

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,
*Clerk of the Legislative Assembly,
Legislative Assembly Chamber,
Sydney, 5 October, 1933.*

New South Wales.



ANNO VICESIMO QUARTO

GEORGII V REGIS.

Act No. , 1933.

An Act to provide for the assessment and collection of Special Income Tax and of Wages Tax; to amend the Prevention and Relief of Unemployment Acts, 1930-1932, as amended by subsequent Acts; and for purposes connected therewith.

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Special Income Short title, and Wages Tax (Management) Act, 1933."

Special Income and Wages Tax (Management).

(2) This Act is divided into ~~Parts~~, as follows:—

PART I.—PRELIMINARY—ss. 1-5.

PART II.—LIABILITY TO TAXATION—ss. 6-13.

PART III.—RETURNS, ETC.—ss. 14, 15.

5 PART IV.—WAGES TAX—ss. 16-18.

PART V.—GENERAL—ss. 19, 20.

2. (1) This Act shall be read with the Income Tax ^{Interpre-}
(Management) Act, 1928, as amended by subsequent ^{tation.}
Acts, which Act as so amended is in this Act referred to
19 as the Principal Act.

(2) In this Act, unless the context or subject matter otherwise requires:—

“Employee” includes—

15 (a) a person employed whether on salary, wages, bonus, commission, fees, allowance or other remuneration;

(b) a director of a company;

20 (c) an insurance or time payment canvasser or collector, paid wholly or in part by commission;

(d) a person in receipt of superannuation, pension or retiring allowance;

(e) a person employed at piece-work rates;

25 (f) a person working under contract for labour only, or substantially for labour only;

(g) a person in receipt of remuneration from a person who is an employer; and

30 (h) a person in receipt of periodical payments of compensation awarded or agreed to under any Act relating to compensation to workmen or workers or in receipt of periodical payments of relief under any Act relating to Miners' Accident Relief or under the National Relief Fund Act, 1914.

35 “Employer” includes—

(a) a person making payment of superannuation, pensions or retiring allowances so far as regards such payments;

(b)

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- (b) the Crown in right of the State of New South Wales;
- 5 (c) the Crown in the right of the Commonwealth of Australia in relation to persons in respect of whom any special arrangement as is referred to in section seventeen of this Act has been entered into;
- 10 (d) any person, with whom an arrangement has been entered into in accordance with subsection three of this section;
- (e) any person making payments to a person who is an employee as such;
- 15 (f) any person making payment of any compensation or relief referred to in paragraph (h) of the definition of "employee."
- "Income" includes income within the meaning of the Principal Act and also includes all income derived by a resident of the State, or by a New South Wales company, to which section thirty-one of the Principal Act is applied by clause one of the Schedule to that Act, from any source outside the State except—
- 20 (a) income from wages; and
- 25 (b) income from the carrying on of any trade or business not being an investment business.
- "Income from wages" means all assessable income of any person (other than a company) as an employee from salary, wages, fees, commission, allowances, or payments to an employee as such, including all assessable income referred to in paragraphs (h), (i) and (j) of section eleven of the Principal Act, after deduction of the expenses actually incurred in gaining or producing such income, and including also all all pensions, retiring allowances and payments referred to in paragraph (h) of the definition of "employee," but not including any such assessable income received from any employer in any case in which he is not bound to collect tax from the employee.
- 30
- 35
- 40

" Net

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5 "Net assessable income" means gross income after excluding therefrom all income which is exempt from tax and after making therefrom the deductions allowed by this Act, but in the case of a person other than a company, does not include any income which is income from employment within the meaning of that term as defined in the Unemployment Relief Acts or is income from wages as defined in this Act.

10 "Person" includes a company, corporation, local authority or statutory body.

"Tax" means Special Income Tax or Wages Tax.

15 "Unemployment Relief Acts" means the Prevention and Relief of Unemployment Acts, 1930-1932, as amended by the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933.

(3) The Commissioner may agree with any employer who is not bound to collect tax from an employee
20 that as from the dates specified in the agreement the employer shall assume the obligation of collecting tax upon the income of his employees which would if he were so bound be income from wages and as from a date specified in the agreement that income shall be deemed to
25 be income from wages for the purposes of this Act.

3. (1) The Prevention and Relief of Unemployment Acts, 1930-1932, as amended by subsequent Acts and this Act, shall continue in force for all purposes in connection with Unemployment Relief Tax payable in
30 respect of net assessable income derived prior to the income year ended on the thirtieth day of June, one thousand nine hundred and thirty-three or prior to such other period as may be or may have been accepted by the Commissioner in lieu of such year and to income
35 from employment derived prior to the first day of December, one thousand nine hundred and thirty-three.

Operation of Prevention and Relief of Unemployment Acts.

(2) The Governor may by proclamation made and published in the Gazette prior to the thirtieth day of June, one thousand nine hundred and thirty-four, extend
40 the operation of Part II of the said Act for a period not exceeding four months in all after the said thirtieth day of June, one thousand nine hundred and thirty-four.

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4. (1) All existing rules, regulations and forms made or prescribed under the Unemployment Relief Acts shall apply mutatis mutandis to proceedings under this Act so far as such rules, regulations and forms may be applicable until rules, regulations and forms are made and prescribed under this Act. Existing regulations.
- 5 (2) All notices given during the year one thousand nine hundred and thirty-three and all returns made during that year or thereafter under the provisions of the Unemployment Relief Acts in respect of income for the income year ended on the thirtieth day of June, one thousand nine hundred and thirty-three, shall (without prejudice to the power of the Commissioner to give any notices which may be given or require any returns which may be required in respect of income for such income year under this Act) be deemed to have been made or given also under this Act. Notices and Returns as to Income for the year ended 30th June, 1933.
- 10 5. (1) The Commissioner shall have the general administration of this Act and may sue or be sued by the name of the Commissioner of Taxation. Administration.
- 15 (2) The Governor may, subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint such persons as may be deemed necessary for the carrying out of this Act. Officers.
- 20 (3) The provisions of subsections four, five, six and seven of section five, and of section six, of the Principal Act, shall, mutatis mutandis, extend to the administration of this Act. Absence of Commissioner, delegation of powers and secrecy.

PART II.

LIABILITY TO TAXATION.

- 30 6. (1) Subject to the provisions of this Act Special Income Tax at such rates as may be fixed by any Act shall be paid to the Commissioner in respect of the net assessable income derived by any person other than a company and in respect of the net assessable income derived by any company during every income year to which this Act applies. Incidence of Special Income Tax.
- 35 (2) The first assessment of Special Income Tax under this Act shall be in respect of the income of the year

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year ended on the thirtieth day of June, one thousand nine hundred and thirty-three (or such other period accepted by the Commissioner under the provisions of the Principal Act in lieu thereof), and subsequent assessments shall be in respect of the income for each succeeding income year.

(3) The provisions of Part IVc of the Unemployment Relief Acts relating to Unemployment Relief Tax at the rates declared by the Unemployment Relief Tax Act, 1933, inserted in the Prevention and Relief of Unemployment Acts, 1930-1932, by paragraph (b) of section five of the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933, are repealed so far as regards net assessable income derived by every person and company.

Partial
repeal of
Part IVc of
Act No. 34,
1930.

7. (1) Subject to the provisions of this Act, Wages Tax in such amounts or at such rates as may be fixed by any Act shall be paid to the Commissioner in respect of the income from wages derived by any person on and after the first day of December, one thousand nine hundred and thirty-three.

Incidence
of Wages
Tax.

(2) The provisions of Part IVc of the Unemployment Relief Acts relating to Unemployment Relief Tax at the rates declared by the Unemployment Relief Tax Act, 1933, inserted in the Prevention and Relief of Unemployment Acts, 1930-1932, by paragraph (b) of section five of the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933, shall not apply to income from wages derived on and after the first day of December, one thousand nine hundred and thirty-three.

Partial
repeal of
Part IVc of
Act No. 34,
1930.

8. The incomes, revenues, and funds exempt from income tax by virtue of section ten of the Principal Act, and also any income derived from a source outside the State by the Governor or any other person whose salary or remuneration is exempt from income tax under that section, shall also be exempt from tax under this Act, and in addition, there shall also be exempt—

Exemptions.

(a) all the income derived from carrying on the business of life insurance other than that appropriated for the payment of dividends;

(b)

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- (b) any war pension paid by the Imperial or any other Government;
- (c) income derived from old-age or invalid pensions;
- 5 (d) income derived from pensions payable under the Widows' Pensions Act, 1925, as amended by subsequent Acts;
- (e) income derived from payments in respect of any children under the Family Endowment Act, 1927-1932, as amended by subsequent Acts;
- 10 (f) income derived from any payment made in respect of children under the Child Welfare Act, 1923, as amended by subsequent Acts;
- (g) income derived from any payment made to any person as charitable relief by any Government department or agency;
- 15 (h) the net assessable income of any person (other than a company) resident in Australia whose total income from all sources during the income year does not exceed one hundred pounds;
- 20 (i) the income from wages of an employee while he is in receipt of such income at a rate less than two pounds per week or the equivalent hourly or daily rate. Provided that this exemption shall not apply to any income from wages
- 25 derived by an employee whose total income from all sources exceeds one hundred and four pounds, in which case such income from wages shall be deemed to be net assessable income of the income year in which it is received;
- 30 (j) the income from wages derived by any person after the commencement of this Act from employment upon any work declared by the Governor in accordance with section nine of the Unemployment Relief Acts to be a work provided for the relief of unemployment or upon
- 35 approved works within the meaning of section five of the (Commonwealth) Loan (Unemployment Relief Works) Act, 1932.
- 40 This exemption shall extend only to the income of persons who are in receipt of wages and bonuses

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bonuses at the rates directed by the Minister pursuant to section nine of the Unemployment Relief Acts;

- 5 (k) the income from wages of officers, seamen, and others employed on ships trading between Australia and New Zealand and who are on New Zealand articles;
- 10 (l) moneys received periodically by a wife from her husband where such wife is living apart from her husband and paid pursuant to a decree, judgment, order or deed of separation or moneys received by a wife from her husband pursuant to an order made on a decree for dissolution of marriage for the payment of such moneys as
- 15 an annual sum where in either such case such moneys are assessable income of the husband.

9. (1) Net assessable income shall be assessed in like manner as taxable income is assessed under the Principal Act: Net assess-
able income.

20 Provided that the assessable income of a company shall include dividends which would be included therein if the words "(other than a company)" contained in paragraph (b) of section eleven of the Principal Act were omitted from that paragraph:

25 Provided further that in the assessment of the income of any person resident in the State or of a New South Wales company to which section thirty-one of the Principal Act is applied by clause one of the Schedule to that Act the provisions of the first proviso to

30 paragraph (b) of section eleven of that Act shall not apply.

(2) The provisions of clause nine of the Schedule to the Principal Act shall not apply to an assessment under this Act.

35 (3) There shall be the like deductions as are allowed under the provisions of the Principal Act, except:—

- (a) the deductions from any income from wages;
- 40 (b) the deductions from any income from employment within the meaning of that term as defined by the Unemployment Relief Acts;

(c).

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(c) the deductions under the provisions of paragraph (q) of subsection one of section nineteen, subsections two and three of that section, and subsection two of section twenty-two of the Principal Act.

(4) In the case of a company there shall also be deducted so much of the net profit of the company as forms part of its assessable income, and is during or within six months after the close of the income year distributed to its shareholders in respect of shares registered upon a register situate in the State or distributed to resident shareholders in respect of shares registered upon a register situate inside or outside the State. This subsection shall not apply to a distribution by a liquidator.

10. (1) A company which has during the year ending on the thirtieth day of June, one thousand nine hundred and thirty-three, or any subsequent year, paid to its shareholders not domiciled in the State a dividend in respect of shares registered upon a register situate in the State, shall retain out of any moneys in its hands belonging to a shareholder to whom such dividend has been paid a sufficient amount to pay the tax in respect of the dividend so paid at such rate as may be fixed by any Act and forward such amount to the Commissioner with the prescribed return within such time as may be prescribed.

(2) Any person who has during the income year ending on the thirtieth day of June, one thousand nine hundred and thirty-three, or any subsequent year, paid to a person not domiciled in the State any amount for interest on money lent in the State shall, out of any moneys coming to his hand belonging to the person to whom such payment was made, retain a sufficient amount to pay the tax in respect of the amount so paid at such rate as may be fixed by any Act and forward such amount to the Commissioner with the prescribed return within the prescribed time.

