

Approved for Reprint, 1st August, 1960.

WESTERN AUSTRALIA.

LAND TAX ASSESSMENT.

No. 15 of 1907.

[As amended by Acts:

No. 14 of 1917 assented to 28/3/17;
No. 24 of 1918 assented to 13/6/18;
No. 17 of 1922 assented to 10/2/22;
No. 40 of 1922 assented to 23/12/22;
No. 36 of 1924 assented to 31/12/24;
No. 42 of 1930 assented to 24/12/30;
No. 42 of 1931 assented to 3/12/31;
No. 40 of 1932 assented to 30/12/32;
No. 41 of 1932 assented to 30/12/32;
No. 8 of 1936 assented to 3/12/36;
No. 13 of 1937 assented to 21/12/37;¹
No. 11 of 1945 assented to 13/12/45;²
No. 40 of 1948 assented to 21/12/48;³
No. 87 of 1956 assented to 18/1/57;⁴
No. 33 of 1959 assented to 30/10/59;

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

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

[Assented to 20th December, 1907.]

BE it enacted 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 Tax Assessment Act, 1907-1959*.

Short title.
No. 33 of
1959, s. 1.

¹ Came into operation 24/12/37 (G.G. 24/12/37).

² Operates from 1/7/44 (see section 3 of No. 11 of 1945).

³ Operates from 1/7/47 (see section 5 of No. 40 of 1948).

⁴ Operates from 1/7/56 (see section 3 of No. 87 of 1956).

Interpreta-
tion.
No. 15 of
1907, s. 2.
Amended by
No. 40 of
1948, s. 3.
No. 87 of
1956, s. 10.

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

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

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

“Commissioner” means the 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.

“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.

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

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

¹ Now Land Act, 1933-1958.

- (f) entitled to receive, or in actual receipt, or if the land were let to a tenant, would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise.

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

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

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

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

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

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

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

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

“Trustee,” in addition to every person appointed or constituted such by act of parties, order or declaration of a court, or by operation of law includes an executor or administrator, and every person having or taking upon himself the administration or control

of real or personal property affected by a trust, or acting in any fiduciary capacity, or having the direction, control or management of the real or personal property of any person under legal disability.

“Unimproved value” means—

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

¹ See now Land Act, 1933-1958.

had not been made, above the annual rent for the time being reserved by the lease, to be assessed under the Act; and until assessment, a sum equal to twenty times the amount of the annual rent reserved by the lease.

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

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

OFFICERS.

Commis-
sioner and
officers
may be
appointed.
No. 15 of
1907, s. 3.

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.

Amended by
No. 8 of
1856, s. 4.

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

Delegation
of duties.
No. 15 of
1907, s. 4.
Amended by
No. 17 of
1922, s. 2.

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.

Officers of the Commonwealth Taxation Department shall be deemed public officers within the meaning of this section during the currency of any agreement between the Commonwealth and State Governments under the Tax Collection Act, 1920.¹

¹ See Act No. 36 of 1920.

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.
No. 15 of
1907, s. 3.

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.
No. 15 of
1907, s. 6.

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.
No. 15 of
1907, s. 7.
Amended by
No. 36 of
1924, s. 3.

(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.

(4) Any person who has been an officer or has performed any duty under this Act, and who communicates any information acquired by him in the performance of any duty under this Act or the regulations to any person other than the person to whom he is authorised by the Commissioner to communicate it, shall be guilty of an offence.

Penalty: Two hundred and fifty pounds.

LAND TAX.

8. (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

Land tax.
No. 15 of
1907, s. 9.
Renumbered
s. 9 in 1924
reprint.
Amended by
No. 14 of
1917, s. 3;
No. 87 of
1956, s. 5.

of all land situate in Western Australia, and not included in the exemptions specified in section ten.

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 value of such several estates or parcels shall be regarded for the purpose of taxation as if such aggregate represented the unimproved value of a single estate or parcel.

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

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

(3) 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.

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

9. (1) [*Subsection (1) repealed by No. 87 of 1956, S.6.*]

No. 15 of 1907, s. 10.
Amended by No. 40 of 1922, s. 9.
No. 87 of 1956, s. 6.
Renumbered s 9 in 1924 reprint.

