

*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, 15 April, 1943.*

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. , 1943.

An Act to promote closer settlement and the subdivision of large estates; to provide for the assessment and collection of a graduated land tax to be called the Settlement Promotion Tax; to constitute a Settlement Promotion Fund and to provide for the application of that Fund; to provide for the constitution of a Settlement Promotion Board and to define its powers, authorities, duties and functions; and for purposes connected therewith.

Settlement Promotion Tax Management.

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 "Settlement Promotion Tax Management Act, 1943." Short title, commencement and division into Parts.
- 10 (2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.
- (3) This Act is divided into Parts as follows :—
- PART I.—PRELIMINARY—ss. 1, 2.
- 15 PART II.—ADMINISTRATION—s. 3.
- PART III.—SETTLEMENT PROMOTION TAX—ss. 4-8.
- PART IV.—RETURNS, ASSESSMENT, AND LIABILITY—ss. 9-38.
- PART V.—OBJECTIONS AND APPEALS—ss. 39-41.
- 20 PART VI.—COLLECTION AND RECOVERY OF TAX—ss. 42-51.
- PART VII.—MISCELLANEOUS—ss. 52-65.
- PART VIII.—SETTLEMENT PROMOTION FUND—ss. 66-70.
- 25 PART IX.—FINANCIAL ASSISTANCE AND ADVANCES—ss. 71-75.
- PART X.—GENERAL—ss. 76, 77.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires,— Definitions.

30 "Advisory Board" means an advisory board constituted under the Closer Settlement (Amendment) Act, 1907, as amended by subsequent Acts.

35 "Agent" includes every person who in the State for or on behalf of any person out of the State (in this definition termed "the principal") has the control or disposal of any land belonging to the principal, or the control, receipt, or disposal of cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 3.

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of any rents, issues, or proceeds derived from any such land.

5 “City, town, or village” are not restricted to the meanings given to them in the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, although including the same where applicable, and include any area or part of an area declared by the Governor to be a village or town for the purposes of the Local Government Act, 1919, as amended by subsequent Acts. cf. Act No. 41, 1919, s. 4

10 “Commissioner” means the Commissioner of Settlement Promotion Tax.

15 “Financial year” means the year commencing at midnight on the thirtieth day of June in any year and terminating at midnight on the thirtieth day of June in the next succeeding year.

20 “Home maintenance area” means an area which, when used for the purpose for which it is reasonably fitted, would be sufficient for the maintenance in average seasons and circumstances of an average family. cf. Act No. 7, 1913, s. 5.

25 “Improved value,” in relation to land, means the capital sum which the fee simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require.

30 “Improvements,” in relation to land, means improvements thereon, or appertaining thereto, whether visible or invisible, and made or acquired by the owner or his predecessor in title, and includes all such destruction of suckers and seedlings as is incidental to the destruction of timber or mallee and also includes the destruction of other vegetable growths and of animal pests on the land to the extent to which such destruction retains its utility, but does not include the destruction by any person of any such growths or pests which are allowed to establish themselves on the land during his ownership, except to the extent (if at all) to which it restores cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 3.

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restores wholly or partly so much of the utility of a previous improvement in the nature of the destruction of such growths or pests as is, by the subsequent provisions of this definition, deemed to have been lost, and any improvement consisting of the destruction of such growths or pests, by whomsoever the same may be effected, shall be deemed to have lost its utility to the extent to which, after it has been made, other growths or pests, as the case may be, are allowed to establish themselves on the land.

“Joint owners” means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners.

“Mortgage” includes any charge whatever upon land or interest therein, howsoever created, for the securing of money.

“Mortgagee” includes every person entitled at law or in equity to a mortgage or any part thereof.

“Municipality” means municipality constituted or continued under the Local Government Act, 1919, as amended by subsequent Acts.

“Owned,” “owning,” and similar expressions have a meaning corresponding with that of “owner.”

“Owner” in relation to land includes every person who jointly or severally whether at law or in equity— cf. Act No.
41, 1919,
s. 4.

(a) is entitled to the land for any estate of freehold in possession; or

(b) is a person to whom the Crown has lawfully contracted to grant the fee simple under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or any other Act relating to the alienation of lands of the Crown; or

(c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be

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- be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; or
- 5 (d) is a person who holds the land under a lease from the Crown with a right of purchase or under a lease in perpetuity; and includes every person who by virtue of this Act is deemed to be the owner:
- 10 Provided that the Crown shall be deemed to be the owner of all lands of the Crown and of all lands vested in a statutory body representing the Crown.
- 15 "Prescribed" means prescribed by this Act or by regulations made thereunder.
- "Regulations" means regulations made under this Act.
- 20 "Settlement Promotion Board" means the Settlement Promotion Board constituted under Part IX of this Act.
- "Settlement Promotion Fund" means the Settlement Promotion Fund constituted under Part VIII of this Act.
- 25 "Settlement promotion tax" or "tax" means the settlement promotion tax imposed as such by any Act as assessed under the provisions of this Act.
- "State" means the State of New South Wales.
- 30 "Statutory body representing the Crown" means any body defined by or proclaimed under the Local Government Act, 1919, as amended by subsequent Acts, as a statutory body representing the Crown.
- 35 "Taxpayer" means any person chargeable with settlement promotion tax.
- "Trustee," in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, includes—
- 40 (a) an executor or administrator, guardian, committee, receiver, or liquidator; and
- (b)

cf. Act No.
41, 1919,
s. 4.

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(b) every person having or taking upon himself the administration or control of land affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control, or management of the land of a person under any legal or other disability.

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“Unimproved value,” in relation to unimproved land, means the capital sum which the fee simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require:

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Provided that in ascertaining the value of any land for the purposes of this Act the value of all metals or minerals in the land shall be excluded.

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“Unimproved value,” in relation to improved land, means the capital sum which the fee simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require, assuming that, at the time as at which the value is required to be ascertained for the purposes of this Act, the improvements did not exist:

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Provided that the unimproved value shall in no case be less than the sum that would be obtained by deducting the value of improvements from the improved value at the time as at which the value is required to be ascertained for the purposes of this Act:

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Provided further that in ascertaining the value of any land for the purposes of this Act the value of all metals or minerals in the land shall be excluded.

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“Value of improvements,” in relation to land, means the added value which the improvements give to the land at the time as at which the value is required to be ascertained for the purposes of this Act irrespective of the cost of the improvements:

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Provided

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5 Provided that the added value shall in no case exceed the amount that should reasonably be involved in effecting at the time as at which the value is required to be ascertained for the purposes of this Act, improvements of a nature and efficiency equivalent to the existing improvements.

- (2) The penalty, pecuniary or other, set out—
- 10 (a) at the foot of any section of this Act; or
- 15 (b) at the foot of any subsection of any section of this Act, but not at the foot of the section,
- shall indicate that any contravention of the section or of the subsection respectively, whether by act or omission, shall be an offence against this Act, punishable upon summary conviction by a penalty not exceeding the penalty mentioned:

cf. Act No.
48, 1941,
s. 314.

- 20 Provided that where the penalty is expressed to apply to a part only of the section or subsection it shall apply to that part only.
- (3) All pecuniary penalties for any offence against this Act may, unless the contrary intention appears, be recovered in any court of summary jurisdiction.

PART II.

ADMINISTRATION.

- 25 3. (1) There shall be a Commissioner of Settlement Promotion Tax, who shall, subject to the control of the Minister, be responsible for the assessment, levy and collection of settlement promotion tax.

The Commissioner.
cf. Act No.
14, 1941,
s. 3.

- 30 (2) The Governor may from time to time make arrangements with the Governor-General in Council of the Commonwealth for the collection by the Commonwealth, on behalf of the State, of settlement promotion tax.

- 35 (3) Any agreement relating to any such arrangement may make provision for any other matters necessary or convenient to be provided for carrying out the arrangement.

(4)

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(4) Without prejudice to the generality of subsection three of this section any such agreement may make provision—

- 5 (a) for the transfer on loan to the Commonwealth of any officer of the State;
- 10 (b) in relation to the prosecution of offences (being acts or omissions which constitute offences both under the law of the Commonwealth and the law of the State) and the apportionment between the Commonwealth and the State of the amount of any penalty recovered as a result of such prosecution.

(5) Any arrangement or any agreement relating to an arrangement made under this section may be varied
15 or modified by a subsequent arrangement or agreement made under this section.

(6) Every arrangement and agreement and every variation or modification of an arrangement or agreement made under this section shall be valid and effectual
20 for all purposes.

PART III.

SETTLEMENT PROMOTION TAX.

4. (1) Subject to the provisions of this Act, settlement promotion tax shall be levied and paid upon the unimproved value of all lands within the State which are owned by taxpayers and which are not exempt from taxation under this Act.

Settlement promotion tax on unimproved values.
cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 10.

(2) Settlement promotion tax shall be at such rates as may be prescribed by any Act.

30 5. (1) Settlement promotion tax shall be payable by the owner of land upon the taxable value of all land owned by him and not exempt from taxation under this Act.

Taxable value.
cf. *Ibid.* s. 11.

35 (2) The taxable value of all land owned by a person is the balance of the total sum of the unimproved value of each parcel of land after deducting from such total sum the sum of five thousand pounds, and any other deduction granted in pursuance of this Act.

(3)

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(3) For the purposes of this Act—

(a) land which is separately let or leased by the owner to another person; and

5 (b) subject to paragraph (a) of this subsection, all lands owned by one person and contiguous to each other or separated only by fences, roads, public reserves, or watercourses, and used by the owner or another person for the purpose of any one business, or treated by the owner
10 as one area,

shall be deemed to be a separate parcel:

Provided that where any part of a parcel of land is included in the exemptions specified in section six of this Act the balance of such parcel shall be deemed to be a
15 separate parcel.