(3) Paragraph (h) of section eight shall not extend to tax payable under this section.

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11. Where there is included in the net assessable income of any person (and such person is liable to tax in respect thereof)— Rebate
of tax.

- 5 (a) any dividend or interest upon which tax has been paid under the provisions of section nine or section ten of this Act;
- (b) any dividend or interest upon which Unemployment Relief Tax has been paid under the provisions of section eighteen or section nineteen of the Unemployment Relief Acts; or
- 10 (c) any income upon which such person has paid tax under this Act or has paid Unemployment Relief Tax under the Unemployment Relief Acts,

there shall be deducted from the tax otherwise payable by
15 such person the amount of tax or Unemployment Relief Tax so paid in respect of such dividend, interest or income which has been included in his net assessable income.

12. The Commissioner may make such assessments or alterations in assessments as he considers necessary Assessments
in special
cases.
20 to meet cases in which, owing to a change in the class of a taxpayer's income, tax would otherwise be avoided, or over taxation would result.

In applying this provision regard shall be had to the amount of tax paid or payable under the Unemployment
25 Relief Acts.

13. Where during any income year any person derives income from wages while in the employ of more than one employer and the total amount of tax, if any, deducted by his employers is less than the amount of Adjustment
when income
derived from
several
employers.
30 tax which would have been deducted if the total income from wages were derived from one employer, the Commissioner may assess such person on the total income from wages, together with the net assessable income, if any, derived by him during such income year as if such
35 income were net assessable income.

This section shall extend, mutatis mutandis, to income from employment, as defined in the Unemployment Relief Acts, derived, either before or after the commencement of this Act, before the first day of December, one thousand
40 nine hundred and thirty-three.

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PART III.

RETURNS, ETC.

14. (1) The returns made in pursuance of a notice ^{Returns.} issued under the provisions of section thirty-eight of the **5** Principal Act shall be deemed to be also made under and for the purpose of this Act.

The regulations may prescribe forms of return to be made in respect of incomes assessable for Special Income Tax and Wages Tax and in respect of which a return **15** under the Principal Act is not required by the Commissioner.

(2) The Commissioner may, from time to time, by notice published in the Gazette, require every employer to furnish a return setting out such information as may be **15** required relating to numbers, groups and earnings of employees, amounts of tax collected from employees or such similar matters as may be prescribed.

15. (1) The provisions of Part IV (Returns and Assessments); Part V (Objections and Appeals); Part **20** VI (Collection and Recovery of Tax); Part VII (Penal Provisions); and Part VIII (Miscellaneous) comprising sections thirty-eight to ninety-two inclusive of the Principal Act, and any regulations made to give effect to such sections, shall be applicable to the tax as if such taxes **25** were the income tax under the Principal Act.

Machinery provisions of Principal Act to apply to this Act.

(2) The Commissioner may exercise all the powers of the board under sections eighty-eight and eighty-nine of the Principal Act in respect of any assessment where the tax assessed under this Act or the Un- **30** employment Relief Acts does not exceed the sum of ten pounds.

(3) The Unemployment Relief Acts are amended by omitting from subsection two of section twenty-two the word "five" and by inserting in lieu thereof the word **35** "ten."

Amendment of Act No. 34, 1930, s. 22 (2).

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PART IV.

WAGES TAX.

16. (1) With regard to the tax payable upon income from wages, the following provisions shall have effect:—

Tax on
income
from
wages.

- 5** (a) Every employer shall collect from his employees, by deduction or otherwise, tax in the amounts or at the rate or rates as may be fixed by any Act.
- 10** (b) (i) Every employer shall keep such records as are prescribed of all payments, amounts credited, or allowances made, by him to his employees.
- 15** (ii) Every employer the number of whose employees liable to tax is not less than ten (or such other number as may be prescribed) shall pay to the Commissioner at such times and in such manner as are prescribed, the amount of tax payable upon such payments credits and allowances and shall
- 20** affix the official receipts in respect of such payments to such records in the manner prescribed.
- 25** (iii) Every employer the number of whose employees liable to tax is less than ten (or such other number as may be prescribed) shall affix to such records in the prescribed manner the prescribed Wages Tax Stamps to the value of the tax payable upon such payments credits and allowances and shall
- 30** cancel such stamps at such times and in such manner as are prescribed.
- 35** (c) Where the number of employees liable to tax falls below ten (or such other number as may be prescribed) the employer shall continue to pay the tax and otherwise follow the procedure laid down in subparagraph two of paragraph (b) of this subsection until authorised by the Commissioner in writing to affix and cancel the prescribed

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5 prescribed Wages Tax Stamps in the manner provided in subparagraph three of such paragraph (b). Notwithstanding the number of employees liable to tax the Commissioner may by notice in writing direct any employer to pay the tax or affix and cancel Wages Tax Stamps as he may determine.

10 Upon application by any employer the Commissioner may permit such employer to change from one method of payment to the other method: Provided that where such permission is given the employer shall adhere to such other method until he is authorised by the Commissioner to alter such method.

15 (d) Every employer shall—

- (i) send to the Commissioner, as and when prescribed, such records or such part thereof as may be prescribed;
- 20 (ii) send to the Commissioner, upon notice in writing from the Commissioner, such records as may be specified in such notice;
- 25 (iii) produce such records for inspection to any person authorised either generally or in a particular case by the Commissioner to inspect such records. For the purpose of this subparagraph any such person shall have the powers provided by section eighty-five of the Principal Act.

30 (e) The Commissioner may require an employer to provide or give security to an amount and in such manner as may be approved by him for payment of the tax in any particular case.

35 (2) Subsection one of this section shall not apply in respect of an employee casually employed in a domestic or other capacity and otherwise than in connection with the business of the employer.

(3) Wages Tax Stamps shall be prepared and issued by the Commissioner of Stamp Duties, who shall 40 provide for the distribution and sale thereof.

Such

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Such stamps shall be offered for sale or dealt in only by the Commissioner of Stamp Duties and by officers of such other Departments of the State and the Commonwealth as are approved of by him.

- 5 Any person who purchases Wages Tax Stamps other than from the Commissioner of Stamp Duties or from an officer of such other Department as aforesaid acting in his official capacity, shall be guilty of an offence against this Act and shall, upon summary conviction, be
10 liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

- Any person other than the Commissioner of Stamp Duties or an officer of such other Department as aforesaid acting in his official capacity, who offers for sale
15 or exchange or deals in Wages Tax Stamps shall be guilty of an offence against this Act and shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

- (4) The regulations may apply, with such modifications and adaptations as the Governor thinks fit in
20 respect of any such stamps, all or any of the provisions (including penal provisions) of the Stamp Duties Act, 1920-1933, or the Entertainments Tax (Management) Act, 1929.

- 25 (5) Where the Commissioner is satisfied:—

- (a) that an employer has purchased Wages Tax Stamps for the purpose of stamping the prescribed records of wages; and
(b) that such stamps have been so lost or destroyed
30 that they will not be used by any person for the purpose of stamping prescribed records of wages,

- he may exempt such employer from compliance with such part of the provisions of paragraphs (b) and (d)
35 of subsection one of this section as he considers just.

(6) Every employer shall preserve the prescribed records for a period of three years from the last date of payment shown thereon:

- Provided that any employer may, with the consent in
40 writing of the Commissioner, destroy any such records at any time during such period.

(7)

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(7) Any person who practises or is concerned in any fraudulent act, contrivance or device not specially provided for by law, with intent to defraud His Majesty of any tax under this Act, shall be guilty of an offence against this Act and shall be liable upon conviction by a court of summary jurisdiction to a penalty not exceeding two hundred pounds or upon conviction upon indictment to imprisonment for a term of not more than twelve months.

(8) Any employer who fails to carry out or observe any provision of this section shall, unless he has been exempted from the carrying out or observance of such provision under this section, be liable to account for and pay to the Commissioner any tax which by or because of his failure remains unpaid, together with a fine to be fixed by the Commissioner not exceeding ten per centum of such tax: Provided that upon sufficient cause being shown to the satisfaction of the Commissioner such fine may be remitted or reduced by him.

Such employer shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding two hundred pounds, or upon conviction upon indictment to imprisonment for a term not exceeding twelve months, and the court before which the employer is convicted may at the time of the conviction or at any time thereafter order the payment of the amount of tax and/or fine certified by the Commissioner to be unpaid.

(9) (a) In any prosecution under this section the averment of the prosecutor or plaintiff contained in the information, complaint, declaration or claim shall be prima facie evidence of the matter or matters averred.

Averment of prosecutor sufficient of (Commonwealth) Income Tax Assessment Act, 1922-1931, s. 83.

(b) This subsection shall apply to any matter so averred although—

- (i) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
- (ii) the matter averred is a mixed question of law and fact, but in that case the averment shall be prima facie evidence of the fact only.

(c)

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(c) Any evidence given by witnesses in support or rebuttal of the matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor
5 diminished by reason of this subsection.

(d) The foregoing provisions of this subsection shall not apply to—

- (i) an averment of the intent of the defendant to proceedings; or
- 10 (ii) proceedings for an indictable offence.

(e) This subsection shall not lessen or affect any onus of proof otherwise falling on the defendant.

(10) Any proceedings in respect of an offence against this section or against any regulations made in
15 respect of the matters therein referred to may be taken at any time not exceeding six months from the time when the facts first came to the knowledge of the Commissioner, and may be taken by him or by some person appointed by him in writing, either generally or in a particular case.
20

(11) This section shall not apply in any case where the employer is the Crown in right of the Commonwealth of Australia.

17. (1) The Governor may arrange with the Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, that the taxation under the law of the State of New South Wales of the salaries and allowances of the persons referred to in subsection four of section nineteen of the
25 (Commonwealth) Financial Emergency Acts, 1931, to the extent to which such taxation is permitted by or under that section, shall be deducted from the periodical payments of the salary and allowances of those persons and shall be paid to the State of New South Wales in such
30 manner and at such times as are provided by the arrangement.

Arrange-
ments with
the Common-
wealth.

(2) Expressions used in subsection one of this section shall have the meanings which those expressions bear in subsection four of section nineteen of the (Commonwealth) Financial Emergency Acts, 1931.
40

(3)

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(3) Where any arrangement under subsection one of this section has been entered into the Governor shall by proclamation published in the Gazette notify the fact that such arrangement has been entered into. The
5 notification shall set out in full the terms of such arrangement.

Proclama-
tion of
arrangement
in the
Gazette.

(4) The persons in respect of whom any such arrangement as is referred to in this section may be or has been entered into, shall be deemed to be employees
10 of the Crown in right of the Commonwealth of Australia and the Crown in right of the Commonwealth of Australia shall to the extent to which any such arrangement provides for the deduction of tax from the salaries and allowances of those persons be deemed to be bound to
15 collect tax from those persons.

18. (1) For the purpose only of enabling the Governor and the Governor-General of the Commonwealth of
20 Australia to enter into an arrangement under the authority of section seventeen of this Act in relation to the Wages Tax payable under this Act at such rate or rates as may be fixed by any Act, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall have force and effect upon the passing of this Act.

Operation of
s. 17.

(2) Save as provided in subsection one of this section, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall not have any force or effect for any purpose whatsoever, unless and until the Governor by
25 proclamation published in the Gazette pursuant to subsection three of section seventeen of this Act notifies that an arrangement such as is referred to in subsection one of this section has been entered into.

(3) Upon the publication of such proclamation in
35 the Gazette, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall have full force and effect for all purposes.

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PART V.

GENERAL.

19. Where in pursuance of the regulations any notice or other communication is required or authorised to be served upon any person by post, the service may be effected by prepaid letter post addressed to the person at his last known place of business or abode in New South Wales, and such service shall be deemed to have been effected at the time when it would in the ordinary course of post have arrived at the place to which it was addressed or at the post town or post office nearest to that place whether or not it has in fact been received by the addressee.

Service of
notices by
post.

20. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regula-
tions.

(2) The Governor may when no other penalty is provided for impose a penalty not exceeding fifty pounds for any contravention of, or failure to comply with this Act, or any regulations made thereunder.

(3) The regulations shall—
(a) be published in the Gazette;
(b) take effect from the date of publication or from a later date specified in the regulations;
(c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament pass a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(4) Any penalty imposed by the regulations may be recovered in a summary manner before a police or stipendiary magistrate or any two or more justices.

SPECIAL INCOME AND WAGES TAX (MANAGEMENT) ACT, 1933.

SCHEDULE of the Amendment referred to in Message of 10th October, 1933.

