 2.023 4 hectares in total area and on which is constructed a dwelling-house parts of which stand on each of the lots—

- (i) the owner of which is a natural person who uses the land solely or principally as his ordinary place of residence;
- (ii) the owners of which are natural persons all of whom use the land solely or principally as their ordinary place of residence;
- (iii) the owner of which is an exempt proprietary company within the meaning of the *Companies (Western Australia) Code*, and which is used by all

*Land Tax Assessment.*SCHEDULE—*continued.*

the persons who have any share in the share capital of that company solely or principally as their ordinary place of residence; or

- (iv) the owners of which are a natural person, or natural persons, and an exempt proprietary company within the meaning of the *Companies (Western Australia) Code*, and which is used by the natural person or natural persons solely or principally as his or their ordinary place of residence.

(b) *Qualifications.*

- (i) Where any part of any land of the class specified in paragraph (a) of this clause is used for a purpose other than that so specified and that other purpose is not an exempt purpose the exemption provided by that paragraph applies only to the extent of what the owner shows to the satisfaction of the Commissioner to be the proportion the part of the land used for the exempt purpose bears to the whole of the land.
- (ii) The exemption specified in subparagraph (iv) of paragraph (a) of this clause applies only to the interest of the natural person or persons in the land unless the land is also used by all persons who have any share in the capital of the exempt proprietary company solely or principally as their ordinary place of residence, in which case the exemption applies to the whole of the land.

10. (a) *Class of land.*

An undivided lot or parcel of land exceeding 2.023 4 hectares in area and on which is constructed a dwelling-house and in respect of which the requirements of paragraph (a) of clause 9 of this Schedule other than those as to area have been met.

(b) *Qualifications.*

- (i) The exemption provided by paragraph (a) of this clause is subject to the qualifications specified in paragraph (b) of clause 9 of this Schedule.
- (ii) Where on or after the 1st July 1980 any previously exempt land is subdivided, the land shall be liable to assessment and taxation as to part thereof as provided in section 15A.

SCHEDULE—*continued.*

11. (a) *Class of land.*

An interest in a home unit—

(a) which is registered as a lot under the Strata Titles Act 1966; or

(b) which is one of a group of home units to and in relation to which the provisions of section 19 apply,

and in respect of which the requirements of paragraph (a) of clause 9 of this Schedule other than those as to area have been met.

(b) *Qualifications.*

The exemption provided by paragraph (a) of this clause is subject to the qualifications specified in paragraph (b) of clause 9 of this Schedule.

12.¹ (a) *Interpretation.*

(i) In this clause—

“business” in relation to the use of land means its use on a commercial basis to produce income to the user from the sale of produce or stock;

“grazing business” in relation to the use of land includes its use on a commercial basis to produce income to the user from the grazing of cattle, sheep, pigs, or goats for the sale of the stock, its natural increase, or its natural product but does not include the grazing, agistment, breeding, or training of horses;

“metropolitan region” has the same meaning as is from time to time ascribed thereto by the Town Planning and Development Act 1928;

“total net income” means—

(a) where the owner is one person—his gross income from all sources less the expenses of earning that income; or

¹ Section 2 of Act No. 11 of 1982 reads as follows—

2. The exemption from assessment and taxation under the principal Act provided for by the amendment to clause 12 of Part I of the Schedule to the principal Act, effected by section 4 of this Act, applies for the purpose of the year of assessment commencing on 1 July 1982 and each year of assessment thereafter.

*Land Tax Assessment.*SCHEDULE—*continued.*

- (b) where the owner is two or more persons
—the collective gross income of all
those persons less the collective
expenses of earning that income,

and the calculation of the percentage of the total net income derived from a business to which the exemption specified in this clause may apply shall be made by reference to the trading results of the business in the year preceding the date of assessment of liability for land tax unless the person or persons owning the land have not been the owner or owners of the land for the whole of that year in which case such calculation shall be made by reference to the trading results of the business for the part of that year for which that person or those persons were the owner or owners of the land; and

“town planning scheme” means a town planning scheme approved pursuant to the Town Planning and Development Act 1928.

- (ii) For the purposes of this clause in respect of an owner of land which is a body corporate—

(I) the reference to the principal occupation of the owner shall be construed as a reference to the principal activity of the body corporate;

(II) a reference to the total net income of the owner shall be construed as a reference to the aggregate of the total net incomes of the body corporate and of any other body corporate to which the firstmentioned body corporate is deemed for the purposes of the *Companies (Western Australia) Code* to be related by virtue of subsection (5) of section 7 of that Code; and

(III) a reference to the trading results of a business shall be construed as a reference to the aggregate of the total trading results of the body corporate and of any other body corporate to which the firstmentioned body corporate is deemed for the purposes of the *Companies (Western Australia) Code* to be related by virtue of subsection (5) of section 7 of that Code.

SCHEDULE—*continued.*

(b) *Class of Land.*

Land used solely or principally for all or any of the following businesses—

- (i) an agricultural, silvicultural, or reafforestation business; and
- (ii) a grazing, horticultural, viticultural, apicultural, pig-raising, or poultry farming business.

(c) *Qualifications.*

- (i) Land used as holding paddocks for stock in the course of any business not specified in paragraph (b) of this clause is not exempt land.
- (ii) Where land used solely or principally for one or more of the businesses specified in paragraph (b) of this clause is situated in the metropolitan region, or is situated outside that region and is zoned for other than rural purposes under a town planning scheme, the land shall not be exempt land unless—
 - (I) the person or persons so using the land is or are the owner or owners of the land;
 - (II) that person or those persons derive in excess of thirty-three and one-third per centum of his or their total net income by carrying out within the State a business or businesses specified in paragraph (b) of this clause or, where the land is used for a silvicultural or reafforestation business, either that income requirement is satisfied or the lot or parcel so used has an area of not less than 100 hectares which is fully stocked for that business.

PART II.

Class of land.

Land owned by, vested in, or held in trust for a society, club, or association not carried on for the purposes of profit or gain to its individual members and used solely or principally as a site for the purposes of providing facilities necessary for or conducive to the attainment of the objects of the society, club, or association, as the case may be.

*Land Tax Assessment.*SCHEDULE—*continued.*

PART III.

GENERAL QUALIFICATIONS.

1. Where a lot or parcel of land is used or reserved for both an exempt purpose and a non-exempt purpose, any exemption that may apply shall do so only to the extent of the proportion the part of the lot or parcel which is used, or would be used under the reservation, for the exempt purpose, bears to the whole of the lot or parcel.

2. An exemption in respect of any land in any of the classes specified in clauses 2 to 12 inclusive of Part I of this Schedule shall apply only if the owner of the land concerned makes an application to the Commissioner, in a form approved by him and including details required by him, and shows to his satisfaction that the requirements for the exemption have been met, otherwise that owner shall be liable to assessment and taxation under this Act at the rate imposed by the Land Tax Act 1976.

3. A concession shall apply only if the owner of the land concerned makes an application to the Commissioner, in a form approved by him and including details required by him, and shows to his satisfaction that the requirements for the concession have been met, otherwise that owner shall be liable to assessment and taxation under this Act at the rate imposed by the Land Tax Act 1976.