6. (1) The lands and classes of lands specified in this section are exempted from assessment for settlement promotion tax under this Act, namely,—

Lands exempt from settlement promotion tax.

20 (a) Land within the boundaries of any city, town, or village.

(b) Land within the boundaries of the Sydney Metropolitan Area as defined in Schedule Four of the Local Government Act, 1919, as amended by subsequent Acts.

25 (c) Land within the Western Division of the State.

(d) Land held, used, or occupied in connection with any mine or for mining purposes.

(e) Land held under lease or license or permit from the Crown, other than a lease with a right of purchase or a lease in perpetuity.

30 (f) Land in respect of which an advisory board has issued a certificate that the land is being utilised bona fide for the cultivation of grain crops, sugar cane, fruit, vegetables and tobacco or of lucerne other than for grazing purposes.
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Land shall be regarded as utilised for cultivation which is fallowed for the cultivation of a crop, or farmed or is in the opinion of an advisory board being prepared or used bona fide for the purpose of cultivation.
40

(g)

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- 5 (g) Land owned by the Crown (other than land leased with a right of purchase or as a lease in perpetuity) or any statutory body representing the Crown, or by the council of a municipality or shire, or by any incorporated hospital or separate institution within the meaning of the Public Hospitals Act, 1929, as amended by subsequent Acts, or any university, or affiliated college.
- 10 (h) Land owned by or in trust for any person or society the proceeds whereof are devoted solely to the support of the aged or infirm clergy or ministers of a religious society, or their wives or widows or children, or to religious, charitable, or educational purposes.
- 15 (i) Land owned by or in trust for any person or society and used or occupied as a public garden, public recreation ground, or public reserve.
- 20 (j) Land used or occupied in connection with any railway, tramway, wharf, or jetty.
- 25 (k) Land owned by or in trust for any person or society and used or occupied by that person or society as a site for or in connection with a place of worship for a religious society, or a place of residence for any clergy or ministers or order of a religious society.

(2) Land which under paragraph (f) of subsection one of this section is exempted from tax shall be so exempted only while owned by the person specified in 30 the certificate, and only during such period as the said land is used for the purpose or to the extent respectively specified in the said certificate, and only during the currency of the said certificate.

Certificates of an advisory board may be obtained 35 upon application in or to the effect of the prescribed form, and shall be issued in such manner and form as may be prescribed.

(3) Where an advisory board is satisfied that any certificate issued under this section was issued in error, 40 it may cancel the same, and such cancellation shall take effect

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effect from such past or future date as the advisory board may determine:

Provided that such cancellation shall not affect the owner for past years unless the exemption was obtained through misrepresentation on the part of the owner or his representative.

(4) Where in this section the exemption of land is determined by reference to the owner, the exemption shall be limited to the owner specified in the section and shall not extend to any other person who is the owner of any estate or interest in the land.

cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 14 (a).

7. For the financial year commencing on the first day of July, one thousand nine hundred and forty-three, and for each financial year thereafter tax shall be charged on land as owned at midnight on the thirtieth day of June immediately preceding the financial year for which such tax is payable.

Date of ownership for purposes of settlement promotion tax.

8. (1) In addition to the general deduction provided for in section five of this Act, the Commissioner, upon the recommendation of an advisory board, shall, during each and every financial year for which settlement promotion tax becomes payable, grant a further deduction from the unimproved value in the circumstances and to the extent mentioned hereunder—

Special deductions.

(a) where land comprising a separate holding is being used by the owner thereof bona fide for the purpose of breeding sheep or cattle or both sheep and cattle for sale as stud sheep or stud cattle, as the case may be, a further deduction shall, subject to this section, be allowed—

(i) in the case of a sheep stud which is classified under this section as a primary or foundation stud—of the aggregate of the following sums, namely—

two pounds in respect of each adult stud sheep carried on the separate holding up to a maximum of twenty thousand pounds;

two

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5 two pounds in respect of each of the progeny (not being aged more than eighteen months) of stud sheep where such progeny are retained for stud purposes and carried on the separate holding up to a maximum of thirty thousand pounds;

10 (ii) in the case of a sheep stud which is not classified under this section as a primary or foundation stud—of two pounds in respect of each stud sheep carried on the separate holding up to a maximum of ten thousand pounds;

15 (iii) in the case of a cattle stud—of fifteen pounds in respect of each stud beast carried on the separate holding up to a maximum of six thousand pounds.

20 The deduction under this paragraph may be allowed more than once where an advisory board certifies, upon the prescribed application, that separate and distinct studs are being carried on on more than one separate holding of the owner.

25 In every other case the deduction under this paragraph shall be allowed once only.

30 “Stud sheep” for the purposes of this paragraph means sheep which are stud sheep in the opinion of a committee (in this section hereinafter referred to as the “stud sheep committee”) comprising the chairman of an advisory board, who shall be the chairman of the committee, the Under Secretary, Department of Agriculture, or an officer of the Department of Agriculture nominated by him
35 either generally or for the purpose of any meeting of the committee, and the President of the New South Wales Sheep Breeders’ Association,
or

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or a person nominated by him with the approval of the Minister, either generally or for the purpose of any meeting of the committee.

5 “Stud cattle” for the purposes of this paragraph means cattle which are stud dairy cattle in the opinion of a committee comprising the chairman of an advisory board, who shall be the chairman of the committee, the Under Secretary, Department of Agriculture, or an officer
10 of the Department of Agriculture nominated by him either generally or for the purpose of any meeting of the committee, and the President of the United Pure-Bred Dairy Cattle Breeders’ Association of New South Wales, or a person
15 nominated by him with the approval of the Minister, either generally or for the purpose of any meeting of the committee, or cattle which are stud beef cattle in the opinion of a committee comprising the chairman of an advisory
20 board, who shall be the chairman of the committee, the Under Secretary, Department of Agriculture, or an officer of the Department of Agriculture nominated by him either generally or for the purpose of any meeting of the committee, and the President of the United Stud
25 Beef Cattle Breeders’ Association of Australia, or a person nominated by him with the approval of the Minister, either generally or for the purpose of any meeting of the committee;

30 (h) where land belonging to an owner is the subject of a bona-fide lease containing an option of purchase and is so leased upon terms and conditions approved by an advisory board upon the prescribed application, to a person who in
35 the opinion of such board does not, with the land so leased, hold substantially more than a home maintenance area, a further deduction equal to the unimproved value of the land so leased shall be allowed during the currency of
40 the lease.

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5 The terms and conditions of any such lease shall not be so approved unless the lease is for a period of not less than three years, and the option of purchase is at a price which is, and the terms and conditions applicable with respect to such option are such as are, deemed reasonable;

10 (c) where an advisory board certifies upon the prescribed application that an owner has upon terms and conditions deemed by such board to be reasonable, made bona fide attempts to sell any area of land, or to lease such area with an option of purchase to any person who in the opinion of an advisory board will not together with the area proposed to be sold or leased hold
15 an area of land substantially in excess of a home maintenance area and has failed in such attempts, a further deduction equal to the unimproved value of the area which he has so
20 attempted to sell or lease shall be allowed for the financial year following the said attempts;

25 (d) a further deduction shall, subject to this section, be allowed of one thousand pounds in respect of each employee in the average number of adult male employees which an advisory board certifies has been continuously employed on any separate holding by the owner thereof, up to a maximum of ten thousand pounds.

30 For the purpose of ascertaining such average number the advisory board shall have regard to the number of employees continuously employed on the separate holding during the period of five years immediately preceding the financial year for which the tax is payable:

35 Provided that where the advisory board is satisfied that an owner has been compelled by circumstances arising out of the existence of the present war to curtail the number of adult male

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male employees it shall take into account the number of adult male employees continuously employed by the owner during any period of five years:

5 Provided further that for the purpose of ascertaining such average number, sons and step-sons of the owner employed on any separate holding shall not be taken into account.

10 A reference in this paragraph to an "employee" shall include a reference to a share-farmer using or working the separate holding or any part thereof under a share farming agreement which an advisory board is satisfied is a bona-fide share-farming agreement; and in
15 the application of this paragraph to and in respect of any such share-farmer a reference to any period during which employees have been continuously employed on the separate
20 holding shall be construed as a reference to the period during which share-farmers have continuously used or worked the separate holding or part.

25 A deduction under this paragraph may be made more than once in the case of an owner of more than one separate holding.

(2) (a) The stud sheep committee shall, as soon as practicable after the commencement of this Act, determine what sheep studs are to be classified as primary or foundation studs for the purposes of this section.

30 Any such determination shall be made on application made as prescribed.

(b) The stud sheep committee shall at intervals of not less than three years and not more than five years review their determination and revise the list of studs
35 which are classified as primary or foundation studs for the purposes of this section.

On any such revision the stud sheep committee may remove the name of any sheep stud from the list or may add the name of any sheep stud to the list.

(3)

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(3) Regulations may be made for and in relation to—

- 5 (a) the regulation of meetings of committees constituted under paragraph (a) of subsection one of this section, and the conduct of business at such meetings;
- (b) the fixing of a quorum for meetings of such committees;
- 10 (e) the payment of fees and of travelling and sustenance expenses of members of such committees other than the chairman of an advisory board or the Under Secretary, Department of Agriculture or his nominee.

(4) For the purposes of this section “separate
15 holding” means a separate parcel or a group of separate parcels of land which are worked by the owner as one property.