Page 9, clause 10. *At end of clause 10 add subclause (4).*

ESTABLISHED 1838

ESTABLISHED 1838

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 5 October, 1933.*

The LEGISLATIVE COUNCIL has agreed to this Bill with an Amendment.

C. H. H. CALVERT,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 10th October, 1933.*

New South Wales.



ANNO VICESIMO QUARTO

GEORGII V REGIS.

Act No. , 1933.

An Act to provide for the assessment and collection of Special Income Tax and of Wages Tax; to amend the Prevention and Relief of Unemployment Acts, 1930-1932, as amended by subsequent Acts; and for purposes connected therewith.

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Special Income and Wages Tax (Management) Act, 1933." Short title.

15239

52—A

(2)

NOTE.—The words to be inserted are printed in black letter.

Special Income and Wages Tax (Management).

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-5.

PART II.—LIABILITY TO TAXATION—ss. 6-13.

PART III.—RETURNS, ETC.—ss. 14, 15.

PART IV.—WAGES TAX—ss. 16-18.

PART V.—GENERAL—ss. 19, 20.

2. (1) This Act shall be read with the Income Tax ^{Interpre-}
(Management) Act, 1928, as amended by subsequent ^{tation.}
Acts, which Act as so amended is in this Act referred to
10 as the Principal Act.

(2) In this Act, unless the context or subject mat-
ter otherwise requires:—

“Employee” includes—

- 15 (a) a person employed whether on salary,
wages, bonus, commission, fees, allow-
ance or other remuneration;
- (b) a director of a company;
- (c) an insurance or time payment canvasser
or collector, paid wholly or in part by
20 commission;
- (d) a person in receipt of superannuation,
pension or retiring allowance;
- (e) a person employed at piece-work rates;
- (f) a person working under contract for
25 labour only, or substantially for labour
only;
- (g) a person in receipt of remuneration from
a person who is an employer; and
- 30 (h) a person in receipt of periodical payments
of compensation awarded or agreed to
under any Act relating to compensation
to workmen or workers or in receipt of
periodical payments of relief under any
Act relating to Miners' Accident Relief or
35 under the National Relief Fund Act, 1914.

“Employer” includes—

- (a) a person making payment of superan-
nuation, pensions or retiring allowances
so far as regards such payments;

(b)

Special Income and Wages Tax (Management).

- (b) the Crown in right of the State of New South Wales;
- 5 (c) the Crown in the right of the Commonwealth of Australia in relation to persons in respect of whom any special arrangement as is referred to in section seventeen of this Act has been entered into;
- 10 (d) any person, with whom an arrangement has been entered into in accordance with subsection three of this section;
- (e) any person making payments to a person who is an employee as such;
- 15 (f) any person making payment of any compensation or relief referred to in paragraph (h) of the definition of "employee."
- "Income" includes income within the meaning of the Principal Act and also includes all income derived by a resident of the State, or by a New South Wales company, to which section thirty-
- 20 one of the Principal Act is applied by clause one of the Schedule to that Act, from any source outside the State except—
- (a) income from wages; and
- 25 (b) income from the carrying on of any trade or business not being an investment business.
- "Income from wages" means all assessable income of any person (other than a company) as an employee from salary, wages, fees, commission,
- 30 allowances, or payments to an employee as such, including all assessable income referred to in paragraphs (h), (i) and (j) of section eleven of the Principal Act, after deduction of the expenses actually incurred in gaining or
- 35 producing such income, and including also all all pensions, retiring allowances and payments referred to in paragraph (h) of the definition of "employee," but not including any such assessable income received from any employer
- 40 in any case in which he is not bound to collect tax from the employee.

" Net

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“Net assessable income” means gross income after excluding therefrom all income which is exempt from tax and after making therefrom the deductions allowed by this Act, but in the case of a person other than a company, does not include any income which is income from employment within the meaning of that term as defined in the Unemployment Relief Acts or is income from wages as defined in this Act.

“Person” includes a company, corporation, local authority or statutory body.

“Tax” means Special Income Tax or Wages Tax.

“Unemployment Relief Acts” means the Prevention and Relief of Unemployment Acts, 1930-1932, as amended by the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933.

(3) The Commissioner may agree with any employer who is not bound to collect tax from an employee that as from the dates specified in the agreement the employer shall assume the obligation of collecting tax upon the income of his employees which would if he were so bound be income from wages and as from a date specified in the agreement that income shall be deemed to be income from wages for the purposes of this Act.

3. (1) The Prevention and Relief of Unemployment Acts, 1930-1932, as amended by subsequent Acts and this Act, shall continue in force for all purposes in connection with Unemployment Relief Tax payable in respect of net assessable income derived prior to the income year ended on the thirtieth day of June, one thousand nine hundred and thirty-three or prior to such other period as may be or may have been accepted by the Commissioner in lieu of such year and to income from employment derived prior to the first day of December, one thousand nine hundred and thirty-three.

Operation of Prevention and Relief of Unemployment Acts.

(2) The Governor may by proclamation made and published in the Gazette prior to the thirtieth day of June, one thousand nine hundred and thirty-four, extend the operation of Part II of the said Act for a period not exceeding four months in all after the said thirtieth day of June, one thousand nine hundred and thirty-four.

4.

Special Income and Wages Tax (Management).

4. (1) All existing rules, regulations and forms made or prescribed under the Unemployment Relief Acts shall apply mutatis mutandis to proceedings under this Act so far as such rules, regulations and forms may be applicable until rules, regulations and forms are made and prescribed under this Act.

Existing regulations.

(2) All notices given during the year one thousand nine hundred and thirty-three and all returns made during that year or thereafter under the provisions of the Unemployment Relief Acts in respect of income for the income year ended on the thirtieth day of June, one thousand nine hundred and thirty-three, shall (without prejudice to the power of the Commissioner to give any notices which may be given or require any returns which may be required in respect of income for such income year under this Act) be deemed to have been made or given also under this Act.

Notices and Returns as to Income for the year ended 30th June, 1933.

5. (1) The Commissioner shall have the general administration of this Act and may sue or be sued by the name of the Commissioner of Taxation.

Administration.

(2) The Governor may, subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint such persons as may be deemed necessary for the carrying out of this Act.

Officers.

(3) The provisions of subsections four, five, six and seven of section five, and of section six, of the Principal Act, shall, mutatis mutandis, extend to the administration of this Act.

Absence of Commissioner, delegation of powers and secrecy.

PART II.

LIABILITY TO TAXATION.

6. (1) Subject to the provisions of this Act Special Income Tax at such rates as may be fixed by any Act shall be paid to the Commissioner in respect of the net assessable income derived by any person other than a company and in respect of the net assessable income derived by any company during every income year to which this Act applies.

Incidence of Special Income Tax.

(2) The first assessment of Special Income Tax under this Act shall be in respect of the income of the year

year

Special Income and Wages Tax (Management).

year ended on the thirtieth day of June, one thousand nine hundred and thirty-three (or such other period accepted by the Commissioner under the provisions of the Principal Act in lieu thereof), and subsequent assessments shall be in respect of the income for each succeeding income year.

(3) The provisions of Part IVc of the Unemployment Relief Acts relating to Unemployment Relief Tax at the rates declared by the Unemployment Relief Tax Act, 1933, inserted in the Prevention and Relief of Unemployment Acts, 1930-1932, by paragraph (b) of section five of the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933, are repealed so far as regards net assessable income derived by every person and company.

Partial
repeal of
Part IVc of
Act No. 34,
1930.

7. (1) Subject to the provisions of this Act, Wages Tax in such amounts or at such rates as may be fixed by any Act shall be paid to the Commissioner in respect of the income from wages derived by any person on and after the first day of December, one thousand nine hundred and thirty-three.

Incidence
of Wages
Tax.

(2) The provisions of Part IVc of the Unemployment Relief Acts relating to Unemployment Relief Tax at the rates declared by the Unemployment Relief Tax Act, 1933, inserted in the Prevention and Relief of Unemployment Acts, 1930-1932, by paragraph (b) of section five of the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933, shall not apply to income from wages derived on and after the first day of December, one thousand nine hundred and thirty-three.

Partial
repeal of
Part IVc of
Act No. 34,
1930.

8. The incomes, revenues, and funds exempt from income tax by virtue of section ten of the Principal Act, and also any income derived from a source outside the State by the Governor or any other person whose salary or remuneration is exempt from income tax under that section, shall also be exempt from tax under this Act, and in addition, there shall also be exempt—

Exemptions.

(a) all the income derived from carrying on the business of life insurance other than that appropriated for the payment of dividends;

(b)

Special Income and Wages Tax (Management).

- (b) any war pension paid by the Imperial or any other Government;
- (c) income derived from old-age or invalid pensions;
- 5 (d) income derived from pensions payable under the Widows' Pensions Act, 1925, as amended by subsequent Acts;
- (e) income derived from payments in respect of any children under the Family Endowment Act, 1927-1932, as amended by subsequent Acts;
- 10 (f) income derived from any payment made in respect of children under the Child Welfare Act, 1923, as amended by subsequent Acts;
- (g) income derived from any payment made to any person as charitable relief by any Government department or agency;
- 15 (h) the net assessable income of any person (other than a company) resident in Australia whose total income from all sources during the income year does not exceed one hundred pounds;
- 20 (i) the income from wages of an employee while he is in receipt of such income at a rate less than two pounds per week or the equivalent hourly or daily rate. Provided that this exemption shall not apply to any income from wages
- 25 derived by an employee whose total income from all sources exceeds one hundred and four pounds, in which case such income from wages shall be deemed to be net assessable income of the income year in which it is received;
- 30 (j) the income from wages derived by any person after the commencement of this Act from employment upon any work declared by the Governor in accordance with section nine of the Unemployment Relief Acts to be a work provided for the relief of unemployment or upon
- 35 approved works within the meaning of section five of the (Commonwealth) Loan (Unemployment Relief Works) Act, 1932.

40 This exemption shall extend only to the income of persons who are in receipt of wages and bonuses

Special Income and Wages Tax (Management).

- bonuses at the rates directed by the Minister pursuant to section nine of the Unemployment Relief Acts;
- 5 (k) the income from wages of officers, seamen, and others employed on ships trading between Australia and New Zealand and who are on New Zealand articles;
- 10 (l) moneys received periodically by a wife from her husband where such wife is living apart from her husband and paid pursuant to a decree, judgment, order or deed of separation or moneys received by a wife from her husband pursuant to an order made on a decree for dissolution of marriage for the payment of such moneys as
- 15 an annual sum where in either such case such moneys are assessable income of the husband.
9. (1) Net assessable income shall be assessed in like manner as taxable income is assessed under the Principal Act: Net assess-
able income.
- 20 Provided that the assessable income of a company shall include dividends which would be included therein if the words "(other than a company)" contained in paragraph (b) of section eleven of the Principal Act were omitted from that paragraph:
- 25 Provided further that in the assessment of the income of any person resident in the State or of a New South Wales company to which section thirty-one of the Principal Act is applied by clause one of the Schedule to that Act the provisions of the first proviso to paragraph
- 30 (b) of section eleven of that Act shall not apply.
- (2) The provisions of clause nine of the Schedule to the Principal Act shall not apply to an assessment under this Act.
- (3) There shall be the like deductions as are
- 35 allowed under the provisions of the Principal Act, except:—
- (a) the deductions from any income from wages;
- (b) the deductions from any income from employment within the meaning of that term as defined by the Unemployment Relief Acts;
- 40 (c) the deductions under the provisions of paragraph (q) of subsection one of section nineteen, subsections

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subsections two and three of that section, and subsection two of section twenty-two of the Principal Act.

(4) In the case of a company there shall also be
5 deducted so much of the net profit of the company as forms part of its assessable income, and is during or within six months after the close of the income year distributed to its shareholders in respect of shares registered upon a register situate in the State or distributed
10 to resident shareholders in respect of shares registered upon a register situate inside or outside the State. This subsection shall not apply to a distribution by a liquidator.

10. (1) A company which has during the year ending
15 on the thirtieth day of June, one thousand nine hundred and thirty-three, or any subsequent year, paid to its shareholders not domiciled in the State a dividend in respect of shares registered upon a register situate in the State, shall retain out of any moneys in its hands belonging
20 to a shareholder to whom such dividend has been paid a sufficient amount to pay the tax in respect of the dividend so paid at such rate as may be fixed by any Act and forward such amount to the Commissioner with the prescribed return within such time as may be prescribed.

Deduction
from
dividends,
interest,
etc.