(2) For the purposes of assessing land tax, land shall be deemed to be improved land if—

- (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, 1898,¹ 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 one mile, 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 of not less than one-third of the unimproved value of the land, but it shall not be necessary in any case to effect improvements exceeding an amount equal to 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.

¹ See now Land Act, 1933-1958.

(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.

Exemption.
No. 15 of
1907, s. 11.
Renumbered
s. 10 in 1924
reprint.

Amended by
No. 17 of
1922, s. 4.
No. 36 of
1924, s. 4.
No. 11 of
1945, s. 2.
No. 40 of
1948, s. 4.
No. 87 of
1956, s. 7.
No. 33 of
1959, s. 2.

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

- (a) All lands owned by or on behalf of 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, or any hospital conducted by or on behalf of any religious body, (whether supported wholly or partly by grants from the Consolidated Revenue Fund or not), benevolent institution, public charitable purpose, church, chapel for public worship, or the site of a residence of a minister of religion ministering at some place of public worship, or the site of, or occupied for the purposes of, a school attached to or connected with any place of public worship, or as a mechanics' institute, or school of art; all lands the property of and belonging to or held in trust for the benefit of any religious body; all lands on which is erected any municipal or State market, 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 (not being the site of, or intended site of, or occupied

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

- (d) All lands held as mining tenements within the meaning of the Mining Act, 1904.¹
- (e) All lands dedicated to, or vested in trustees and used for zoological, agricultural, pastoral, or horticultural show purposes, or other public or scientific purposes.
- (f) Land held by—
 - (i) any person who is in receipt of an age pension, an invalid pension or a widow's pension, under the provisions of the Social Services Act, 1947-1958 (Commonwealth Act), or of that Act as amended at any time.
 - (ii) any member of the Forces within the meaning of the Repatriation Act, 1920-1958 (Commonwealth Act), or of that Act as amended at any time, who is in receipt of a service pension under the provisions of Division 5 of Part III. of that Act.
 - (iii) any widow of a member of the forces within the meaning of the Repatriation Act, 1920-1956 (Commonwealth Act)² or of that Act as amended at any time, or by a widowed mother of an unmarried member: Provided that this subparagraph shall not apply in respect of land held by the widow or widowed mother, the total value of which exceeds £5,000, so far as concerns the amount by which such value is in excess of £5,000.

¹ Now Mining Act, 1904-1957.

² Now Repatriation Act, 1920-1958 (Commonwealth).

- (g) Improved land within the meaning of subsection (2) of section nine of this Act, used solely or principally for the purpose of an agricultural, pastoral, horticultural, apicultural, grazing, pig-raising, or poultry-farming business, but the exemption enacted by this paragraph is suspended for a period of two years commencing on the first day of July, one thousand nine hundred and fifty-six.

See No. 36 of
1924, s. 4.

(2) All lands held under contract for conditional purchase, made before or after the commencement of this Act, under the Land Act, 1898,¹ or any amendment thereof, are exempted from assessment for taxation under this Act for the term of five years from the date of contract, or from the date of survey in the case of land not surveyed before the date of contract. But such exemption shall only apply to taxpayers who prove to the satisfaction of the Commissioner that they do not hold legally or equitably more than 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.
No. 15 of
1907, s. 12.
Renumbered
s. 11 in 1924
reprint.

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

- (1) The benefit of such exemption shall, in each case, be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land, whether as purchaser, lessee, licensee, occupier, or otherwise howsoever; and every such person shall be liable to assessment and taxation in respect of such estate or interest.

¹ See now Land Act, 1933-1958.

- (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.

12. If two or more persons are owners, whether jointly or severally or otherwise, of land subject to taxation under this Act, they shall each be liable to 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. No. 15 of 1907, s. 13. Renumbered s. 12 in 1924 reprint.

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

Contribution.

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

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

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

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

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

(2) Every such agent and trustee shall, subject to the provisions of subsection 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 eight shall apply, and each such assessment shall be kept separate and distinct from the individual assessment (if any) of such agent or trustee.