(5) The Agricultural Lessees Relief Act, 1931, shall not apply to any lease in respect of which a deduction
20 is allowed under paragraph (b) of subsection one of this section.

(6) For the purposes of this section a lease shall not be deemed to be a bona fide lease unless the land comprised therein is held and used by the lessee for his
25 own sole use and benefit and the allowing of stock not owned by the lessee to depasture on the land shall be prima facie evidence that the land is not so held and used.

(7) If after due inquiry an advisory board is satis-
30 fied that any lease entered into under the provisions of this section is not a bona fide lease, it may at any time cancel its approval of the terms and conditions thereof, in which case the deduction allowed in consequence of such approval shall cease to have effect from
35 the commencement of such financial year as the board may determine.

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PART IV.

RETURNS, ASSESSMENT, AND LIABILITY.

Returns.

9. (1) For the purposes of the assessment and levy of
 5 tax for the financial year commencing on the first day of
 July, one thousand nine hundred and forty-three, and
 for each financial year thereafter, every owner of land
 shall, if required by the Commissioner by notice published
 in the Gazette, furnish to the Commissioner in the
 10 prescribed manner within the time specified in the notice
 or such extended time as the Commissioner may allow a
 return setting forth a full and complete statement of all
 land owned by him at midnight on the thirtieth day of
 June then last past, and of the improved value and
 15 unimproved value of every parcel thereof, with such
 other particulars as may be prescribed or as may be
 specified in the notice.

Taxpayer
to furnish
returns.

(2) The Commissioner may, in any notice published
 pursuant to subsection one of this section, exempt from
 20 liability to furnish returns such classes of persons not
 liable to pay tax as he thinks fit, and any person so
 exempted need not furnish a return unless he is required
 by the Commissioner to do so.

(3) Nothing in this section shall be construed as
 25 requiring any person to furnish a return in respect of
 any land or class of land exempted from tax by section
 six of this Act.

10. Any return purporting to be made or signed by
 or on behalf of any person shall be deemed to have been
 30 duly made and signed by him until the contrary is proved.

Returns
deemed to be
duly made.
cf. Land
Tax Assess-
ment Act,
1910-1940
(Common-
wealth), s. 16.

Assessments.

11. (1) For the purposes of this Act, valuations of
 land shall be made from time to time by an advisory
 board.

Valuations
of land.

35 Pending the making of a valuation of land by an
 advisory board the Commissioner may obtain and use as
 valuations or for the purpose of preparing valuations of
 15—B such

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such land any valuations made by or for the Commissioner of Land Tax for the purposes of the Land Tax Assessment Act 1910-1940 of the Parliament of the Commonwealth or any valuation made by the Valuer-General
 5 under the Valuation of Land Act, 1916, as amended by subsequent Acts, or any valuation made for any municipal or shire council for the purposes of the Local Government Act, 1919, as amended by subsequent Acts, or may prepare valuations of any such land from the
 10 returns and valuations required to be supplied under this Act, or from any other information in the possession of the Commissioner or of the Minister:

Provided that while the regulations made under the National Security Act 1939-1940 of the Parliament of the
 15 Commonwealth and intituled the National Security (Values for Land Tax) Regulations or any regulations made under the said Act to amend or replace those regulations remain in force, the Commissioner shall adopt and use for the purposes of this Act the valuations for
 20 the time being adopted and used by the Commissioner of Land Tax for the purposes of the Land Tax Assessment Act 1910-1940 of the Parliament of the Commonwealth.

(2) In preparing valuations for the purposes of
 25 this Act the Commissioner shall utilise the services of an advisory board.

12. (1) From the returns and valuations so made, if any, and from any other information in his possession or in the possession of the Minister, or from any one or
 30 more of such sources, and whether or not any return has been furnished, the Commissioner shall cause assessments to be made for the purpose of ascertaining the amount of settlement promotion tax payable.

Assessments to be made. cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 18.

(2) Assessments of settlement promotion tax
 35 shall be made in respect of each financial year.

cf. *Ibid.* s. 20 (1).

13. If—

- (a) any taxpayer or person makes default in furnishing any return; or
- (b) the Commissioner is not satisfied with the return
 40 made by any taxpayer or person; or

Assessment in case of default or unsatisfactory return. cf. *Ibid.* s. 19.

(c)

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

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

10 14. (1) Subject to the provisions of this section, the Commissioner may, of his own motion or upon an applica-
tion received from a taxpayer, amend any assessment by making such alterations in or additions thereto or such
further alterations in or additions thereto as he thinks
15 necessary in order to ensure its completeness and accuracy.

Amendment
of assess-
ments.

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

20 (a) where an application by a taxpayer under this section is made within three years after the service of notice of the assessment or any amendment thereof and the taxpayer has supplied to the Commissioner within that period
or such further period as the Commissioner
25 may allow all information required for the purpose of deciding the application—at any time;

(b) where the Commissioner is of the opinion that
30 a taxpayer has attempted to avoid the payment of tax by failing to lodge a complete and accurate return—at any time;

(c) in any other case—within three years after the service of notice of the assessment or of any amendment thereof.

35 (3) Where any amendment of an assessment has been made in accordance with this section and a period of more than three years has elapsed since the service of notice of the original assessment any further amendment of the assessment shall, subject to the provisions of this
40 section, be limited to the matter the subject of such prior amendment, notice of which was served within the previous three years.

(4)

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

- 5 (a) the taxpayer shall be liable to pay the difference between any tax which he has paid and the tax which he ought to have paid if the assessment had been originally made as altered or added to; and
- 10 (b) the alteration or addition shall, unless it has been made with the consent of the taxpayer, be subject to objection.

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

- 15 (6) Notwithstanding anything contained in this section, the value adopted and used for the purposes of this Act in relation to any parcel of land in an assessment shall not be increased except to give effect to a decision on an appeal against the assessment.

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

Validity of assessment.
cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 22.

- 16.** (1) The production of any assessment or of any document under the hand of the Commissioner purporting to be a copy of an assessment shall—

Evidence.
Ibid. s. 23.

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

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

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

Notice of assessment.
cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 24.

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

Liability.

18. The owner of any freehold estate less than the fee simple (other than an estate of freehold arising by virtue of a lease for life under a lease or an agreement for a lease) shall be deemed to be the owner of the fee simple to the exclusion of any person entitled in reversion or remainder.

Owner of freehold.
cf. *Ibid.* s. 25.

19. Any person to whom the Crown has lawfully contracted to grant the fee simple in any land under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or under any other Act relating to the alienation of lands of the Crown, and any person who holds land under a lease from the Crown with a right of purchase or under a lease in perpetuity shall be deemed to be the owner of the land in fee simple.

Conditional purchases, etc.
cf. *Ibid.* s. 26.

20. (1) The owner of a leasehold estate in land (in this section hereinafter referred to as the "lessee") under a lease made or agreed to be made after the commencement of this Act, not being a lease made in pursuance of an agreement made before such commencement, shall be deemed (though not to the exclusion of the liability of any other person) to be the owner of the fee simple.

Leases of land after commencement of Act.

30 (2) The owner of the land shall be deemed to be the primary taxpayer and the lessee the secondary taxpayer; and there shall be deducted from the tax payable by the lessee such amount (if any) as is necessary to prevent double taxation.

(3)

Settlement Promotion Tax Management.

(3) This section shall not apply to a lease from the Crown or to a lease from a statutory body representing the Crown.

21. (1) The owner of a freehold estate in land who or
 5 whose predecessor in title has before the commencement
 of this Act entered into an agreement to make or granted
 a lease of the land (not being a lease to which paragraph
 (b) of subsection one of section eight of this Act applies)
 shall, for the purpose of his assessment under this Act,
 10 be entitled, during the currency of the lease, to have the
 unimproved value (if any) of the lease deducted from
 the unimproved value of the land.

Lessors and
 lessees of
 land leased
 before the
 commence-
 ment of this
 Act.
 cf. Land
 Tax
 Assessment
 Act, 1910-
 1940 (Com-
 monwealth),
 s. 28.

(2) The owner of a leasehold estate in land, under
 a lease made or agreed to be made before the commence-
 15 ment of this Act, shall be deemed to be, in respect of the
 land, the owner of land of an unimproved value equal to
 the unimproved value (if any) of his estate; but if he
 has before the commencement of this Act, entered into
 an agreement to make or granted a lease of the land,
 20 he shall be entitled, during the currency of that lease, to
 have the unimproved value (if any) of that lease deducted
 from the unimproved value of his estate.

(3) For the purposes of this section—

- 25 (a) the unimproved value of a lease or leasehold
 estate in land means the present value of the
 annual value of the land calculated for the
 unexpired period of the lease or leasehold estate
 at the rate of four and one-half per centum
 according to calculations based on the prescribed
 30 tables for the calculation of values;
- (b) the annual value of land means four and one-
 half per centum of the unimproved value of the
 land;
- 35 (c) the owner of a leasehold estate includes the
 lessee of land for life under a lease or an
 agreement for a lease.

(4) This section shall not apply to a lease from the Crown or to a lease from a statutory body representing the Crown.

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22. A covenant or stipulation in a lease or agreement for a lease of land which has or purports to have the purpose or effect of imposing on the lessee the obligation of paying taxes on land—

Covenant by lessee to pay tax.

cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 30.

- 5 (a) if the lease or agreement was made before the commencement of this Act, shall not be valid to impose on the lessee the obligation of paying settlement promotion tax to any greater amount than the amount (if any) which would have been payable by the lessee if he had been the owner of the land included in the lease and of no other land; and
- 10

(b) if the lease or agreement is made after such commencement, shall be absolutely void.