25 (2) Any person who has during the income year ending on the thirtieth day of June, one thousand nine hundred and thirty-three, or any subsequent year, paid to a person not domiciled in the State any amount for interest on money lent in the State shall, out of any
30 moneys coming to his hand belonging to the person to whom such payment was made, retain a sufficient amount to pay the tax in respect of the amount so paid at such rate as may be fixed by any Act and forward such amount to the Commissioner with the prescribed return within
35 the prescribed time.

(3) Paragraph (h) of section eight shall not extend to tax payable under this section.

(4) This section shall not apply in any case where the shareholder or the person to whom interest is paid, as the
40 case may be, is a foreign company carrying on business in the State which has a duly appointed public officer.

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11. Where there is included in the net assessable income of any person (and such person is liable to tax in respect thereof)— Rebate
of tax.

- 5 (a) any dividend or interest upon which tax has been paid under the provisions of section nine or section ten of this Act;
- 10 (b) any dividend or interest upon which Unemployment Relief Tax has been paid under the provisions of section eighteen or section nineteen of the Unemployment Relief Acts; or
- (c) any income upon which such person has paid tax under this Act or has paid Unemployment Relief Tax under the Unemployment Relief Acts,

there shall be deducted from the tax otherwise payable by
15 such person the amount of tax or Unemployment Relief Tax so paid in respect of such dividend, interest or income which has been included in his net assessable income.

12. The Commissioner may make such assessments or alterations in assessments as he considers necessary Assessments
in special
cases.
20 to meet cases in which, owing to a change in the class of a taxpayer's income, tax would otherwise be avoided, or over taxation would result.

In applying this provision regard shall be had to the amount of tax paid or payable under the Unemployment
25 Relief Acts.

13. Where during any income year any person derives income from wages while in the employ of more than one employer and the total amount of tax, if any, deducted by his employers is less than the amount of Adjustment
when income
derived from
several
employers.
30 tax which would have been deducted if the total income from wages were derived from one employer, the Commissioner may assess such person on the total income from wages, together with the net assessable income, if any, derived by him during such income year as if such
35 income were net assessable income.

This section shall extend, mutatis mutandis, to income from employment, as defined in the Unemployment Relief Acts, derived, either before or after the commencement of this Act, before the first day of December, one thousand
40 nine hundred and thirty-three.

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PART III.

RETURNS, ETC.

14. (1) The returns made in pursuance of a notice Returns.
issued under the provisions of section thirty-eight of the
5 Principal Act shall be deemed to be also made under and
for the purpose of this Act.

The regulations may prescribe forms of return to be
made in respect of incomes assessable for Special Income
Tax and Wages Tax and in respect of which a return
10 under the Principal Act is not required by the Commis-
sioner.

(2) The Commissioner may, from time to time, by
notice published in the Gazette, require every employer
to furnish a return setting out such information as may be
15 required relating to numbers, groups and earnings of
employees, amounts of tax collected from employees or
such similar matters as may be prescribed.

15. (1) The provisions of Part IV (Returns and Machinery
Assessments); Part V (Objections and Appeals); Part provisions
20 VI (Collection and Recovery of Tax); Part VII (Penal of Principal
Provisions); and Part VIII (Miscellaneous) comprising Act to apply
sections thirty-eight to ninety-two inclusive of the Prin- to this Act.
cipal Act, and any regulations made to give effect to such
sections, shall be applicable to the tax as if such taxes
25 were the income tax under the Principal Act.

(2) The Commissioner may exercise all the
powers of the board under sections eighty-eight and
eighty-nine of the Principal Act in respect of any assess-
ment where the tax assessed under this Act or the Un-
30 employment Relief Acts does not exceed the sum of ten
pounds.

(3) The Unemployment Relief Acts are amended Amendment
by omitting from subsection two of section twenty-two of Act No.
the word "five" and by inserting in lieu thereof the word 34, 1930,
35 "ten." s. 22 (2).

Special Income and Wages Tax (Management).

PART IV.

WAGES TAX.

16. (1) With regard to the tax payable upon income from wages, the following provisions shall have effect:—

Tax on
income
from
wages.

- 5 (a) Every employer shall collect from his employees, by deduction or otherwise, tax in the amounts or at the rate or rates as may be fixed by any Act.
- 10 (b) (i) Every employer shall keep such records as are prescribed of all payments, amounts credited, or allowances made, by him to his employees.
- 15 (ii) Every employer the number of whose employees liable to tax is not less than ten (or such other number as may be prescribed) shall pay to the Commissioner at such times and in such manner as are prescribed, the amount of tax payable upon such payments credits and allowances and shall
- 20 affix the official receipts in respect of such payments to such records in the manner prescribed.
- 25 (iii) Every employer the number of whose employees liable to tax is less than ten (or such other number as may be prescribed) shall affix to such records in the prescribed manner the prescribed Wages Tax Stamps to the value of the tax payable upon such payments credits and allowances and shall
- 30 cancel such stamps at such times and in such manner as are prescribed.
- 35 (c) Where the number of employees liable to tax falls below ten (or such other number as may be prescribed) the employer shall continue to pay the tax and otherwise follow the procedure laid down in subparagraph two of paragraph (b) of this subsection until authorised by the Commissioner in writing to affix and cancel the prescribed

Special Income and Wages Tax (Management).

prescribed Wages Tax Stamps in the manner provided in subparagraph three of such paragraph (b). Notwithstanding the number of employees liable to tax the Commissioner may by notice in writing direct any employer to pay the tax or affix and cancel Wages Tax Stamps as he may determine.

Upon application by any employer the Commissioner may permit such employer to change from one method of payment to the other method: Provided that where such permission is given the employer shall adhere to such other method until he is authorised by the Commissioner to alter such method.

(d) Every employer shall—

(i) send to the Commissioner, as and when prescribed, such records or such part thereof as may be prescribed;

(ii) send to the Commissioner, upon notice in writing from the Commissioner, such records as may be specified in such notice;

(iii) produce such records for inspection to any person authorised either generally or in a particular case by the Commissioner to inspect such records. For the purpose of this subparagraph any such person shall have the powers provided by section eighty-five of the Principal Act.

(e) The Commissioner may require an employer to provide or give security to an amount and in such manner as may be approved by him for payment of the tax in any particular case.

(2) Subsection one of this section shall not apply in respect of an employee casually employed in a domestic or other capacity and otherwise than in connection with the business of the employer.

(3) Wages Tax Stamps shall be prepared and issued by the Commissioner of Stamp Duties, who shall provide for the distribution and sale thereof.

Such

Special Income and Wages Tax (Management).

Such stamps shall be offered for sale or dealt in only by the Commissioner of Stamp Duties and by officers of such other Departments of the State and the Commonwealth as are approved of by him.

- 5 Any person who purchases Wages Tax Stamps other than from the Commissioner of Stamp Duties or from an officer of such other Department as aforesaid acting in his official capacity, shall be guilty of an offence against this Act and shall, upon summary conviction, be
10 liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

- Any person other than the Commissioner of Stamp Duties or an officer of such other Department as aforesaid acting in his official capacity, who offers for sale
15 or exchange or deals in Wages Tax Stamps shall be guilty of an offence against this Act and shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

- (4) The regulations may apply, with such modifications and adaptations as the Governor thinks fit in
20 respect of any such stamps, all or any of the provisions (including penal provisions) of the Stamp Duties Act, 1920-1933, or the Entertainments Tax (Management) Act, 1929.

- 25 (5) Where the Commissioner is satisfied:—

- (a) that an employer has purchased Wages Tax Stamps for the purpose of stamping the prescribed records of wages; and
(b) that such stamps have been so lost or destroyed
30 that they will not be used by any person for the purpose of stamping prescribed records of wages,

- he may exempt such employer from compliance with such part of the provisions of paragraphs (b) and (d)
35 of subsection one of this section as he considers just.

(6) Every employer shall preserve the prescribed records for a period of three years from the last date of payment shown thereon:

- Provided that any employer may, with the consent in
40 writing of the Commissioner, destroy any such records at any time during such period.

(7)

Special Income and Wages Tax (Management).

(7) Any person who practises or is concerned in any fraudulent act, contrivance or device not specially provided for by law, with intent to defraud His Majesty of any tax under this Act, shall be guilty of an offence
 5 against this Act and shall be liable upon conviction by a court of summary jurisdiction to a penalty not exceeding two hundred pounds or upon conviction upon indictment to imprisonment for a term of not more than twelve months.

10 (8) Any employer who fails to carry out or observe any provision of this section shall, unless he has been exempted from the carrying out or observance of such provision under this section, be liable to account for
 15 and pay to the Commissioner any tax which by or because of his failure remains unpaid, together with a fine to be fixed by the Commissioner not exceeding ten per centum of such tax: Provided that upon sufficient cause being shown to the satisfaction of the Commissioner such fine may be remitted or reduced by him.

20 Such employer shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding two hundred pounds, or upon conviction upon indictment to imprisonment for a term not exceeding twelve months, and the court before which the
 25 employer is convicted may at the time of the conviction or at any time thereafter order the payment of the amount of tax and/or fine certified by the Commissioner to be unpaid.

(9) (a) In any prosecution under this section the
 30 averment of the prosecutor or plaintiff contained in the information, complaint, declaration or claim shall be prima facie evidence of the matter or matters averred.

Averment of
 prosecutor
 sufficient.
 cf. (Common-
 wealth) Income
 Tax Assessment
 Act, 1922-1931
 s. 83.

(b) This subsection shall apply to any matter so averred although—

- 35 (i) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
- (ii) the matter averred is a mixed question of law and fact, but in that case the averment shall be
 40 prima facie evidence of the fact only.

(c)

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(c) Any evidence given by witnesses in support or rebuttal of the matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor
5 diminished by reason of this subsection.

(d) The foregoing provisions of this subsection shall not apply to—

- (i) an averment of the intent of the defendant to proceedings; or
- 10 (ii) proceedings for an indictable offence.

(e) This subsection shall not lessen or affect any onus of proof otherwise falling on the defendant.

(10) Any proceedings in respect of an offence against this section or against any regulations made in
15 respect of the matters therein referred to may be taken at any time not exceeding six months from the time when the facts first came to the knowledge of the Commissioner, and may be taken by him or by some person appointed by him in writing, either generally or in a particular case.
20

(11) This section shall not apply in any case where the employer is the Crown in right of the Commonwealth of Australia.

17. (1) The Governor may arrange with the Governor-General of the Commonwealth of Australia, acting
25 with the advice of the Federal Executive Council, that the taxation under the law of the State of New South Wales of the salaries and allowances of the persons referred to in subsection four of section nineteen of the
30 (Commonwealth) Financial Emergency Acts, 1931, to the extent to which such taxation is permitted by or under that section, shall be deducted from the periodical payments of the salary and allowances of those persons and shall be paid to the State of New South Wales in such
35 manner and at such times as are provided by the arrangement.

Arrange-
ments with
the Common-
wealth.

(2) Expressions used in subsection one of this section shall have the meanings which those expressions bear in subsection four of section nineteen of the (Com-
40 monwealth) Financial Emergency Acts, 1931.

(3)

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(3) Where any arrangement under subsection one of this section has been entered into the Governor shall by proclamation published in the Gazette notify the fact that such arrangement has been entered into. The notification shall set out in full the terms of such arrangement.

Proclama-
tion of
arrangement
in the
Gazette.

(4) The persons in respect of whom any such arrangement as is referred to in this section may be or has been entered into, shall be deemed to be employees of the Crown in right of the Commonwealth of Australia and the Crown in right of the Commonwealth of Australia shall to the extent to which any such arrangement provides for the deduction of tax from the salaries and allowances of those persons be deemed to be bound to collect tax from those persons.

18. (1) For the purpose only of enabling the Governor and the Governor-General of the Commonwealth of Australia to enter into an arrangement under the authority of section seventeen of this Act in relation to the Wages Tax payable under this Act at such rate or rates as may be fixed by any Act, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall have force and effect upon the passing of this Act.

Operation of
s. 17.

(2) Save as provided in subsection one of this section, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall not have any force or effect for any purpose whatsoever, unless and until the Governor by proclamation published in the Gazette pursuant to subsection three of section seventeen of this Act notifies that an arrangement such as is referred to in subsection one of this section has been entered into.

(3) Upon the publication of such proclamation in the Gazette, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall have full force and effect for all purposes.

Special Income and Wages Tax (Management).

PART V.

GENERAL.