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

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

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

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

15-32. [*Sections 15 to 32 repealed by No. 87 of 1956, S.11.*]

ASSESSMENTS, RETURNS, ETC.

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

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

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

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

Taxpayers to
furnish
returns.

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

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

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

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

Commis-
sioner may
require
further
returns.

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

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

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

34. (1) [*Subsection (1) repealed by No. 87 of 1956, S.13.*]

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

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

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

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

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

(4) Whenever it is discovered that owing to any mistake of fact any assessment is too low or excessive or otherwise erroneous, the Commissioner may, notwithstanding that the assessment has,

before the discovery of such mistake, been adjudicated on by the Court of Review, amend the assessment by increasing, decreasing, or otherwise altering the same in such manner as in his judgment is just and necessary; and shall thereupon send notice of such amendment to the person concerned, and any such amendment and notice thereof shall be deemed to be and have effect as an assessment and notice thereof, and shall be subject to appeal and to the other incidents of assessments and notices of assessment accordingly.

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

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

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

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

Valuations
of land.
No. 15 of
1907, s. 37.
Amended by
No. 17 of
1922, s. 12.
No. 42 of
1930, ss. 2
and 3.
See Com.
1910-11,
ss. 17, 18.

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

(2) Every such valuation, until altered or amended by the Commissioner, shall be deemed to indicate from year to year the value of the land

in the opinion of the Commissioner as on the thirtieth day of June next preceding each year of assessment subsequent to the making of such valuation.¹

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

Power to inspect rate-books, etc., renumbered s. 38 in 1924 reprint. No. 15 of 1907, s. 39.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43. (1) If—

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

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

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

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

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

PROVISIONS AS TO COMPANIES.

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

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

(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.

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

Court of Review.
No. 36 of 1924, s. 11.
Renumbered s. 46 in 1924 reprint.

(2) The Court of Review shall be a Court of Record, and shall have and possess, for the hearing and determination of appeals, within the limits of the jurisdiction, the same authority, rights, powers, privileges, and status as are conferred on Local Courts by the Local Courts Act, 1904.¹

See No. 15 of 1907, ss. 8, 49.

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

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

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

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

¹ Now Local Courts Act, 1904-1958.

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

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

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

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after the service by post of notice of the decision of the Commissioner, in writing, request the Commissioner to treat his objection as an appeal and to forward it, as required by the taxpayer, either to the Court of Review, or to the Supreme Court.

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

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

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

Power of
Court on
hearing of
appeals.
No. 36 of
1924, s. 11.
Renumbered
s. 48 in 1924
reprint.

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

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

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

(4) On the hearing of the appeal the judge of the Supreme Court may, if he thinks fit, and the Court of Review shall, on the request of the party, state a case in writing for the opinion of the Supreme Court upon any question arising in the appeal which in the opinion of the judge or the Court of Review, as the case may be, is a question of law.

(5) The Supreme Court shall hear and determine the question, and shall be at liberty to draw from the facts and documents stated or comprised in the case inferences whether of law or fact, and shall remit the case with its opinion to the judge or the Court of Review, as the case may be, and may make such order as to costs of the case stated as it thinks fit.

(6) An appeal shall lie to the Full Court of the Supreme Court from any order made under subsection (1) of this section.

49. The obligation to pay, and the right to receive and recover land 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.

Right to recover tax not suspended by appeal.
No. 15 of 1907, s. 51.
Renumbered s. 49 in 1924 reprint.
Amended by No. 87 of 1956, s. 17.

50. (1) The Governor may make rules for regulating the practice and procedure in relation to appeals dealt with by the Court of Review, and the Court shall not be bound in its consideration of any question by any rules of evidence, but in forming its decision shall be guided by good conscience and the facts of the case.

Rules.
No. 36 of 1924, s. 11.
Renumbered s. 50 in 1924 reprint.

(2) The judges of the Supreme Court or a majority of them may make rules of Court for regulating the practice and procedure in relation to appeals to the Supreme Court against assessments.

COLLECTION OF TAX.