- 15 **23.** No deduction from the unimproved value of any land shall be allowed in respect of any mortgage, security, annuity, or other charge to which the land is subject, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to any
- 20 such security, annuity, or other charge or subject to payment of any such unpaid purchase money shall be assessed and liable for settlement promotion tax as if he were the owner of an unencumbered estate.

Mortgagors, etc.

cf. *Ibid.* s. 31.

- 24.** (1) A mortgagee, annuitant or other person owning any estate or interest in land by way of security for money shall not be liable to tax in respect of that mortgage, estate, annuity or interest:

Mortgagees, etc.

cf. *Ibid.* s. 32.

- Provided that a mortgagee in possession of land or any other person in possession of land by way of security
- 30 for money shall, so long as such possession continues (though not to the exclusion of the liability of any other person) be deemed to be the owner of the land; and the mortgagor shall be deemed to be the primary taxpayer, and the mortgagee in possession to be the secondary taxpayer; and there shall be deducted from the tax payable
- 35 by the latter in respect of the land such amount (if any) as is necessary to prevent double taxation:

- Provided further that any such mortgagee or person in possession, shall, if the mortgagor makes default in
- 40 the payment of tax in respect of the land, be responsible for

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for the payment of the tax due by the mortgagor, which payment shall be deemed to be made by him on behalf of the mortgagor.

(2) For the purposes of this section a mortgagee
5 in possession shall include a mortgagee of land who is
using such land or who is in receipt of the rents or profits
from such land, or who is in receipt of the income from
any business carried on on such land or who has
appointed a receiver of the rents, profits or income of
10 such land.

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

Trustees.
cf. Land Tax
Assessment
Act, 1910-
1940 (Com-
monwealth),
s. 33 (1).

Provided that where he is the owner of different lands
15 in severalty, in trust for different persons who are not
for any reason liable to be jointly assessed, the tax so
payable by him shall be separately assessed in respect
of each of those lands:

Provided also that when a trustee is also the beneficial
20 owner of other land, he shall be separately assessed for
that land, and for the land of which he is a trustee, unless
for any reason he is liable to be jointly assessed
independently of this section.

26. Subject to this Act, the owner of any equitable
25 estate or interest in any land shall be assessed and
liable in respect of tax as if he were the legal owner of
the estate or interest; and the owner of the legal estate
shall be deemed to be the primary taxpayer, and the
owner of the equitable estate shall be deemed to be
30 the secondary taxpayer; and there shall be deducted
from the tax payable by the latter in respect of the
land such amount (if any) as is necessary to prevent
double taxation.

Equitable
owner.
cf. *Ibid.*
s. 35.

27. (1) Where a husband and his wife each holds
35 land in severalty or hold land jointly with each other and
both or either of them holds land in severalty the
husband and wife (except where living apart under
a decree for judicial separation made by any court of
competent

Husband
and wife.

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competent jurisdiction) shall for the purposes of this Act be deemed to be joint owners of all the land owned by each of them and to hold the land in such shares or proportions as the Commissioner may determine.

- 5 (2) Subsection one of this section shall not apply to land which was held in severalty by a husband or his wife on the ninth day of March, one thousand nine hundred and forty-three, if, at the time when the ownership of land is required to be ascertained for the
10 purposes of assessment, neither of them owns other land (not being land exempt from taxation under this Act) whether in severalty or jointly with each other or with any other person which was acquired after the said day, the unimproved value of which exceeds four hundred
15 pounds.

28. (1) Where, before or after the commencement of this Act, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not,—

Purchaser and vendor.
cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 37.

- 20 (a) the purchaser shall be deemed to be the owner of the land (though not to the exclusion of the liability of any other person) so soon as he has obtained possession of the land; and
- 25 (b) the vendor shall be deemed to remain the owner of the land (though not to the exclusion of the liability of any other person) until possession of the land has been delivered to the purchaser and at least fifteen per centum of the purchase money has been paid;
- 30 (c) the vendor shall be deemed to be the owner of the land (though not to the exclusion of the liability of any other person) where—
- 35 (i) under the provisions of the agreement for sale he resumes possession of the land without rescinding the agreement or appoints a receiver of the rents and profits of the land; or

(ii)

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- 5 (ii) under the provisions of the agreement for sale or under any arrangement with the purchaser he secures the use of the land, or receives the rents and profits of the land or the income from any business carried on on the land:

Provided that the Commissioner may exempt the vendor from the operation of paragraph (b) of this subsection if he is satisfied that the agreement for sale was
10 made in good faith, and not for the purpose of evading the payment of tax, that the purchaser has obtained possession of the land and still remains in possession thereof, and that the agreement for sale is still in force; as to all which matters the decision of the Commissioner
15 shall be final and conclusive.

(2) In estimating the amount of purchase money which has been paid, all money—

- 20 (a) owing by the purchaser to the vendor, and secured by any mortgage or charge on the land; or
 (b) lent to the purchaser by the vendor; or
 (c) owing by the purchaser to any other person, and directly or indirectly guaranteed by the vendor,

25 shall be deemed to be unpaid purchase money.

(3) When by virtue of this section the purchaser and vendor of any land are both liable for tax in respect thereof, the purchaser shall be deemed to be the primary taxpayer and the vendor to be the secondary taxpayer;
30 and there shall be deducted from the tax payable by the vendor in respect of the land such amount (if any) as is necessary to prevent double taxation:

Provided that where by operation of paragraph (c) of subsection one of this section the vendor is deemed to
35 be the owner of the land, the vendor shall, if the purchaser makes default in payment of tax in respect of the land, be responsible for the payment of the tax due by the purchaser, which payment shall be deemed to be made by the vendor on behalf of the purchaser.

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29. (1) Joint owners of land shall be assessed and liable for tax in accordance with the provisions of this section.

Joint
owners.
cf. Land Tax
Assessment
Act, 1910-
1940 (Com-
monwealth),
s. 38.

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

(3) Each joint owner of land shall in addition
15 be separately assessed and liable in respect of—

- (a) his individual interest in the land (as if he
were the owner of a part of the land in pro-
portion to his interest), together with—
- 20 (b) any other land owned by him in severalty;
and
- (c) his individual interests in any other land.

(4) The joint owners in respect of their joint
assessment shall be deemed to be the primary taxpayer,
and each joint owner in respect of his separate assess-
25 ment to be a secondary taxpayer; and from the
tax payable in respect of his interest in the land by each
joint owner under subsection three of this section there
shall be deducted such amount (if any) as is necessary
to prevent double taxation.

30 **30.** Where separate parcels of land are owned by
different persons, and such parcels are occupied, con-
trolled, or used by such persons in partnership, such
persons shall, for the purposes of this Act, be deemed
to be joint owners of such parcels, and to hold such
35 parcels in such shares or proportions as the Commis-
sioner may determine.

Separate
parcels
used for
partnership
purposes.

31. (1) Where on the ninth day of March, one
thousand nine hundred and forty-three, land was owned
by a family partnership and was occupied, controlled or
40 used for the purposes of the family partnership, and, at

Family
partner-
ships.

the

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the time when the ownership of land is required to be ascertained for the purposes of assessment, the land of the family partnership comprises some or all of the land held on the said day and no other land, and there has
5 been no change in the members or in the interests of the members of the family partnership, then, for the purposes of the assessment as joint owners of the members of the family partnership, there shall be deducted from the unimproved value of the land, or the
10 land retained, as the case may be, instead of the sum of five thousand pounds as provided in subsection two of section five of this Act, the aggregate of the following sums, namely:—

15 In respect of each member of the family partnership—

- (a) the sum of five thousand pounds; or
- (b) an amount which bears the same proportion to the unimproved value of the land, or the land retained, as the case may be, as the
20 share or interest of that member bears to the total of the shares or interests of all the members of the family partnership,

whichever is the less.

(2) Where on the ninth day of March, one
25 thousand nine hundred and forty-three, land occupied controlled or used for the purposes of a family partnership is owned as to separate parcels by the members of the family partnership in severalty, and, at the time when the ownership of land is required to be
30 determined for the purposes of assessment the members of the family partnership comprise some or all of the persons who were members on the said day and no other persons, and the land occupied, controlled or used for the purposes of the family partnership comprises some or all
35 of the parcels which were so occupied, controlled or used on the said day and no other land, and no member of the family partnership owns the whole or part of any parcel which, on the said day, was owned by any other member of the family partnership, then, for the purposes of the
40 assessment as joint owners of the members of the family partnership,

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partnership, there shall be deducted from the unimproved value of the land, or of the land retained, as the case may be, instead of the sum of five thousand pounds as provided in subsection two of section five of this Act, the
5 aggregate of the following sums, namely:—

In respect of each member of the family partnership, or of each continuing member, as the case may be—

- (a) the sum of five thousand pounds; or
- 10 (b) the unimproved value of the parcel or parcels of land owned by that member in severalty,
whichever is the less.

(3) Where land in respect of which the members
15 of a family partnership are to be assessed as joint owners includes land to which both subsection one and subsection two of this section apply, the maximum deduction to be allowed by the combined operation of both those subsections in respect of any one member of the family partnership shall be five thousand pounds.
20

(4) This section shall not apply in any case where any member of the family partnership owns any land (not being land exempt from taxation under this Act) other than the land of the family partnership or the land
25 occupied controlled or used for the purposes of the family partnership, as the case may be, the unimproved value of which exceeds four hundred pounds.

(5) In this section—

“family partnership” means a partnership the
30 members of which are—

- (a) a parent or parents together with any of their children; or
- (b) brothers or sisters or brothers and sisters
35 either alone or together with the legal personal representative or the trustee of the will of a deceased brother;

“parent” means father, mother, step-father or step-mother;

“children” includes step-children.