19. Where in pursuance of the regulations any notice or other communication is required or authorised to be served upon any person by post, the service may be effected by prepaid letter post addressed to the person at his last known place of business or abode in New South Wales, and such service shall be deemed to have been effected at the time when it would in the ordinary course of post have arrived at the place to which it was addressed or at the post town or post office nearest to that place whether or not it has in fact been received by the addressee.

Service of
notices by
post.

20. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regula-
tions.

(2) The Governor may when no other penalty is provided for impose a penalty not exceeding fifty pounds for any contravention of, or failure to comply with this Act, or any regulations made thereunder.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

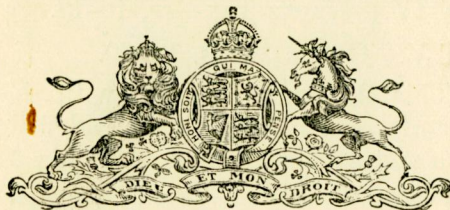
If either House of Parliament pass a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(4) Any penalty imposed by the regulations may be recovered in a summary manner before a police or stipendiary magistrate or any two or more justices.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 10 October, 1933.

New South Wales.



ANNO VICESIMO QUARTO

GEORGII V REGIS.

Act No. 13, 1933.

An Act to provide for the assessment and collection of Special Income Tax and of Wages Tax; to amend the Prevention and Relief of Unemployment Acts, 1930-1932, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 18th October, 1933.]

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Special Income Short title. and Wages Tax (Management) Act, 1933."

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

W. W. HEDGES,
Chairman of Committees of the Legislative Assembly.

Special Income and Wages Tax (Management).

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-5.

PART II.—LIABILITY TO TAXATION—ss. 6-13.

PART III.—RETURNS, ETC.—ss. 14, 15.

PART IV.—WAGES TAX—ss. 16-18.

PART V.—GENERAL—ss. 19, 20.

Interpre-
tation.

2. (1) This Act shall be read with the Income Tax (Management) Act, 1928, as amended by subsequent Acts, which Act as so amended is in this Act referred to as the Principal Act.

(2) In this Act, unless the context or subject matter otherwise requires:—

“Employee” includes—

- (a) a person employed whether on salary, wages, bonus, commission, fees, allowance or other remuneration;
- (b) a director of a company;
- (c) an insurance or time payment canvasser or collector, paid wholly or in part by commission;
- (d) a person in receipt of superannuation, pension or retiring allowance;
- (e) a person employed at piece-work rates;
- (f) a person working under contract for labour only, or substantially for labour only;
- (g) a person in receipt of remuneration from a person who is an employer; and
- (h) a person in receipt of periodical payments of compensation awarded or agreed to under any Act relating to compensation to workmen or workers or in receipt of periodical payments of relief under any Act relating to Miners' Accident Relief or under the National Relief Fund Act, 1914.

“Employer” includes—

- (a) a person making payment of superannuation, pensions or retiring allowances so far as regards such payments;

(b)

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- (b) the Crown in right of the State of New South Wales;
- (c) the Crown in the right of the Commonwealth of Australia in relation to persons in respect of whom any special arrangement as is referred to in section seventeen of this Act has been entered into;
- (d) any person, with whom an arrangement has been entered into in accordance with subsection three of this section;
- (e) any person making payments to a person who is an employee as such;
- (f) any person making payment of any compensation or relief referred to in paragraph (h) of the definition of "employee."

"Income" includes income within the meaning of the Principal Act and also includes all income derived by a resident of the State, or by a New South Wales company, to which section thirty-one of the Principal Act is applied by clause one of the Schedule to that Act, from any source outside the State except—

- (a) income from wages; and
- (b) income from the carrying on of any trade or business not being an investment business.

"Income from wages" means all assessable income of any person (other than a company) as an employee from salary, wages, fees, commission, allowances, or payments to an employee as such, including all assessable income referred to in paragraphs (h), (i) and (j) of section eleven of the Principal Act, after deduction of the expenses actually incurred in gaining or producing such income, and including also all all pensions, retiring allowances and payments referred to in paragraph (h) of the definition of "employee," but not including any such assessable income received from any employer in any case in which he is not bound to collect tax from the employee.

"Net

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"Net assessable income" means gross income after excluding therefrom all income which is exempt from tax and after making therefrom the deductions allowed by this Act, but in the case of a person other than a company, does not include any income which is income from employment within the meaning of that term as defined in the Unemployment Relief Acts or is income from wages as defined in this Act.

"Person" includes a company, corporation, local authority or statutory body.

"Tax" means Special Income Tax or Wages Tax.

"Unemployment Relief Acts" means the Prevention and Relief of Unemployment Acts, 1930-1932, as amended by the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933.

(3) The Commissioner may agree with any employer who is not bound to collect tax from an employee that as from the dates specified in the agreement the employer shall assume the obligation of collecting tax upon the income of his employees which would if he were so bound be income from wages and as from a date specified in the agreement that income shall be deemed to be income from wages for the purposes of this Act.

Operation
of Preven-
tion and
Relief of
Unemploy-
ment Acts.

3. (1) The Prevention and Relief of Unemployment Acts, 1930-1932, as amended by subsequent Acts and this Act, shall continue in force for all purposes in connection with Unemployment Relief Tax payable in respect of net assessable income derived prior to the income year ended on the thirtieth day of June, one thousand nine hundred and thirty-three or prior to such other period as may be or may have been accepted by the Commissioner in lieu of such year and to income from employment derived prior to the first day of December, one thousand nine hundred and thirty-three.

(2) The Governor may by proclamation made and published in the Gazette prior to the thirtieth day of June, one thousand nine hundred and thirty-four, extend the operation of Part II of the said Act for a period not exceeding four months in all after the said thirtieth day of June, one thousand nine hundred and thirty-four.

Special Income and Wages Tax (Management).

4. (1) All existing rules, regulations and forms made or prescribed under the Unemployment Relief Acts shall apply mutatis mutandis to proceedings under this Act so far as such rules, regulations and forms may be applicable until rules, regulations and forms are made and prescribed under this Act.

Existing regulations.

(2) All notices given during the year one thousand nine hundred and thirty-three and all returns made during that year or thereafter under the provisions of the Unemployment Relief Acts in respect of income for the income year ended on the thirtieth day of June, one thousand nine hundred and thirty-three, shall (without prejudice to the power of the Commissioner to give any notices which may be given or require any returns which may be required in respect of income for such income year under this Act) be deemed to have been made or given also under this Act.

Notices and Returns as to Income for the year ended 30th June, 1933.

5. (1) The Commissioner shall have the general administration of this Act and may sue or be sued by the name of the Commissioner of Taxation.

Administration.

(2) The Governor may, subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint such persons as may be deemed necessary for the carrying out of this Act.

Officers.

(3) The provisions of subsections four, five, six and seven of section five, and of section six, of the Principal Act, shall, mutatis mutandis, extend to the administration of this Act.

Absence of Commissioner, delegation of powers and secrecy.

PART II.

LIABILITY TO TAXATION.

6. (1) Subject to the provisions of this Act Special Income Tax at such rates as may be fixed by any Act shall be paid to the Commissioner in respect of the net assessable income derived by any person other than a company and in respect of the net assessable income derived by any company during every income year to which this Act applies.

Incidence of Special Income Tax.

(2) The first assessment of Special Income Tax under this Act shall be in respect of the income of the year

year

Special Income and Wages Tax (Management).

year ended on the thirtieth day of June, one thousand nine hundred and thirty-three (or such other period accepted by the Commissioner under the provisions of the Principal Act in lieu thereof), and subsequent assessments shall be in respect of the income for each succeeding income year.

Partial
repeal of
Part IVc of
Act No. 34,
1930.

(3) The provisions of Part IVc of the Unemployment Relief Acts relating to Unemployment Relief Tax at the rates declared by the Unemployment Relief Tax Act, 1933, inserted in the Prevention and Relief of Unemployment Acts, 1930-1932, by paragraph (b) of section five of the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933, are repealed so far as regards net assessable income derived by every person and company.

Incidence
of Wages
Tax.

7. (1) Subject to the provisions of this Act, Wages Tax in such amounts or at such rates as may be fixed by any Act shall be paid to the Commissioner in respect of the income from wages derived by any person on and after the first day of December, one thousand nine hundred and thirty-three.

Partial
repeal of
Part IVc of
Act No. 34,
1930.

(2) The provisions of Part IVc of the Unemployment Relief Acts relating to Unemployment Relief Tax at the rates declared by the Unemployment Relief Tax Act, 1933, inserted in the Prevention and Relief of Unemployment Acts, 1930-1932, by paragraph (b) of section five of the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933, shall not apply to income from wages derived on and after the first day of December, one thousand nine hundred and thirty-three.

Exemptions.

8. The incomes, revenues, and funds exempt from income tax by virtue of section ten of the Principal Act, and also any income derived from a source outside the State by the Governor or any other person whose salary or remuneration is exempt from income tax under that section, shall also be exempt from tax under this Act, and in addition, there shall also be exempt—

(a) all the income derived from carrying on the business of life insurance other than that appropriated for the payment of dividends;

(b).

Special Income and Wages Tax (Management).

- (b) any war pension paid by the Imperial or any other Government;
- (c) income derived from old-age or invalid pensions;
- (d) income derived from pensions payable under the Widows' Pensions Act, 1925, as amended by subsequent Acts;
- (e) income derived from payments in respect of any children under the Family Endowment Act, 1927-1932, as amended by subsequent Acts;
- (f) income derived from any payment made in respect of children under the Child Welfare Act, 1923, as amended by subsequent Acts;
- (g) income derived from any payment made to any person as charitable relief by any Government department or agency;
- (h) the net assessable income of any person (other than a company) resident in Australia whose total income from all sources during the income year does not exceed one hundred pounds;
- (i) the income from wages of an employee while he is in receipt of such income at a rate less than two pounds per week or the equivalent hourly or daily rate. Provided that this exemption shall not apply to any income from wages derived by an employee whose total income from all sources exceeds one hundred and four pounds, in which case such income from wages shall be deemed to be net assessable income of the income year in which it is received;
- (j) the income from wages derived by any person after the commencement of this Act from employment upon any work declared by the Governor in accordance with section nine of the Unemployment Relief Acts to be a work provided for the relief of unemployment or upon approved works within the meaning of section five of the (Commonwealth) Loan (Unemployment Relief Works) Act, 1932.

This exemption shall extend only to the income of persons who are in receipt of wages and bonuses

Special Income and Wages Tax (Management).

bonuses at the rates directed by the Minister pursuant to section nine of the Unemployment Relief Acts;

- (k) the income from wages of officers, seamen, and others employed on ships trading between Australia and New Zealand and who are on New Zealand articles;
- (l) moneys received periodically by a wife from her husband where such wife is living apart from her husband and paid pursuant to a decree, judgment, order or deed of separation or moneys received by a wife from her husband pursuant to an order made on a decree for dissolution of marriage for the payment of such moneys as an annual sum where in either such case such moneys are assessable income of the husband.

Net assess-
able income.

9. (1) Net assessable income shall be assessed in like manner as taxable income is assessed under the Principal Act:

Provided that the assessable income of a company shall include dividends which would be included therein if the words "(other than a company)" contained in paragraph (b) of section eleven of the Principal Act were omitted from that paragraph:

Provided further that in the assessment of the income of any person resident in the State or of a New South Wales company to which section thirty-one of the Principal Act is applied by clause one of the Schedule to that Act the provisions of the first proviso to paragraph (b) of section eleven of that Act shall not apply.

(2) The provisions of clause nine of the Schedule to the Principal Act shall not apply to an assessment under this Act.

(3) There shall be the like deductions as are allowed under the provisions of the Principal Act, except:—

- (a) the deductions from any income from wages;
- (b) the deductions from any income from employment within the meaning of that term as defined by the Unemployment Relief Acts;
- (c) the deductions under the provisions of paragraph (q) of subsection one of section nineteen, subsections

Special Income and Wages Tax (Management).

subsections two and three of that section, and subsection two of section twenty-two of the Principal Act.

(4) In the case of a company there shall also be deducted so much of the net profit of the company as forms part of its assessable income, and is during or within six months after the close of the income year distributed to its shareholders in respect of shares registered upon a register situate in the State or distributed to resident shareholders in respect of shares registered upon a register situate inside or outside the State. This subsection shall not apply to a distribution by a liquidator.