Administra-
tive powers.

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

No. 15 of
1907, s. 52.
Renumbered
s. 51 in 1924
reprint.
Amended by
No. 87 of
1956, s. 18.

[Subsection (1) deleted by No. 87 of 1956, S.18].

Access to
buildings,
books, etc.

(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.

Evidence of
any person
may be
required.

(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 assessment, and to produce all books, documents, and other papers whatsoever in such person's custody or under his control relating thereto.

Oath may be
adminis-
tered.

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

[Subsection (5) deleted by No. 87 of 1956, S.18].

When tax
payable.
No. 15 of
1907, s. 53.
Renumbered
s. 52 in 1924
reprint.
Amended by
No. 17 of
1922, s. 19.
No. 87 of
1956, s. 19.

52. (1) Land tax, shall, subject to the 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, and additional land tax is payable by the taxpayer, the additional land tax shall

be due and payable thirty days after the service by post of the notice of amended assessment upon the taxpayer:

Provided that when the Commissioner has reason to believe that a taxpayer may leave Australia before the tax on an assessment, or the additional tax on an amended assessment becomes due and payable, the tax or additional tax shall be due and payable on such date as the Commissioner fixes and notifies to the taxpayer:

Provided also that the Commissioner may in such cases as he thinks fit—

- (a) extend the time for payment as he considers the circumstances warrant; or
- (b) permit the payment of tax to be made by instalments within such time as he considers the circumstances warrant.

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

Fine on defaulting taxpayer. No. 15 of 1907, s. 54. Renumbered s. 53 in 1924 reprint. Amended by No. 40 of 1922, s. 8. No. 87 of 1956, s. 20.

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

54. Land 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. No. 15 of 1907, s. 55. Amended by No. 87 of 1956, s. 21. Renumbered s. 54 in 1924 reprint.

55. [S.55 repealed by No. 87 of 1956, S.22.]

Tax recover-
able by the
Commissioner.

No. 15 of
1907, s. 57.
Renumbered
s. 56 in 1924
reprint.

Amended by
No. 87 of
1956, s. 23.

Procedure
No. 15 of
1907, s. 58.
Renumbered
s. 57 in 1924
reprint.

56. Any land 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.

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

- (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 anyone on his behalf, appearing in court, or proving the liability of the defendant and the nonpayment 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 ser-
vice when
defendant
absent.

No. 15 of
1907, s. 59.
Renumbered
s. 58 in 1924
reprint.

No. 17 of
1922, s. 20.

58. If, any proceedings for the recovery of tax and fines 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 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.

59. In all proceedings under this Act the Commissioner may appear either by solicitor or by any officer in the public service of the State, or the Commonwealth Taxation Department, 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.

Commissioner may appear by solicitor or public officer.
No. 15 of 1907, s. 60.
Renumbered s. 59 in 1924 reprint.
No. 17 of 1922, s. 21.

60. Whenever, under the provisions of section forty-two of this Act, land is assessed 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.

Procedure when name of owner cannot be ascertained.
No. 15 of 1907, s. 61.
Renumbered s. 60 in 1924 reprint.
No. 17 of 1922, s. 22.

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.

61. 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 three years of the date when the tax was due.

Refunds.
No. 15 of 1907, s. 62.
Renumbered s. 61 in 1924 reprint.
No. 17 of 1922, s. 23.

62. [S. 62 repealed by No. 87 of 1956, S. 24.]

87 of 1956, s. 24.

63. [S. 63 repealed by No. 87 of 1956, S. 24.]

87 of 1956, s. 24.

RECOVERY OF TAX BY LETTING AND SALE OF LAND.

Tax to be a first charge upon the land.
No. 15 of 1907, s. 63.
Renumbered s. 64 in 1924 reprint.

64. (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.

Notice of intention to let or sell.

(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.

Commissioner may let land.

(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 apply to Supreme Court for sale.

(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.

65. 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. No. 15 of 1907, s. 64. Renumbered s. 65 in 1924 reprint.

- (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, 1893,¹ the Registrar of Titles shall, upon

¹ Now Transfer of Land Act, 1893-1959.