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32. (1) All land owned by a company and which is not exempted from taxation under this Act shall be deemed (though not to the exclusion of the liability of the company or of any other persons) to be owned by the shareholders of the company as joint owners in the proportions of their interests in the paid-up capital of the company.

Land owned by companies. cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 39.

(2) The provisions of section twenty-nine of this Act shall apply accordingly (but so that the assessment and liability of the company shall be in lieu of the joint assessment and liability under subsection two of that section), and the shareholders shall be separately assessed and liable, and entitled to deductions in accordance with that section.

(3) The term "shareholder" in this section includes all persons on whose behalf a share in the company is held by a trustee or by any other person.

(4) Notwithstanding anything contained in this Act, any person whose individual interest in the unimproved value of land owned by any one company of which he is a shareholder did not amount to more than five hundred pounds shall not be separately assessed and liable, and shall not be entitled to deductions in respect of that interest.

33. (1) Any two or more companies which consist substantially of the same shareholders may, if the Commissioner thinks fit, be deemed to be a single company, and shall be jointly assessed and liable accordingly, with such rights of contribution or indemnity between themselves as is just.

Companies having substantially the same shareholders. cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 40.

(2) Two companies may be so deemed to consist substantially of the same shareholders if —

(a) shares representing not less than three-fourths of the paid-up capital of each of those companies are held by or on behalf of shareholders of the other; or

(b) shares representing not less than three-fourths of the paid-up capital of one of those companies are held by or on behalf of the other;

or

(c)

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(c) shares representing not less than three-fourths of the paid-up capital of one of those companies are held by or on behalf of the other (in this paragraph referred to as the holding company) together with shareholders of the holding company; and shares in the holding company are held by or on behalf of shareholders of the other company representing a proportion of the paid-up capital of the holding company not less than the difference between three-fourths and the proportion represented by the holding company's shares in the paid-up capital of the other company.

(3) The term "shareholder" in this section includes all persons on whose behalf a share in the company is held by a trustee or by any other person.

34. Any person who is entitled to receive the income of a business carried on on land by some other person in whom the legal estate in such land is vested shall be deemed (though not to the exclusion of the liability of any other person) to be the owner of the land; and the owner of the legal estate shall be deemed to be the primary taxpayer, and such first-mentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the tax payable by the latter in respect of the land such amount (if any) as is necessary to prevent double taxation.

Person entitled to income of business.

35. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the commencement of this Act, the person making the same shall, so long as he remains or is in possession or in receipt of the rents and profits of the land, whether on his own account or on account of any other person, be deemed (though not to the exclusion of the liability of any other person) to be the owner of the land.

No disposition to be effective while possession retained. cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 42.

36. (1) Where land is occupied, controlled, or used by a person who is not the owner and there is no lease or agreement for a lease for a definite term in respect of the occupancy, control, or user of the land, the person occupying,

Occupation, control, or use of land. cf. *Ibid.* s. 42A.

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occupying, controlling, or using the land shall be deemed (though not to the exclusion of the liability of any other person) to be the owner of the land:

5 Provided that the Commissioner may exempt the person occupying, controlling, or using the land from the provisions of this section, if he is satisfied that the arrangement is of a temporary nature, as to which matter the decision of the Commissioner shall be final and conclusive.

10 (2) The owner of the land shall be deemed to be the primary taxpayer and the person so occupying, controlling, or using such land to be the secondary taxpayer; and from the tax payable by the latter there shall be deducted such amount (if any) as is necessary to
15 prevent double taxation.

37. Where under this Act—

- (a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and
- 20 (b) it is provided that there shall be deducted from the tax payable by the secondary taxpayer, in respect of the land or interest, such amount (if any) as is necessary to prevent double taxation,

Deductions to prevent double taxation. cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 43.

the amount of the deduction (if any) shall be the lesser of the following amounts:—

- 25 (a) the amount of tax payable in respect of the land or interest by the secondary taxpayer; or
- (b) the aggregate of the amounts of tax (if any) payable in respect of the land or interest by the primary taxpayer and by any precedent
30 secondary taxpayer:

Provided that the secondary taxpayer shall be assessed and liable in respect of the land or interest, notwithstanding that the primary taxpayer is exempt from taxation in respect of the land or interest, or that there is no
35 primary taxpayer in respect of the land or interest.

38. Where in this Act reference is made to the tax payable by a person in respect of any land or interest, the reference is to so much of the whole tax payable by him as bears to the whole tax payable by him the proportion which the unimproved value of the land or interest
40 referred

Meaning of tax payable in respect of certain land. cf. *Ibid.* s. 43A.

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referred to bears to the unimproved value of all the land (including any interest in land) owned by him.

PART V.

OBJECTIONS AND APPEALS.

- 5 **39.** (1) Any taxpayer who is dissatisfied with an Appeal.
assessment made by the Commissioner under this Act
or with any alteration in or addition to any assessment
may, within thirty days after service by post of the notice
of assessment or of the alteration in or addition to an
10 assessment, or within such further time as the Commis-
sioner may allow, post to or lodge with the Commissioner
an objection in writing against the assessment, alteration,
or addition, stating fully and in detail the grounds on
which he relies.
- 15 (2) The Commissioner shall consider the objec-
tion, and may either disallow it or allow it, either wholly
or in part.
- (3) The Commissioner shall give to the objector
written notice of his decision on the objection.
- 20 (4) A taxpayer who is dissatisfied with the
decision of the Commissioner may, within thirty days
after the service by post of notice of that decision, or
within such further time as the Commissioner may allow,
in writing request the Commissioner to treat his objec-
25 tion as an appeal, and to forward it to the Land and
Valuation Court, and the Commissioner shall forthwith
forward the same accordingly.
- (5) Any person who is dissatisfied with any
determination as to the value of his land or as to the
30 value of any estate or interest therein may appeal there-
from to the Land and Valuation Court by giving notice
in or to the effect of the prescribed form and in the
manner and within the time prescribed.
- (6) The fact that an appeal is pending shall not
35 in the meantime interfere with the assessment appealed
from, and the tax may be levied and recovered on the
assessment as if no appeal were pending.

cf. Land Tax
Assessment
Act, 1910-
1940 (Com-
monwealth),
s. 45.

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(7) If the assessment is altered on appeal a due adjustment shall be made, for which purpose any amount paid in excess shall be refunded and any amount short paid shall be recoverable as arrears.

5 (8) The costs of appeal shall be in the discretion of the court.

(9) On the hearing of the appeal the court may make such order as it thinks fit, and may sustain or alter any determination of the value of any land, or sustain, 10 reduce, or increase the assessment of the Commissioner.

(10) Notwithstanding anything in the foregoing provisions of this section no right of objection or appeal shall exist on the ground that the value adopted and used in respect of any land or any estate or interest 15 therein is excessive if that value is the value adopted and used in accordance with the proviso to subsection one of section eleven of this Act.

40. On the hearing of any appeal under this Part the Land and Valuation Court may, if it thinks fit, state a 20 case in writing for the opinion of the Supreme Court upon any question arising in the appeal which, in the opinion of the Land and Valuation Court, is a question of law. Land and Valuation Court may state case.

The Supreme Court shall hear and determine the question and remit the case with its opinion to the Land and Valuation Court, and may make such order as to costs as it thinks fit. 25

41. (1) The Judge of the Land and Valuation Court may make rules of court for regulating the 30 practice and procedure in relation to appeals under this Part. Rules of court.

(2) All such rules shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from 35 a later date specified in the rules;
- (c) be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of 40 the next session.

(3)

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(3) If either House of Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after the rules have been laid before that House, disallowing any rule or part thereof, that rule or part shall thereupon cease to have effect.

PART VI.

COLLECTION AND RECOVERY OF TAX.

42. (1) Tax for each year shall be due and payable thirty days after service by post of the notice of assessment.

Date of payment of tax.
cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 49 (1) (2).

(2) Where an assessment is amended in accordance with this Act and a liability to pay additional tax is thereby imposed upon the taxpayer, the additional tax shall be due and payable thirty days after the service by post of the notice of the amendment of the assessment.

43. If the tax or the additional tax payable on an amended assessment is not paid before the expiration of the time allowed in section forty-two of this Act, additional tax by way of penalty shall be payable at the rate of ten per centum per annum of the amount unpaid:

Additional tax in case of default.
cf. *Ibid.* s. 50.

Provided that the Commissioner may in any particular case, for reasons which in his discretion he thinks sufficient, extend the time for payment of the tax or the additional tax or remit the penalty tax or any part of such penalty tax.

44. (1) Any tax assessed under this Act shall be deemed, when it becomes due or is payable, to be a debt due to His Majesty, and payable to the Commissioner in the manner and at the place prescribed.

Recovery of tax.
cf. *Ibid.* s. 51.

(2) Any such tax unpaid including any additional tax or any tax by way of penalty may be sued for and recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

45. If in any proceedings against a taxpayer for the recovery of settlement promotion tax the defendant—

Substituted service.
cf. *Ibid.* s. 52.

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

(b)

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(b) cannot after reasonable inquiry be found, service of any process in the proceedings may, without leave of the court, be effected on him by posting the same or an office copy thereof in a letter addressed to him at his last known place of business or abode in the State, or by fixing the same on a conspicuous part of the land to which the tax relates.

46. The following provisions shall apply in any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full and complete returns:—

Provision when tax not paid during lifetime.

cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 53.

(a) The Commissioner shall have the same powers and remedies against the executors and administrators of the taxpayer in respect of the estate of the taxpayer as he would have had against the taxpayer in his lifetime.