10. (1) A company which has during the year ending on the thirtieth day of June, one thousand nine hundred and thirty-three, or any subsequent year, paid to its shareholders not domiciled in the State a dividend in respect of shares registered upon a register situate in the State, shall retain out of any moneys in its hands belonging to a shareholder to whom such dividend has been paid a sufficient amount to pay the tax in respect of the dividend so paid at such rate as may be fixed by any Act and forward such amount to the Commissioner with the prescribed return within such time as may be prescribed.

Deduction
from
dividends,
interest,
etc.

(2) Any person who has during the income year ending on the thirtieth day of June, one thousand nine hundred and thirty-three, or any subsequent year, paid to a person not domiciled in the State any amount for interest on money lent in the State shall, out of any moneys coming to his hand belonging to the person to whom such payment was made, retain a sufficient amount to pay the tax in respect of the amount so paid at such rate as may be fixed by any Act and forward such amount to the Commissioner with the prescribed return within the prescribed time.

(3) Paragraph (h) of section eight shall not extend to tax payable under this section.

(4) This section shall not apply in any case where the shareholder or the person to whom interest is paid, as the case may be, is a foreign company carrying on business in the State which has a duly appointed public officer.

Special Income and Wages Tax (Management).

Rebate
of tax.

11. Where there is included in the net assessable income of any person (and such person is liable to tax in respect thereof)—

- (a) any dividend or interest upon which tax has been paid under the provisions of section nine or section ten of this Act;
- (b) any dividend or interest upon which Unemployment Relief Tax has been paid under the provisions of section eighteen or section nineteen of the Unemployment Relief Acts; or
- (c) any income upon which such person has paid tax under this Act or has paid Unemployment Relief Tax under the Unemployment Relief Acts,

there shall be deducted from the tax otherwise payable by such person the amount of tax or Unemployment Relief Tax so paid in respect of such dividend, interest or income which has been included in his net assessable income.

Assessments
in special
cases.

12. The Commissioner may make such assessments or alterations in assessments as he considers necessary to meet cases in which, owing to a change in the class of a taxpayer's income, tax would otherwise be avoided, or over taxation would result.

In applying this provision regard shall be had to the amount of tax paid or payable under the Unemployment Relief Acts.

Adjustment
when income
derived from
several
employers.

13. Where during any income year any person derives income from wages while in the employ of more than one employer and the total amount of tax, if any, deducted by his employers is less than the amount of tax which would have been deducted if the total income from wages were derived from one employer, the Commissioner may assess such person on the total income from wages, together with the net assessable income, if any, derived by him during such income year as if such income were net assessable income.

This section shall extend, mutatis mutandis, to income from employment, as defined in the Unemployment Relief Acts, derived, either before or after the commencement of this Act, before the first day of December, one thousand nine hundred and thirty-three.

PART

Special Income and Wages Tax (Management).

PART III.

RETURNS, ETC.

14. (1) The returns made in pursuance of a notice issued under the provisions of section thirty-eight of the Principal Act shall be deemed to be also made under and for the purpose of this Act. Returns, *principal*

The regulations may prescribe forms of return to be made in respect of incomes assessable for Special Income Tax and Wages Tax and in respect of which a return under the Principal Act is not required by the Commissioner.

(2) The Commissioner may, from time to time, by notice published in the Gazette, require every employer to furnish a return setting out such information as may be required relating to numbers, groups and earnings of employees, amounts of tax collected from employees or such similar matters as may be prescribed.

15. (1) The provisions of Part IV (Returns and Assessments); Part V (Objections and Appeals); Part VI (Collection and Recovery of Tax); Part VII (Penal Provisions); and Part VIII (Miscellaneous) comprising sections thirty-eight to ninety-two inclusive of the Principal Act, and any regulations made to give effect to such sections, shall be applicable to the tax as if such taxes were the income tax under the Principal Act. Machinery provisions of Principal Act to apply to this Act.

(2) The Commissioner may exercise all the powers of the board under sections eighty-eight and eighty-nine of the Principal Act in respect of any assessment where the tax assessed under this Act or the Unemployment Relief Acts does not exceed the sum of ten pounds.

(3) The Unemployment Relief Acts are amended by omitting from subsection two of section twenty-two the word "five" and by inserting in lieu thereof the word "ten." Amendment of Act No. 34, 1930, s. 22 (2).

PART

Special Income and Wages Tax (Management).

PART IV.

WAGES TAX.

Tax on
income
from
wages.

16. (1) With regard to the tax payable upon income from wages, the following provisions shall have effect:—

(a) Every employer shall collect from his employees, by deduction or otherwise, tax in the amounts or at the rate or rates as may be fixed by any Act.

(b) (i) Every employer shall keep such records as are prescribed of all payments, amounts credited, or allowances made, by him to his employees.

(ii) Every employer the number of whose employees liable to tax is not less than ten (or such other number as may be prescribed) shall pay to the Commissioner at such times and in such manner as are prescribed, the amount of tax payable upon such payments credits and allowances and shall affix the official receipts in respect of such payments to such records in the manner prescribed.

(iii) Every employer the number of whose employees liable to tax is less than ten (or such other number as may be prescribed) shall affix to such records in the prescribed manner the prescribed Wages Tax Stamps to the value of the tax payable upon such payments credits and allowances and shall cancel such stamps at such times and in such manner as are prescribed.

(c) Where the number of employees liable to tax falls below ten (or such other number as may be prescribed) the employer shall continue to pay the tax and otherwise follow the procedure laid down in subparagraph two of paragraph (b) of this subsection until authorised by the Commissioner in writing to affix and cancel the prescribed

Special Income and Wages Tax (Management).

prescribed Wages Tax Stamps in the manner provided in subparagraph three of such paragraph (b). Notwithstanding the number of employees liable to tax the Commissioner may by notice in writing direct any employer to pay the tax or affix and cancel Wages Tax Stamps as he may determine.

Upon application by any employer the Commissioner may permit such employer to change from one method of payment to the other method: Provided that where such permission is given the employer shall adhere to such other method until he is authorised by the Commissioner to alter such method.

(d) Every employer shall—

- (i) send to the Commissioner, as and when prescribed, such records or such part thereof as may be prescribed;
- (ii) send to the Commissioner, upon notice in writing from the Commissioner, such records as may be specified in such notice;
- (iii) produce such records for inspection to any person authorised either generally or in a particular case by the Commissioner to inspect such records. For the purpose of this subparagraph any such person shall have the powers provided by section eighty-five of the Principal Act.

(e) The Commissioner may require an employer to provide or give security to an amount and in such manner as may be approved by him for payment of the tax in any particular case.

(2) Subsection one of this section shall not apply in respect of an employee casually employed in a domestic or other capacity and otherwise than in connection with the business of the employer.

(3) Wages Tax Stamps shall be prepared and issued by the Commissioner of Stamp Duties, who shall provide for the distribution and sale thereof.

Such

Special Income and Wages Tax (Management).

Such stamps shall be offered for sale or dealt in only by the Commissioner of Stamp Duties and by officers of such other Departments of the State and the Commonwealth as are approved of by him.

Any person who purchases Wages Tax Stamps other than from the Commissioner of Stamp Duties or from an officer of such other Department as aforesaid acting in his official capacity, shall be guilty of an offence against this Act and shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

Any person other than the Commissioner of Stamp Duties or an officer of such other Department as aforesaid acting in his official capacity, who offers for sale or exchange or deals in Wages Tax Stamps shall be guilty of an offence against this Act and shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

(4) The regulations may apply, with such modifications and adaptations as the Governor thinks fit in respect of any such stamps, all or any of the provisions (including penal provisions) of the Stamp Duties Act, 1920-1933, or the Entertainments Tax (Management) Act, 1929.

(5) Where the Commissioner is satisfied:—

- (a) that an employer has purchased Wages Tax Stamps for the purpose of stamping the prescribed records of wages; and
- (b) that such stamps have been so lost or destroyed that they will not be used by any person for the purpose of stamping prescribed records of wages,

he may exempt such employer from compliance with such part of the provisions of paragraphs (b) and (d) of subsection one of this section as he considers just.

(6) Every employer shall preserve the prescribed records for a period of three years from the last date of payment shown thereon:

Provided that any employer may, with the consent in writing of the Commissioner, destroy any such records at any time during such period.

(7)

Special Income and Wages Tax (Management).

(7) Any person who practises or is concerned in any fraudulent act, contrivance or device not specially provided for by law, with intent to defraud His Majesty of any tax under this Act, shall be guilty of an offence against this Act and shall be liable upon conviction by a court of summary jurisdiction to a penalty not exceeding two hundred pounds or upon conviction upon indictment to imprisonment for a term of not more than twelve months.

(8) Any employer who fails to carry out or observe any provision of this section shall, unless he has been exempted from the carrying out or observance of such provision under this section, be liable to account for and pay to the Commissioner any tax which by or because of his failure remains unpaid, together with a fine to be fixed by the Commissioner not exceeding ten per centum of such tax: Provided that upon sufficient cause being shown to the satisfaction of the Commissioner such fine may be remitted or reduced by him.

Such employer shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding two hundred pounds, or upon conviction upon indictment to imprisonment for a term not exceeding twelve months, and the court before which the employer is convicted may at the time of the conviction or at any time thereafter order the payment of the amount of tax and/or fine certified by the Commissioner to be unpaid.

(9) (a) In any prosecution under this section the averment of the prosecutor or plaintiff contained in the information, complaint, declaration or claim shall be prima facie evidence of the matter or matters averred.

Averment of
prosecutor
sufficient.
cf. (Common-
wealth) Income
Tax Assessment
Act, 1922-1931
s. 83.

(b) This subsection shall apply to any matter so averred although—

- (i) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
- (ii) the matter averred is a mixed question of law and fact, but in that case the averment shall be prima facie evidence of the fact only.

(c)

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(c) Any evidence given by witnesses in support or rebuttal of the matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this subsection.

(d) The foregoing provisions of this subsection shall not apply to—

- (i) an averment of the intent of the defendant to proceedings; or
- (ii) proceedings for an indictable offence.

(e) This subsection shall not lessen or affect any onus of proof otherwise falling on the defendant.

(10) Any proceedings in respect of an offence against this section or against any regulations made in respect of the matters therein referred to may be taken at any time not exceeding six months from the time when the facts first came to the knowledge of the Commissioner, and may be taken by him or by some person appointed by him in writing, either generally or in a particular case.

(11) This section shall not apply in any case where the employer is the Crown in right of the Commonwealth of Australia.

Arrange-
ments with
the Common-
wealth.

17. (1) The Governor may arrange with the Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, that the taxation under the law of the State of New South Wales of the salaries and allowances of the persons referred to in subsection four of section nineteen of the (Commonwealth) Financial Emergency Acts, 1931, to the extent to which such taxation is permitted by or under that section, shall be deducted from the periodical payments of the salary and allowances of those persons and shall be paid to the State of New South Wales in such manner and at such times as are provided by the arrangement.

(2) Expressions used in subsection one of this section shall have the meanings which those expressions bear in subsection four of section nineteen of the (Commonwealth) Financial Emergency Acts, 1931.

(3)

Special Income and Wages Tax (Management).

(3) Where any arrangement under subsection one of this section has been entered into the Governor shall by proclamation published in the Gazette notify the fact that such arrangement has been entered into. The notification shall set out in full the terms of such arrangement.

Proclama-
tion of
arrangement
in the
Gazette.

(4) The persons in respect of whom any such arrangement as is referred to in this section may be or has been entered into, shall be deemed to be employees of the Crown in right of the Commonwealth of Australia and the Crown in right of the Commonwealth of Australia shall to the extent to which any such arrangement provides for the deduction of tax from the salaries and allowances of those persons be deemed to be bound to collect tax from those persons.

18. (1) For the purpose only of enabling the Governor and the Governor-General of the Commonwealth of Australia to enter into an arrangement under the authority of section seventeen of this Act in relation to the Wages Tax payable under this Act at such rate or rates as may be fixed by any Act, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall have force and effect upon the passing of this Act.

Operation of
s. 17.

(2) Save as provided in subsection one of this section, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall not have any force or effect for any purpose whatsoever, unless and until the Governor by proclamation published in the Gazette pursuant to subsection three of section seventeen of this Act notifies that an arrangement such as is referred to in subsection one of this section has been entered into.

(3) Upon the publication of such proclamation in the Gazette, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall have full force and effect for all purposes.

PART

Special Income and Wages Tax (Management).

PART V.

GENERAL.

Service of
notices by
post.