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.

66. 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;

Governor
may make
regulations
No. 15 of
1907, s. 65.
No. 24 of
1918, s. 13.
Amended by
No. 87 of
1956, s. 25.
Renumbered
s. 66 in 1924
reprint.

- (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;
- (8) To enable the Commissioner in his discretion to accept returns of land in an abridged or modified form if the information supplied enables the assessment to be duly made.

67. 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.

Publication of regulations.
No. 15 of 1907, s. 66. Renumbered s. 67 in 1924 reprint.

68. 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 purpose 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.
No. 15 of 1907, s. 67. Renumbered s. 68 in 1924 reprint.

69. 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

Penalty for making false returns, etc.
No. 15 of 1907, s. 68. Renumbered s. 69 in 1924 reprint. Amended by No. 17 of 1922, s. 24, No. 36 of 1924, s. 12.

- (c) by any falsehood, wilful neglect, fraud, art, or contrivance whatsoever evades or attempts to evade assessment or taxation; or
- (d) without just cause shown by him refuses or neglects to attend and give evidence when required by the Commissioner or any officer duly authorised by him, 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 any such officer,

he shall be liable to a penalty of not less than two pounds, nor more than 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.

It shall be a defence to a prosecution for an offence against paragraphs (a), (b), and (c) of this section if the defendant proves that the false statement or false answer was made through ignorance or inadvertence.

70. Any person who—

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

(b) and (c) [Deleted by No. 87 of 1956, S. 26.]

shall, if a taxpayer, be liable 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 additional tax which may become payable by him in accordance with section fifty-three of this Act:

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

Additional tax for late returns and for omission in returns.
No. 24 of 1918, s. 16.
Renumbered s. 70 in 1924 reprint.
Amended by No. 17 of 1922, s. 25.
No. 87 of 1956, s. 26.

71. 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 belonging to such person, shall be liable to a penalty not exceeding fifty pounds.

Penalty for obstructing officers, etc. No. 15 of 1907, s. 69. Renumbered s. 71 in 1924 reprint. Amended by No. 87 of 1956, s. 27.

72. Every person, whether a taxpayer or not, shall comply with any demand or requirement made by the Commissioner under the authority of this Act.

Requirements of Commissioner to be complied with. No. 24 of 1918, s. 17. Renumbered s. 72 in 1924 reprint.

73. 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 land assessment, return, exemption, or of in any way affecting the incidence of any land assessment or tax, or displacing the benefit of any exemption, 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 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:

Contracts, etc., affecting assessments, incidence of assessment, etc., void. No. 15 of 1907, s. 70. Renumbered s. 73 in 1924 reprint. Amended by No. 17 of 1922, s. 26. No. 87 of 1956, s. 28.

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 twelve, be calculated upon a basis excluding the value of the reversionary interest.

Penalties
may be
imposed by
regulation.
No. 15 of
1907, s. 71.
Renumbered
s. 74 in 1924
reprint.

74. 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.
No. 15 of
1907, s. 72.
Renumbered
s. 75 in 1924
reprint.

75. All penalties imposed by this Act or by the regulations thereunder may be recovered summarily under the provisions of the Justices Act, 1902¹: But notwithstanding anything in the Justices Act, 1902,¹ 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.
No. 15 of
1907, s. 73.
Renumbered
s. 76 in 1924
reprint.

76. 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.
No. 15 of
1907, s. 74.
Renumbered
s. 77 in 1924
reprint.
Amended by
No. 17 of
1922, s. 27.

77. 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 or of any document under the hand of the Commissioner purporting to be a copy of or extract from any assessment 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 the particulars of such assessment appearing in such assessment or document are absolutely correct.

¹ Now Justices Act, 1902-1959.

78. [S.78 repealed by No. 87 of 1956, S. 29.]

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

Information obtained under this Act may be used under other Acts.
No. 15 of 1907, s. 76.
Renumbered s. 79 in 1924 reprint.
Amended by No. 14 of 1917, s. 7.

80-81. [Sections 80 and 81 repealed by No. 87 of 1956, S.30.]