(b) The executors and administrators shall make such returns as the Commissioner requires for the purpose of a full assessment.

(c) The assessment shall be at the rates payable in respect of the financial years for which the tax ought to have been paid, and the amount payable shall be a first charge on all the taxpayer's estate in the hands of the executors and administrators.

(d) No lapse of time shall prevent the operation of this section, and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the tax as in the case of ordinary assessments and taxation.

47. No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of settlement promotion tax.

Statutes of Limitations.

cf. *Ibid.* s. 54.

48. Where a taxpayer makes a default in the payment of settlement promotion tax then, without in any way releasing him from his liability, the following provisions shall apply as long as the default continues:—

Remedy against other persons where taxpayer makes default.

cf. *Ibid.* s. 55.

(a) If the tax is payable in respect of land subject to any lease or occupied by any person, then the

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the lessee or occupier shall be responsible for the payment of the tax, and it may be recovered from him as if he were the defaulting taxpayer.

- 5 (b) All payments made under this section by a lessee or occupier shall be deemed to be made on behalf of the defaulting taxpayer:

Provided that the responsibility of the lessee or occupier under this section shall only be to the extent of any rent or payments due by him to the taxpayer
10 at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

49. Settlement promotion tax shall until payment be a first charge upon the land taxed in priority over all
15 other encumbrances whatever, and notwithstanding any disposition of the land it shall continue to be liable in the hands of any purchaser or holder for the payment of the tax so long as it remains unpaid:

Tax to be first charge on land.
cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 56 (1).

- Provided that no such charge shall be of effect as
20 against a bona fide purchaser for value who, at the time of purchase, made due inquiry but had no notice of the liability:

- Provided further that a purchaser shall be deemed to have made due inquiry who has made inquiry in the
25 prescribed manner at the office of the Commissioner.

50. Every person who, under any provision of this Act, pays any tax for or on behalf of any other person, shall be entitled to recover the same from that other person as a debt, together with the costs of recovery, or
30 to retain or deduct same out of any money in his hands belonging or payable to that other person.

Recovery of tax paid on behalf of another person.
cf. *Ibid.* s. 57.

51. Where two or more persons are jointly liable to tax, they shall each be liable for the whole tax on the land, but any of them who has paid the tax may recover
35 contributions as follows:—

Contribution from taxpayers jointly liable.
cf. *Ibid.* s. 58.

- (a) A person who has paid the tax in respect of any land may recover by way of contribution from any other owner thereof a sum which bears

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bears the same proportion to the tax as the value of the estate of such other person bears to the whole value of the land.

- 5 (b) Every person entitled to contribution in respect of tax under this section may sue therefor in any court of competent jurisdiction as money paid to the use of the person liable to contribute at his request; or may retain or deduct the amount of the contribution out of any moneys in his hands belonging or payable to the person liable to contribute.
- 10

PART VII.

MISCELLANEOUS.

- 15 **52.** (1) Every company which is a taxpayer shall at all times be represented by a person residing in the State duly appointed by the company or by its duly authorised agent or attorney, and with respect to every such company and person the following provisions shall apply:—

Public officer of company. cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 61.

- 20 (a) The person so appointed shall for the purposes of this Act be called the public officer of the company.
- 25 (b) The company shall keep the office of public officer constantly filled, and no appointment of a public officer shall be deemed to be duly made until after notice thereof in writing, specifying the name of the officer and address for service, has been given to the Commissioner.
- 30 (c) If the company fails or neglects to duly appoint a public officer when and as often as such appointment becomes necessary, it shall be guilty of an offence.

Penalty: Fifty pounds for every day during which the failure or neglect continues.

(d)

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- (d) Service of any document at the address for service or on the public officer of a company shall be sufficient service upon the company for all the purposes of this Act or the regulations, and if at any time there is no public officer, then service upon any person acting or appearing to act in the business of the company shall be sufficient.
- (e) The public officer shall be answerable for the doing of all such things as are required to be done by the company or a taxpayer under this Act or the regulations, and in case of default shall be liable to the same penalties.
- (f) Everything done by the public officer which he is required to do in his representative capacity shall be deemed to have been done by the company.

(2) The absence or non-appointment of a public officer shall not exonerate the company from the necessity of complying with any of the provisions of this Act or the regulations, or from the penalties consequent on the failure to comply therewith, but the company shall be liable to the provisions of this Act as if there were no requirement to appoint a public officer.

53. With respect to every agent, and with respect also to every trustee, the following provisions shall apply:—

- (a) He shall be answerable as taxpayer for the doing of all such things as are required to be done by virtue of this Act in respect of the land controlled or held by him in his representative capacity and the payment of tax thereon.
- (b) He shall in respect of such land make the returns and be assessed thereon, but in his representative capacity only, and each return and assessment shall, except as otherwise provided by this Act, be separate and distinct from any other.

Agents and trustees.

cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 62.

(c)

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- (c) If he is an executor or administrator, the returns shall be the same as far as practicable as the deceased person, if living, would have been liable to make.
- 5 (d) Where as agent or trustee he pays tax, he is hereby authorised to recover the amount so paid from the person on whose behalf he paid it, or to deduct it from any money in his hands belonging to that person.
- 10 (e) He is hereby authorised and required to refrain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the tax which is or will become due in respect of the land.
- 15 (f) He is hereby made personally liable for the tax payable in respect of the land if, while the tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is controlled or held by him in his representative capacity, but he shall not be otherwise personally
- 20 liable for the tax.
- (g) If he is a trustee he may raise whatever moneys are necessary in order to pay any tax by mortgage or charge with or without power of
- 25 sale of any real or personal property held by him as such trustee, and may apply the money so raised or any other moneys in his possession as such trustee in paying the tax.
- (h) He is hereby indemnified for all payments which
- 30 he makes in pursuance of this Act, or by requirement of the Commissioner.
- (i) For the purpose of ensuring the payment of tax, the Commissioner shall have the same remedies against all land or other property of any kind
- 35 vested in or under the control or management or in the possession of any agent or trustee, as he would have against the land or other property of any other taxpayer in respect of tax, and in as full and ample a manner.

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54. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the commencement of this Act, shall (except as provided by section twenty-two of this Act) so far as it has 5 or purports to have the purpose or effect of in any way directly or indirectly—

Contracts to evade tax void. cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 63.

- (a) altering the incidence of any tax; or
- (b) relieving any person from liability to pay any tax or to make any return; or
- 10 (c) defeating, evading, or avoiding any duty or liability imposed on any person by this Act; or
- (d) preventing the operation of this Act in any respect,

be absolutely void, but without prejudice to its validity 15 in any other respect or for any other purpose.

55. The Commissioner or any officer authorised by him in that behalf and an advisory board or officer authorised by an advisory board in that behalf shall at all times have full and free access to all lands, buildings, 20 places, books, documents, and papers, and to all registers of deeds or documents of title, for the purpose of valuing or inspecting any land, or of ascertaining the ownership of any land, and for any of those purposes may make extracts from or copies of any such books, documents, 25 or papers.

Access to lands, buildings, etc. cf. Ibid. s. 64.

Any officer acting in pursuance of this power shall if and when required by the Commissioner make an oath or declaration in the manner and form prescribed not to communicate except in the performance of any duty as 30 an officer any information acquired by him in the performance of his duties under this section.

56. (1) The Commissioner may, by notice in writing, require any person, whether a taxpayer or not, to furnish him with such information concerning any land or assess- 35 ment as he requires or to attend and give evidence before him, or before any officer authorised by him in that behalf concerning any land or assessment, and to produce all books, documents, and other papers whatever in his custody or under his control relating thereto.

Power to obtain evidence. cf. Ibid. s. 65.

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(2) The Commissioner may require the evidence to be given on oath, and either verbally or in writing, and for such purpose he, or the officer so authorised by him, may administer an oath.

5 (3) Where an advisory board is conducting any inquiry for any of the purposes of this Act, the procedure shall be similar to that followed by, and the board and the chairman thereof shall have like powers in respect of the summoning and examination of witnesses, the issue
10 of bench warrants, and committal as are possessed by a local land board and the chairman thereof respectively under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

(4) The regulations may prescribe scales of
15 expenses to be allowed to persons required under this section to attend before the Commissioner or to witnesses summoned by or appearing before an advisory board or the chairman thereof.

57. Any person who obstructs or hinders any officer
20 acting in the discharge of his duty under this Act or the regulations shall be guilty of an offence.

Penalty: Fifty pounds.

Obstructing
officers.
cf. Land Tax
Assessment
Act, 1910-1940
(Common-
wealth), s. 67.

58. (1) Any person who—

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

(b) without just cause shown by him refuses or neglects to duly attend and give evidence when
30 required by the Commissioner, or any officer duly authorised by him, or to truly and fully answer any questions put to him, or to produce any book or papers required of him by the Commissioner or any such officer; or

(c) makes or delivers a return or gives any infor-
35 mation which is false in any particular or makes any false answer, whether verbally or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

40 Penalty: One hundred pounds.

Offences.
cf. *Ibid.*
s. 68.

(2)

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(2) A prosecution in respect of an offence against paragraph (a) or paragraph (c) of subsection one of this section may be commenced at any time.

(3) Any person who, after conviction for an offence against this section, continues to fail to comply with the requirements of this Act or of the regulations or of the Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence.

Penalty: Five hundred pounds and treble the amount of any tax, payment whereof he has evaded or attempted to evade.

(4) It shall be a sufficient defence to a prosecution for an offence against paragraph (c) of subsection one of this section if the defendant proves that the false return, information or answer was made or given in good faith.