19. Where in pursuance of the regulations any notice or other communication is required or authorised to be served upon any person by post, the service may be effected by prepaid letter post addressed to the person at his last known place of business or abode in New South Wales, and such service shall be deemed to have been effected at the time when it would in the ordinary course of post have arrived at the place to which it was addressed or at the post town or post office nearest to that place whether or not it has in fact been received by the addressee.

Regula-
tions.

20. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Governor may when no other penalty is provided for impose a penalty not exceeding fifty pounds for any contravention of, or failure to comply with this Act, or any regulations made thereunder.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament pass a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(4) Any penalty imposed by the regulations may be recovered in a summary manner before a police or stipendiary magistrate or any two or more justices.

In the name and on behalf of His Majesty I assent to this Act.

PHILIP GAME,
Governor.

Government House,
Sydney, 18th October, 1933.

New South Wales.



ANNO VICESIMO QUARTO

GEORGII V REGIS.

Act No. 13, 1933.

An Act to provide for the assessment and collection of Special Income Tax and of Wages Tax; to amend the Prevention and Relief of Unemployment Acts, 1930-1932, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 18th October, 1933.]

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Special Income and Wages Tax (Management) Act, 1933."

(d) 17107—A

(2).

Special Income and Wages Tax (Management).

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-5.

PART II.—LIABILITY TO TAXATION—ss. 6-13.

PART III.—RETURNS, ETC.—ss. 14, 15.

PART IV.—WAGES TAX—ss. 16-18.

PART V.—GENERAL—ss. 19, 20.

Interpre-
tation.

2. (1) This Act shall be read with the Income Tax (Management) Act, 1928, as amended by subsequent Acts, which Act as so amended is in this Act referred to as the Principal Act.

(2) In this Act, unless the context or subject matter otherwise requires:—

“Employee” includes—

- (a) a person employed whether on salary, wages, bonus, commission, fees, allowance or other remuneration;
- (b) a director of a company;
- (c) an insurance or time payment canvasser or collector, paid wholly or in part by commission;
- (d) a person in receipt of superannuation, pension or retiring allowance;
- (e) a person employed at piece-work rates;
- (f) a person working under contract for labour only, or substantially for labour only;
- (g) a person in receipt of remuneration from a person who is an employer; and
- (h) a person in receipt of periodical payments of compensation awarded or agreed to under any Act relating to compensation to workmen or workers or in receipt of periodical payments of relief under any Act relating to Miners' Accident Relief or under the National Relief Fund Act, 1914.

“Employer” includes—

- (a) a person making payment of superannuation, pensions or retiring allowances so far as regards such payments;

(b)

Special Income and Wages Tax (Management).

- (b) the Crown in right of the State of New South Wales;
- (c) the Crown in the right of the Commonwealth of Australia in relation to persons in respect of whom any special arrangement as is referred to in section seventeen of this Act has been entered into;
- (d) any person, with whom an arrangement has been entered into in accordance with subsection three of this section;
- (e) any person making payments to a person who is an employee as such;
- (f) any person making payment of any compensation or relief referred to in paragraph (h) of the definition of "employee."

"Income" includes income within the meaning of the Principal Act and also includes all income derived by a resident of the State, or by a New South Wales company, to which section thirty-one of the Principal Act is applied by clause one of the Schedule to that Act, from any source outside the State except—

- (a) income from wages; and
- (b) income from the carrying on of any trade or business not being an investment business.

"Income from wages" means all assessable income of any person (other than a company) as an employee from salary, wages, fees, commission, allowances, or payments to an employee as such, including all assessable income referred to in paragraphs (h), (i) and (j) of section eleven of the Principal Act, after deduction of the expenses actually incurred in gaining or producing such income, and including also all all pensions, retiring allowances and payments referred to in paragraph (h) of the definition of "employee," but not including any such assessable income received from any employer in any case in which he is not bound to collect tax from the employee.

"Net

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“Net assessable income” means gross income after excluding therefrom all income which is exempt from tax and after making therefrom the deductions allowed by this Act, but in the case of a person other than a company, does not include any income which is income from employment within the meaning of that term as defined in the Unemployment Relief Acts or is income from wages as defined in this Act.

“Person” includes a company, corporation, local authority or statutory body.

“Tax” means Special Income Tax or Wages Tax.

“Unemployment Relief Acts” means the Prevention and Relief of Unemployment Acts, 1930-1932, as amended by the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933.

(3) The Commissioner may agree with any employer who is not bound to collect tax from an employee that as from the dates specified in the agreement the employer shall assume the obligation of collecting tax upon the income of his employees which would if he were so bound be income from wages and as from a date specified in the agreement that income shall be deemed to be income from wages for the purposes of this Act.

Operation
of Prevention
and
Relief of
Unemploy-
ment Acts.

3. (1) The Prevention and Relief of Unemployment Acts, 1930-1932, as amended by subsequent Acts and this Act, shall continue in force for all purposes in connection with Unemployment Relief Tax payable in respect of net assessable income derived prior to the income year ended on the thirtieth day of June, one thousand nine hundred and thirty-three or prior to such other period as may be or may have been accepted by the Commissioner in lieu of such year and to income from employment derived prior to the first day of December, one thousand nine hundred and thirty-three.

(2) The Governor may by proclamation made and published in the Gazette prior to the thirtieth day of June, one thousand nine hundred and thirty-four, extend the operation of Part II of the said Act for a period not exceeding four months in all after the said thirtieth day of June, one thousand nine hundred and thirty-four.

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4. (1) All existing rules, regulations and forms made or prescribed under the Unemployment Relief Acts shall apply mutatis mutandis to proceedings under this Act so far as such rules, regulations and forms may be applicable until rules, regulations and forms are made and prescribed under this Act.

Existing regulations.

(2) All notices given during the year one thousand nine hundred and thirty-three and all returns made during that year or thereafter under the provisions of the Unemployment Relief Acts in respect of income for the income year ended on the thirtieth day of June, one thousand nine hundred and thirty-three, shall (without prejudice to the power of the Commissioner to give any notices which may be given or require any returns which may be required in respect of income for such income year under this Act) be deemed to have been made or given also under this Act.

Notices and Returns as to Income for the year ended 30th June, 1933.

5. (1) The Commissioner shall have the general administration of this Act and may sue or be sued by the name of the Commissioner of Taxation.

Administration.

(2) The Governor may, subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint such persons as may be deemed necessary for the carrying out of this Act.

Officers.

(3) The provisions of subsections four, five, six and seven of section five, and of section six, of the Principal Act, shall, mutatis mutandis, extend to the administration of this Act.

Absence of Commissioner, delegation of powers and secrecy.

PART II.

LIABILITY TO TAXATION.

6. (1) Subject to the provisions of this Act Special Income Tax at such rates as may be fixed by any Act shall be paid to the Commissioner in respect of the net assessable income derived by any person other than a company and in respect of the net assessable income derived by any company during every income year to which this Act applies.

Incidence of Special Income Tax.

(2) The first assessment of Special Income Tax under this Act shall be in respect of the income of the year

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year ended on the thirtieth day of June, one thousand nine hundred and thirty-three (or such other period accepted by the Commissioner under the provisions of the Principal Act in lieu thereof), and subsequent assessments shall be in respect of the income for each succeeding income year.

Partial
repeal of
Part IVc of
Act No. 34,
1930.

(3) The provisions of Part IVc of the Unemployment Relief Acts relating to Unemployment Relief Tax at the rates declared by the Unemployment Relief Tax Act, 1933, inserted in the Prevention and Relief of Unemployment Acts, 1930-1932, by paragraph (b) of section five of the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933, are repealed so far as regards net assessable income derived by every person and company.

Incidence
of Wages
Tax.

7. (1) Subject to the provisions of this Act, Wages Tax in such amounts or at such rates as may be fixed by any Act shall be paid to the Commissioner in respect of the income from wages derived by any person on and after the first day of December, one thousand nine hundred and thirty-three.

Partial
repeal of
Part IVc of
Act No. 34,
1930.

(2) The provisions of Part IVc of the Unemployment Relief Acts relating to Unemployment Relief Tax at the rates declared by the Unemployment Relief Tax Act, 1933, inserted in the Prevention and Relief of Unemployment Acts, 1930-1932, by paragraph (b) of section five of the Finances Adjustment (Relief of Unemployment and Public Service Salaries) Act, 1933, shall not apply to income from wages derived on and after the first day of December, one thousand nine hundred and thirty-three.

Exemp-
tions.

8. The incomes, revenues, and funds exempt from income tax by virtue of section ten of the Principal Act, and also any income derived from a source outside the State by the Governor or any other person whose salary or remuneration is exempt from income tax under that section, shall also be exempt from tax under this Act, and in addition, there shall also be exempt—

(a) all the income derived from carrying on the business of life insurance other than that appropriated for the payment of dividends;

(b).

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- (b) any war pension paid by the Imperial or any other Government;
- (c) income derived from old-age or invalid pensions;
- (d) income derived from pensions payable under the Widows' Pensions Act, 1925, as amended by subsequent Acts;
- (e) income derived from payments in respect of any children under the Family Endowment Act, 1927-1932, as amended by subsequent Acts;
- (f) income derived from any payment made in respect of children under the Child Welfare Act, 1923, as amended by subsequent Acts;
- (g) income derived from any payment made to any person as charitable relief by any Government department or agency;
- (h) the net assessable income of any person (other than a company) resident in Australia whose total income from all sources during the income year does not exceed one hundred pounds;
- (i) the income from wages of an employee while he is in receipt of such income at a rate less than two pounds per week or the equivalent hourly or daily rate. Provided that this exemption shall not apply to any income from wages derived by an employee whose total income from all sources exceeds one hundred and four pounds, in which case such income from wages shall be deemed to be net assessable income of the income year in which it is received;
- (j) the income from wages derived by any person after the commencement of this Act from employment upon any work declared by the Governor in accordance with section nine of the Unemployment Relief Acts to be a work provided for the relief of unemployment or upon approved works within the meaning of section five of the (Commonwealth) Loan (Unemployment Relief Works) Act, 1932.

This exemption shall extend only to the income of persons who are in receipt of wages and bonuses

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bonuses at the rates directed by the Minister pursuant to section nine of the Unemployment Relief Acts;

- (k) the income from wages of officers, seamen, and others employed on ships trading between Australia and New Zealand and who are on New Zealand articles;
- (l) moneys received periodically by a wife from her husband where such wife is living apart from her husband and paid pursuant to a decree, judgment, order or deed of separation or moneys received by a wife from her husband pursuant to an order made on a decree for dissolution of marriage for the payment of such moneys as an annual sum where in either such case such moneys are assessable income of the husband.

Net assess-
able income.

9. (1) Net assessable income shall be assessed in like manner as taxable income is assessed under the Principal Act:

Provided that the assessable income of a company shall include dividends which would be included therein if the words “(other than a company)” contained in paragraph (b) of section eleven of the Principal Act were omitted from that paragraph:

Provided further that in the assessment of the income of any person resident in the State or of a New South Wales company to which section thirty-one of the Principal Act is applied by clause one of the Schedule to that Act the provisions of the first proviso to paragraph (b) of section eleven of that Act shall not apply.

(2) The provisions of clause nine of the Schedule to the Principal Act shall not apply to an assessment under this Act.

(3) There shall be the like deductions as are allowed under the provisions of the Principal Act, except:—

- (a) the deductions from any income from wages;
- (b) the deductions from any income from employment within the meaning of that term as defined by the Unemployment Relief Acts;
- (c) the deductions under the provisions of paragraph (q) of subsection one of section nineteen, subsections

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subsections two and three of that section, and subsection two of section twenty-two of the Principal Act.

(4) In the case of a company there shall also be deducted so much of the net profit of the company as forms part of its assessable income, and is during or within six months after the close of the income year distributed to its shareholders in respect of shares registered upon a register situate in the State or distributed to resident shareholders in respect of shares registered upon a register situate inside or outside the State. This subsection shall not apply to a distribution by a liquidator.

10. (1) A company which has during the year ending on the thirtieth day of June, one thousand nine hundred and thirty-three, or any subsequent year, paid to its shareholders not domiciled in the State a dividend in respect of shares registered upon a register situate in the State, shall retain out of any moneys in its hands belonging to a shareholder to whom such dividend has been paid a sufficient amount to pay the tax in respect of the dividend so paid at such rate as may be fixed by any Act and forward such amount to the Commissioner with the prescribed return within such time as may be prescribed.

Deduction
from
dividends,
interest,
etc.