59. (1) Notwithstanding anything contained in section fifty-eight of this Act, any person who—

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

(b) fails to include in any return any land owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional tax at the rate of ten per centum per annum upon the amount of tax assessable to him (such percentage to be calculated for the period commencing on the last day allowed for furnishing the return or information and ending on the day upon which the return or information is furnished or the day upon which the assessment is made, whichever first happens), or the sum of one pound, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional tax the amount of one pound or double the amount of the difference between the tax properly payable and the tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition

Failure to furnish returns.

cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 68A.

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addition to any additional tax by way of penalty which may become payable by him in accordance with section forty-three of this Act:

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

(2) If the Commissioner considers that the circumstances of any case warrant action being taken to recover the penalty provided by section fifty-eight or section sixty of this Act, such action may be taken by the Commissioner, and in that case the additional tax payable under this section shall not be charged.

60. (1) Any person who, with intent to defraud, in any return understates the unimproved value of any land, shall be guilty of an indictable offence.

Penalty: Five hundred pounds, and an amount equal to treble the amount of the tax which would have been evaded if the value stated in the return had been accepted as the unimproved value of the land.

Under-
statement
of value of
land.

cf. Land Tax
Assessment
Act, 1910-
1940 (Com-
monwealth).
s. 69.

(2) Where the value stated in the return is less, by twenty-five per centum or more, than the value as found by the jury, the value shall be presumed in the absence of evidence to the contrary to have been understated with intent to defraud.

61. Any person who, by any wilful act, default, or neglect, or by any fraud, art, or contrivance whatever, evades or attempts to evade assessment or taxation, shall be guilty of an indictable offence.

Evading
taxation.
cf. *Ibid.*
s. 70.

Penalty: Five hundred pounds and treble the amount of the tax payment whereof he has evaded or attempted to evade.

62. (1) For the protection of the revenue against the undervaluation of land, if the Commissioner is of opinion that the owner of any land has, in a return furnished under this Act, understated the unimproved value of the land, to the extent of twenty-five per centum or more, the following provisions shall apply:—

Power to
acquire land
where
valuation is
understated.
cf. *Ibid.*
s. 48.

(a) The Commissioner may apply to the Land and Valuation Court for a declaration that His Majesty is entitled to acquire the land under this

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this Act, and the owner of the land shall be entitled to be heard.

(b) The decision of the Land and Valuation Court shall be final and without appeal.

5 (c) If the Court—

(i) is satisfied that the owner has understated the unimproved value of the land to the extent of twenty-five per centum or more; and

10 (ii) is satisfied that the understatement of value was made with a view to evading taxation,

it shall make the declaration applied for, and shall also determine the fair value of the improvements on the land.

15

(d) Thereupon the Governor may acquire the land on behalf of His Majesty; and for that purpose may, within a reasonable time, by proclamation, declare that the land is vested in His Majesty, but subject to all leases, mortgages, and other charges affecting the land.

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(e) The effect of the proclamation shall be to vest the land in His Majesty for the same estate or interest therein as the owner was entitled to at the date of the publication of the proclamation in the Gazette, but subject to all leases, mortgages, and other charges then affecting the land, and to entitle the owner to compensation therefor upon the basis of the improved value obtained by adding the fair value of the improvements on the land as determined by the Court to the unimproved value stated in the return, together with the amount of ten per centum upon that improved value, by way of an allowance for compulsory dispossession.

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(2) The compensation shall be payable out of the Settlement Promotion Fund.

(3) Land acquired under this section shall upon discharge of any mortgage or other charge affecting the same be deemed to be Crown lands reserved from sale or lease

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lease until set apart for disposal under any Act relating to the alienation of lands of the Crown.

(4) Any moneys received from the disposal of the land shall be carried to the Settlement Promotion Fund.

63. Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any tax for which he would otherwise be liable.

Penalties not to relieve from tax.
cf. Land Tax Assessment Act, 1910-1940 (Commonwealth), s. 72.

64. Whoever aids, abets, counsels, or procures, or by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence under this Act, shall be deemed to have committed that offence, and shall be punishable accordingly.

Aiding or abetting offences.
cf. *Ibid.* s. 73.

65. Where any act which by this Act is declared to be an offence and which is committed by a body corporate is proved to have been committed with the consent or approval of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly.

Offence by body corporate.
cf. Act No. 58, 1935, s. 106 (2).

PART VIII.

SETTLEMENT PROMOTION FUND.

66. (1) There shall be opened within the Colonial Treasurer's accounts a special fund under this Act which shall be called the Settlement Promotion Fund.

Settlement Promotion Fund.

(2) The Settlement Promotion Fund is in this Part hereinafter referred to as the fund.

(3) The fund shall be under the control of the Settlement Promotion Board.

67. There shall be paid into the Settlement Promotion Fund—

Payments into the fund.

(a) all moneys received or recovered by the Commissioner in respect of tax assessed under the provisions of this Act;

(b)

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- (b) all moneys received by the Commissioner as additional tax by way of penalty under this Act;
- (c) all moneys recovered in respect of penalties for offences against this Act;
- 5 (d) all moneys received from the disposal of land acquired under the provisions of section sixty-two of this Act;
- (e) all moneys received as payment of principal or interest, or rent or otherwise in respect of lands
- 10 (f) all moneys received as repayment of principal or as interest in respect of advances made under section seventy-three of this Act;
- 15 (g) any moneys directed by Parliament to be paid into the fund;
- (h) repayment of fire insurance premiums paid out of the fund;
- (i) all moneys received as compensation for damage or destruction by fire of improvements on land
- 20 (j) all moneys received by way of deposit or in payment of costs in connection with an application for an advance under section seventy-three of this Act.
- 25

68. (1) No money shall be paid out of the fund except under the authority of this Act. Payments out of the fund.

30 (2) There may be paid out of the fund—

- (a) any moneys which the Commissioner is lawfully empowered under the provisions of this Act to refund to a taxpayer;
- 35 (b) any moneys which the Settlement Promotion Board is lawfully empowered to refund to an applicant under section seventy-three of this Act;
- (c) any moneys payable as compensation for land acquired under section sixty-two of this Act;

(d)

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- 5 (d) fire insurance premiums in respect of buildings erected on land acquired, or in course of acquisition under the Closer Settlement Acts or the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or otherwise for disposal under those Acts where the cost of acquisition has been met out of the fund and whether or not such lands have been or are so disposed of.
- 10 The premiums paid in respect of buildings erected on lands disposed of as Settlement Purchases or otherwise by way of sale shall be repaid by the owners of the lands and if not so repaid may be recovered from them as a Crown debt in any court of competent jurisdiction;
- 15 (e) any moneys payable in accordance with subsection three of this section;
- (f) any moneys appropriated pursuant to section sixty-nine of this Act;
- 20 (g) such contributions to the Consolidated Revenue Fund as the Colonial Treasurer may from time to time direct; but in no case shall the total amount of the contributions directed to be paid under this paragraph in respect of any financial year exceed such sum as will reimburse the State for interest and sinking fund and other charges payable by the State in respect of that financial year on any loan moneys paid into the fund pursuant to any direction of Parliament.
- 25
- 30 (3) (a) A sum equivalent to thirty per centum of the net amount of the moneys received or recovered in each financial year by the Commissioner in respect of tax shall be paid to the Rural Bank of New South Wales.
- 35 Such net amount shall be ascertained by deducting from the moneys so received or recovered in the financial year any moneys refunded to taxpayers in that financial year, and the costs of administration of this Act and any other costs, charges and expenses properly chargeable against the tax collected or received in that
- 40 financial year.

(b)

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(b) Payments in respect of the sum referred to in paragraph (a) of this subsection may be made from time to time during the financial year in which the tax is so collected or received, and the payment or final payment, as the case may be, in respect of any financial year shall be made not later than the thirtieth day of September next following the termination of such financial year.

(c) The sums paid to the Rural Bank of New South Wales pursuant to this subsection shall be used and applied by that Bank for the purposes referred to in section seventy-four of this Act and for no other purposes.

69. (1) Subject to appropriation by Parliament, there may be paid out of the fund—

Appropriations out of the fund.

- 15 (a) the costs of administration of this Act;
- (b) the cost of the acquisition of land for closer settlement under the Closer Settlement Acts or the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts;
- 20 (c) the cost of subdivision, maintenance, improvement and disposal (including re-disposal) of such land under the said Acts, and the cost of all works in connection therewith and other expenses incidental thereto;
- 25 (d) any advances made under section seventy-three of this Act.

(2) The provisions of section forty-six of the Constitution Act, 1902, as amended by subsequent Acts, shall apply to and in respect of the appropriation of any part of the fund in like manner as it applies to and in respect of the appropriation of any part of the Consolidated Revenue Fund.

70. (1) The Settlement Promotion Board shall cause proper books of account to be kept in relation to the fund and shall as soon as practicable after the thirtieth day of June in each year submit to the Auditor-General statements of account and balance sheets setting forth a true statement of the financial position and transactions of the fund for the financial year ending on that date.

Accounts and audit.

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Such

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Such statements of account and balance sheets shall be in a form approved by the Auditor-General.

(2) The Auditor-General shall examine and audit the said statements of account and balance sheets and if found to be correct he shall so certify and sign the said statements of account and balance sheets.

After such examination and audit the Settlement Promotion Board shall forthwith transmit the said statements of account and balance sheets to the Minister for presentation to Parliament.

(3) The books of account shall be audited by the Auditor-General and the Auditor-General shall, in respect of such audit, have all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts.

(4) The Audit Act, 1902, and Acts amending the same shall apply to and in respect of the Settlement Promotion Board and its officers in the same manner as it applies to and in respect of accounting officers of public departments.