(2) Any person who has during the income year ending on the thirtieth day of June, one thousand nine hundred and thirty-three, or any subsequent year, paid to a person not domiciled in the State any amount for interest on money lent in the State shall, out of any moneys coming to his hand belonging to the person to whom such payment was made, retain a sufficient amount to pay the tax in respect of the amount so paid at such rate as may be fixed by any Act and forward such amount to the Commissioner with the prescribed return within the prescribed time.

(3) Paragraph (h) of section eight shall not extend to tax payable under this section.

(4) This section shall not apply in any case where the shareholder or the person to whom interest is paid, as the case may be, is a foreign company carrying on business in the State which has a duly appointed public officer.

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Rebate
of tax.

11. Where there is included in the net assessable income of any person (and such person is liable to tax in respect thereof)—

- (a) any dividend or interest upon which tax has been paid under the provisions of section nine or section ten of this Act;
- (b) any dividend or interest upon which Unemployment Relief Tax has been paid under the provisions of section eighteen or section nineteen of the Unemployment Relief Acts; or
- (c) any income upon which such person has paid tax under this Act or has paid Unemployment Relief Tax under the Unemployment Relief Acts,

there shall be deducted from the tax otherwise payable by such person the amount of tax or Unemployment Relief Tax so paid in respect of such dividend, interest or income which has been included in his net assessable income.

Assessments
in special
cases.

12. The Commissioner may make such assessments or alterations in assessments as he considers necessary to meet cases in which, owing to a change in the class of a taxpayer's income, tax would otherwise be avoided, or over taxation would result.

In applying this provision regard shall be had to the amount of tax paid or payable under the Unemployment Relief Acts.

Adjustment
when income
derived from
several
employers.

13. Where during any income year any person derives income from wages while in the employ of more than one employer and the total amount of tax, if any, deducted by his employers is less than the amount of tax which would have been deducted if the total income from wages were derived from one employer, the Commissioner may assess such person on the total income from wages, together with the net assessable income, if any, derived by him during such income year as if such income were net assessable income.

This section shall extend, mutatis mutandis, to income from employment, as defined in the Unemployment Relief Acts, derived, either before or after the commencement of this Act, before the first day of December, one thousand nine hundred and thirty-three.

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PART III.

RETURNS, ETC.

14. (1) The returns made in pursuance of a notice issued under the provisions of section thirty-eight of the Principal Act shall be deemed to be also made under and for the purpose of this Act. Returns.

The regulations may prescribe forms of return to be made in respect of incomes assessable for Special Income Tax and Wages Tax and in respect of which a return under the Principal Act is not required by the Commissioner.

(2) The Commissioner may, from time to time, by notice published in the Gazette, require every employer to furnish a return setting out such information as may be required relating to numbers, groups and earnings of employees, amounts of tax collected from employees or such similar matters as may be prescribed.

15. (1) The provisions of Part IV (Returns and Assessments); Part V (Objections and Appeals); Part VI (Collection and Recovery of Tax); Part VII (Penal Provisions); and Part VIII (Miscellaneous) comprising sections thirty-eight to ninety-two inclusive of the Principal Act, and any regulations made to give effect to such sections, shall be applicable to the tax as if such taxes were the income tax under the Principal Act. Machinery provisions of Principal Act to apply to this Act.

(2) The Commissioner may exercise all the powers of the board under sections eighty-eight and eighty-nine of the Principal Act in respect of any assessment where the tax assessed under this Act or the Unemployment Relief Acts does not exceed the sum of ten pounds.

(3) The Unemployment Relief Acts are amended by omitting from subsection two of section twenty-two the word "five" and by inserting in lieu thereof the word "ten." Amendment of Act No. 34, 1930, s. 22 (2).

Special Income and Wages Tax (Management).

PART IV.

WAGES TAX.

Tax on
income
from
wages.

16. (1) With regard to the tax payable upon income from wages, the following provisions shall have effect:—

- (a) Every employer shall collect from his employees, by deduction or otherwise, tax in the amounts or at the rate or rates as may be fixed by any Act.
- (b) (i) Every employer shall keep such records as are prescribed of all payments, amounts credited, or allowances made, by him to his employees.
- (ii) Every employer the number of whose employees liable to tax is not less than ten (or such other number as may be prescribed) shall pay to the Commissioner at such times and in such manner as are prescribed, the amount of tax payable upon such payments credits and allowances and shall affix the official receipts in respect of such payments to such records in the manner prescribed.
- (iii) Every employer the number of whose employees liable to tax is less than ten (or such other number as may be prescribed) shall affix to such records in the prescribed manner the prescribed Wages Tax Stamps to the value of the tax payable upon such payments credits and allowances and shall cancel such stamps at such times and in such manner as are prescribed.
- (c) Where the number of employees liable to tax falls below ten (or such other number as may be prescribed) the employer shall continue to pay the tax and otherwise follow the procedure laid down in subparagraph two of paragraph (b) of this subsection until authorised by the Commissioner in writing to affix and cancel the prescribed

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prescribed Wages Tax Stamps in the manner provided in subparagraph three of such paragraph (b). Notwithstanding the number of employees liable to tax the Commissioner may by notice in writing direct any employer to pay the tax or affix and cancel Wages Tax Stamps as he may determine.

Upon application by any employer the Commissioner may permit such employer to change from one method of payment to the other method: Provided that where such permission is given the employer shall adhere to such other method until he is authorised by the Commissioner to alter such method.

(d) Every employer shall—

- (i) send to the Commissioner, as and when prescribed, such records or such part thereof as may be prescribed;
- (ii) send to the Commissioner, upon notice in writing from the Commissioner, such records as may be specified in such notice;
- (iii) produce such records for inspection to any person authorised either generally or in a particular case by the Commissioner to inspect such records. For the purpose of this subparagraph any such person shall have the powers provided by section eighty-five of the Principal Act.

(e) The Commissioner may require an employer to provide or give security to an amount and in such manner as may be approved by him for payment of the tax in any particular case.

(2) Subsection one of this section shall not apply in respect of an employee casually employed in a domestic or other capacity and otherwise than in connection with the business of the employer.

(3) Wages Tax Stamps shall be prepared and issued by the Commissioner of Stamp Duties, who shall provide for the distribution and sale thereof.

Such

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Such stamps shall be offered for sale or dealt in only by the Commissioner of Stamp Duties and by officers of such other Departments of the State and the Commonwealth as are approved of by him.

Any person who purchases Wages Tax Stamps other than from the Commissioner of Stamp Duties or from an officer of such other Department as aforesaid acting in his official capacity, shall be guilty of an offence against this Act and shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

Any person other than the Commissioner of Stamp Duties or an officer of such other Department as aforesaid acting in his official capacity, who offers for sale or exchange or deals in Wages Tax Stamps shall be guilty of an offence against this Act and shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding one hundred pounds.

(4) The regulations may apply, with such modifications and adaptations as the Governor thinks fit in respect of any such stamps, all or any of the provisions (including penal provisions) of the Stamp Duties Act, 1920-1933, or the Entertainments Tax (Management) Act, 1929.

(5) Where the Commissioner is satisfied:—

- (a) that an employer has purchased Wages Tax Stamps for the purpose of stamping the prescribed records of wages; and
- (b) that such stamps have been so lost or destroyed that they will not be used by any person for the purpose of stamping prescribed records of wages,

he may exempt such employer from compliance with such part of the provisions of paragraphs (b) and (d) of subsection one of this section as he considers just.

(6) Every employer shall preserve the prescribed records for a period of three years from the last date of payment shown thereon:

Provided that any employer may, with the consent in writing of the Commissioner, destroy any such records at any time during such period.

(7)

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(7) Any person who practises or is concerned in any fraudulent act, contrivance or device not specially provided for by law, with intent to defraud His Majesty of any tax under this Act, shall be guilty of an offence against this Act and shall be liable upon conviction by a court of summary jurisdiction to a penalty not exceeding two hundred pounds or upon conviction upon indictment to imprisonment for a term of not more than twelve months.

(8) Any employer who fails to carry out or observe any provision of this section shall, unless he has been exempted from the carrying out or observance of such provision under this section, be liable to account for and pay to the Commissioner any tax which by or because of his failure remains unpaid, together with a fine to be fixed by the Commissioner not exceeding ten per centum of such tax: Provided that upon sufficient cause being shown to the satisfaction of the Commissioner such fine may be remitted or reduced by him.

Such employer shall, upon summary conviction, be liable to a penalty of not less than two pounds and not exceeding two hundred pounds, or upon conviction upon indictment to imprisonment for a term not exceeding twelve months, and the court before which the employer is convicted may at the time of the conviction or at any time thereafter order the payment of the amount of tax and/or fine certified by the Commissioner to be unpaid.

(9) (a) In any prosecution under this section the averment of the prosecutor or plaintiff contained in the information, complaint, declaration or claim shall be prima facie evidence of the matter or matters averred.

Averment of
prosecutor
sufficient.
cf. (Common-
wealth) Income
Tax Assessment
Act, 1922-1931,
s. 83.

(b) This subsection shall apply to any matter so averred although—

- (i) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
- (ii) the matter averred is a mixed question of law and fact, but in that case the averment shall be prima facie evidence of the fact only.

(c)

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(c) Any evidence given by witnesses in support or rebuttal of the matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this subsection.

(d) The foregoing provisions of this subsection shall not apply to—

- (i) an averment of the intent of the defendant to proceedings; or
- (ii) proceedings for an indictable offence.

(e) This subsection shall not lessen or affect any onus of proof otherwise falling on the defendant.

(10) Any proceedings in respect of an offence against this section or against any regulations made in respect of the matters therein referred to may be taken at any time not exceeding six months from the time when the facts first came to the knowledge of the Commissioner, and may be taken by him or by some person appointed by him in writing, either generally or in a particular case.

(11) This section shall not apply in any case where the employer is the Crown in right of the Commonwealth of Australia.

Arrange-
ments with
the Common-
wealth.

17. (1) The Governor may arrange with the Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, that the taxation under the law of the State of New South Wales of the salaries and allowances of the persons referred to in subsection four of section nineteen of the (Commonwealth) Financial Emergency Acts, 1931, to the extent to which such taxation is permitted by or under that section, shall be deducted from the periodical payments of the salary and allowances of those persons and shall be paid to the State of New South Wales in such manner and at such times as are provided by the arrangement.

(2) Expressions used in subsection one of this section shall have the meanings which those expressions bear in subsection four of section nineteen of the (Commonwealth) Financial Emergency Acts, 1931.

(3)

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(3) Where any arrangement under subsection one of this section has been entered into the Governor shall by proclamation published in the Gazette notify the fact that such arrangement has been entered into. The notification shall set out in full the terms of such arrangement.

Proclamation of arrangement in the Gazette.

(4) The persons in respect of whom any such arrangement as is referred to in this section may be or has been entered into, shall be deemed to be employees of the Crown in right of the Commonwealth of Australia and the Crown in right of the Commonwealth of Australia shall to the extent to which any such arrangement provides for the deduction of tax from the salaries and allowances of those persons be deemed to be bound to collect tax from those persons.

18. (1) For the purpose only of enabling the Governor and the Governor-General of the Commonwealth of Australia to enter into an arrangement under the authority of section seventeen of this Act in relation to the Wages Tax payable under this Act at such rate or rates as may be fixed by any Act, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall have force and effect upon the passing of this Act.

Operation of s. 17.

(2) Save as provided in subsection one of this section, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall not have any force or effect for any purpose whatsoever, unless and until the Governor by proclamation published in the Gazette pursuant to subsection three of section seventeen of this Act notifies that an arrangement such as is referred to in subsection one of this section has been entered into.

(3) Upon the publication of such proclamation in the Gazette, the provisions of this Act under which the Crown in right of the Commonwealth of Australia is deemed to be an employer shall have full force and effect for all purposes.

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PART V.

GENERAL.

Service of
notices by
post.

19. Where in pursuance of the regulations any notice or other communication is required or authorised to be served upon any person by post, the service may be effected by prepaid letter post addressed to the person at his last known place of business or abode in New South Wales, and such service shall be deemed to have been effected at the time when it would in the ordinary course of post have arrived at the place to which it was addressed or at the post town or post office nearest to that place whether or not it has in fact been received by the addressee.

Regula-
tions.

20. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Governor may when no other penalty is provided for impose a penalty not exceeding fifty pounds for any contravention of, or failure to comply with this Act, or any regulations made thereunder.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament pass a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(4) Any penalty imposed by the regulations may be recovered in a summary manner before a police or stipendiary magistrate or any two or more justices.

By Authority:

ALFRED JAMES KENT, I.S.O., Government Printer, Sydney—1933.