(5) Towards defraying the costs and expenses of the audit the Settlement Promotion Board shall pay to the Consolidated Revenue Fund the amount involved as certified by the Auditor-General at such periods as the Minister may determine.

PART IX.

FINANCIAL ASSISTANCE AND ADVANCES.

71. In this Part, unless the context or subject matter otherwise indicates or requires,—

30 “Bank” means the Rural Bank of New South Wales.

“Board” means the Settlement Promotion Board.

72. (1) For the purposes of this Part there shall be constituted a Settlement Promotion Board which shall consist of four members.

The

Constitution
of the
Settlement
Promotion
Board.

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The Under Secretary for Lands shall be a member of the Board and shall be the chairman thereof.

The three remaining members of the Board shall be appointed by the Governor.

5 Of the members so appointed—

(a) one shall be the Under Secretary to the Treasury or an officer of the Public Service nominated by him for such appointment;

10 (b) two shall be persons each of whom shall be an appointed member of an advisory board.

(2) In case of the absence or illness of any member of the Board the Governor may appoint a deputy, who, during such absence or illness, shall have and may exercise and discharge all the powers, authorities, duties and functions of the member in whose place he is acting.

(3) The chairman of the Board or his deputy shall preside at each meeting of the Board.

(4) Any three members of the Board of whom one shall be the chairman or his deputy, shall form a quorum for the purpose of transacting business of the Board; and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have all the powers and authorities by this Act conferred upon the Board.

(5) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done taken or commenced there was a vacancy in the office of any one member.

(6) The procedure for the calling of meetings of the Board and the conduct of business at such meetings and the times at which such meetings shall be held shall, subject to any regulations in relation thereto, be as determined by the Board.

(7) If at any meeting of the Board the voting on any question is equal the chairman or his deputy shall have a casting vote in addition to his deliberative vote as a member of the Board.

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(8) The Board shall be a body corporate under the name of the "Settlement Promotion Board," and under that name shall have perpetual succession and a common seal, and may sue and be sued in such corporate
 5 name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

10 **73.** (1) Subject to this section the Board may, upon application made as prescribed, at its discretion make an advance to a purchaser of land under a contract entered into after the commencement of this Act for the purpose of enabling the purchaser to complete the contract. Advances
for purpose
of com-
pleting
purchase of
land.

15 Provided that the Board shall give preference to discharged members of the forces as defined in the War Service Land Settlement Act, 1941.

(2) The amount of any advance under this section shall not exceed the smaller of the following amounts:—

- 20 (a) the amount of four thousand pounds; or
 (b) an amount equivalent to eighty per centum of the fair market value of the land as determined by the Board, which value shall, in the case of land other than freehold, be calculated on a free-
 25 hold basis:

Provided that where the land is other than freehold the amount of any advance which, but for this proviso, would be authorised under paragraph (a) or paragraph (b) of this subsection shall be reduced by any sums due
 30 to the Crown for balance of purchase money or, where the land is held under a lease from the Crown, a sum equivalent to the capital value of the land.

(3) An advance shall not be approved by the Board under this section unless it is satisfied that—

- 35 (a) the contract entered into by the purchaser is a bona fide one;
 (b) the land being purchased constitutes not less than a home maintenance area;

(c)

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- (c) the purchaser or his or her spouse is not the owner of any other lands (other than lands within a city, town or village);
- 5 (d) the purchaser possesses the necessary experience and fitness to engage in farming or pastoral pursuits;
- (e) the land being purchased forms part of a property in the Eastern or Central Division of the State which was, at the commencement of this Act, capable of subdivision into not less than three home maintenance areas;
- 10 (f) the purchaser has paid or is able to pay to the vendor the amount of the difference between the advance proposed to be made by the Board and the amount payable to the vendor for the land.
- 15

(4) No advance approved by the Board under this section shall be made unless and until evidence to the satisfaction of the Board has been produced by the purchaser that he has paid to the vendor the amount referred to in paragraph (f) of subsection three of this section.

Any money—

- (a) owing by the purchaser to the vendor and secured by any mortgage or charge on the land;
 - or
 - 25 (b) lent to the purchaser by the vendor; or
 - (c) owing by the purchaser to any other person and directly or indirectly guaranteed by the vendor,
- shall for the purposes of this subsection be deemed not to have been paid to the vendor.

30 (5) Any advance made under this section shall bear interest at the rate of two and one-half per centum per annum and shall be secured by a first mortgage over the land purchased, which mortgage shall contain such covenants, conditions and provisions as the Board may

35 determine.

(6) Where an advance has been made under this section in respect of any land, the provisions of section two hundred and seventy-two of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall

thereafter

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thereafter apply mutatis mutandis to such land in all respects as if such land were comprised in a grant made in respect of an original conditional purchase applied for after the commencement of the Crown Lands Consolidation Act, 1913, and shall so apply not only during the
5 currency of the mortgage to the Board but also after the same has been discharged.

(7) The Board may require any person to attend and give evidence before it in relation to an application
10 under this section and may require the evidence to be given on oath, and either verbally or in writing, and for such purpose the chairman of the Board may administer an oath.

(8) An applicant for an advance under this
15 section shall pay all costs incurred in dealing with his application, and shall lodge with the application a deposit of ten pounds towards such costs.

If the deposit exceeds the costs the excess shall be refunded, but if the costs exceed the deposit the difference shall be paid by the applicant on demand.
20

(9) The date from and after which advances may be made under this section shall be appointed by the Governor and notified by proclamation published in the Gazette.

25 No such advance shall be made before the date so appointed and notified.

74. (1) All moneys paid to the Bank pursuant to subsection three of section sixty-eight of this Act shall be credited by the Bank to a special account to be kept by it. Advances for improvements, etc.

30 (2) Moneys at credit in such special account shall be used by the Bank for the purposes referred to in this section and for no other purposes.

(3) Subject to this section the Bank may at its discretion make advances out of such special account to
35 any landholder—

(a) to effect any improvements deemed by the Bank to be necessary for the successful occupation and development of the land held by him; or

(b)

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(b) for the purchase of any stock, plant, implements or other things deemed by the Bank to be necessary for the successful occupation and development of the land held by him.

5 Provided that the Bank shall give preference to discharged members of the forces as defined in the War Service Land Settlement Act, 1941.

In this subsection the expression "improvements" is not limited by the definition of that expression in section
10 two of this Act.

(4) The Bank may, out of such special account, pay all moneys which are necessary by way of fees, insurance premiums, rates and taxes or otherwise, for or in relation to the completion, preservation, protection,
15 improvement or realisation of any security taken by it or the obtaining of repayment of moneys owing to it, in respect of any such advance.

(5) Any advance or advances made by the Bank under this section shall not exceed five hundred pounds
20 in the case of any one landholder and shall bear interest at the rate of two and one-half per centum per annum, and shall be made upon such securities, and subject to such covenants, conditions and provisions as the Bank may determine.

25 (6) (a) No advance shall be made by the Bank under this section to a person who holds land which, in the opinion of the Board, substantially exceeds a home maintenance area.

(b) Unless with the concurrence of the Board
30 no advance shall be made by the Bank under this section to—

- (i) the holder of land in respect of which an advance has been made by the Board under section seventy-three of this Act within the preceding period of five years; or
- 35 (ii) the holder of any holding (being the whole or part of land acquired for closer settlement under the Closer Settlement Acts or the Crown Lands Consolidation

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5 Consolidation Act, 1913, as amended by subsequent Acts, the costs of acquisition and disposal of which were met out of the Settlement Promotion Fund) where the title to such holding commenced within the preceding period of five years.

(7) All moneys received by the Bank as repayment of principal or as interest or otherwise howsoever in respect of advances made by it under this section shall
10 be paid to the credit of the special account referred to in subsection one of this section.

(8) The management and administration of the special account referred to in subsection one of this section shall be vested in the Bank; and in the manage-
15 ment and administration of such special account and in the exercise and discharge of its powers, authorities, duties and functions under this section the Bank may do all such acts and things, not inconsistent with this section, as it may deem necessary or desirable.

20 (9) For the purposes of this section the expression "landholder" shall include the holder of a lease having an unexpired term of not less than five years, but shall not include a share-farmer.

(10) An applicant for an advance under this section shall pay all costs incurred in dealing with his
25 application.

(11) The date from and after which advances may be made under this section shall be appointed by the Governor and notified by proclamation published in the
30 Gazette.

No such advance shall be made before the date so appointed and notified.

35 **75.** The Board, in respect of its operations under section seventy-three of this Act, shall furnish a report to the Minister annually for presentation to Parliament. Annual reports.

The Bank shall, in its annual report to the Governor, include a report in respect of its operations under section seventy-four of this Act for the year to which the report
40 relates.

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PART X.

GENERAL.

76. (1) The Commissioner shall furnish to the Minister annually for presentation to Parliament a report on the working of this Act, other than Parts VIII and IX. Report by Commissioner.
cf. Act No. 48, 1941, s. 7.

(2) In the report the Commissioner shall draw attention to any breaches or evasions of this Act which have come under his notice.

10 77. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act. Regulations.

15 (2) For the purpose of enabling the Commissioner to carry out effectively the powers, authorities, duties, and functions conferred upon him by this Act, the regulations may adopt all or any of the provisions of the Income Tax Management Act, 1941, or of the regulations made thereunder with such modifications and alterations as the Governor may deem fit.

(3) The regulations shall—

- (a) be published in the Gazette;
- 25 (b) take effect from the date of such publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within 30 fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before 35 such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(4) The regulations may impose penalties not exceeding fifty pounds for any breach thereof.

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