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.*

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 27 April, 1971.

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

J. R. STEVENSON,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 29 April, 1971.

New South Wales

ANNO VICESIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1971.

An Act to make provision relating to the imposition assessment and collection of an aggregation tax in respect of certain lands; and for purposes connected therewith.

BE it enacted by the Queen'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 "Land Aggregation Tax Management Act, 1971". Short title and commencement.

NOTE.—The words to be *omitted* are *ruled through.*

(2) Subject to subsections three and four of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Part and Part II of this Act and the amendment made by section seventy-eight of this Act and specified in Part I of the Schedule to this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(4) The amendments made by section seventy-eight of this Act and specified in Part II of the Schedule to this Act shall commence upon the day upon which section two of the Crown Lands and Other Acts (Amendment) Act, 1970, commences.

2. This Act is divided as follows :— Division of Act.

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—ADMINISTRATION—*ss.* 4–7.

PART III.—AGGREGATION TAX—*ss.* 8–10

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DIVISION 1.—*Unimproved Value of Land—s.* 54.

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PART

PART VIII.—MISCELLANEOUS—*ss.* 62–73.

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SCHEDULE.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Definitions. (cf. Act No. 26, 1956, s. 3.)

"Act" includes regulations;

"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 owned by the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land;

"aggregation tax" means aggregation tax calculated at the rates fixed by the Land Aggregation Tax Act, 1971, as assessed under this Act;

"appointed day" means the day appointed under subsection two of section one of this Act;

"Commissioner" means the Commissioner of Land Aggregation Tax;

"company" includes all bodies or associations corporate or unincorporate;

"de-restricted title land" means land in respect of which a certificate—

(a) has been issued under the provisions of subparagraph (iii) of paragraph (k) of subsection one of section 129B or subsection (6A) of section two hundred and seventy-two of the Crown Lands Consolidation Act, 1913, or subsection four of section thirty-one of the Closer Settlement Act, 1904, or subsection five of section ten of the Returned

Soldiers

Soldiers Settlement Act, 1916, as in force after the commencement of section two of the Crown Lands and Other Acts (Amendment) Act, 1970; and

(b) has, in accordance with any such provision, been recorded in the Register kept under the Real Property Act, 1900,

but does not include any such land so long as it continues to be owned by the person who was the owner thereof immediately before the issue of the certificate;

"joint owners" means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have a life or greater interest in shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners;

"land used for primary production" means, in relation to the use of any land during a taxing year, land used during that year primarily for any one or more of the following activities :—

(a) the cultivation thereof for the purpose of selling the produce of such cultivation;

(b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or

(c) the keeping of bees thereon for the purpose of selling their honey,

and includes land that is ordinarily used for any of the activities referred to in paragraph (a), (b) or (c) of this definition and that has lain fallow during the whole or any part of that year, and all land owned by a society registered as a rural society under the Co-operation Act, 1923;

"mortgage"

"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;

"owned" 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—

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

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

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

"public authority" means any public body declared by the Governor by order published in the Gazette to be a public authority for the purposes of this Act;

"regulations" means regulations made under this Act;

"taxing year" means a period of twelve months commencing on the appointed day or on any anniversary of the appointed day;

"taxpayer" means a person who has been assessed or is liable to be assessed for aggregation tax in accordance with this Act;

"trustee"

"trustee" includes, 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—

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(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.

(2) A reference in this Act to land in respect of which aggregation tax is payable is a reference to land which is taken into account for the purpose of assessing aggregation tax that is payable.

(3) For the purposes of this Act where joint owners are the owners of land as joint tenants each of them shall be deemed to own an interest in the land as if he were a tenant in common with the other joint owners in equal shares.

PART II.

ADMINISTRATION.

Commissioner and other officers.

4. (1) The Governor may, under and subject to the Public Service Act, 1902, appoint a Commissioner of Land Aggregation Tax who may sue and be sued by that name and who shall be responsible for the due administration of this Act. (cf. Act No. 26, 1956, s. 4.)

(2) Where the Governor, by proclamation published in the Gazette, specifies an office in the Public Service for the purposes of this subsection, the person holding or acting in that office shall, in the event of the absence, incapacity or suspension of the Commissioner, exercise and perform all

of

of the powers, authorities, duties and functions of the Commissioner under this Act and when so doing shall be deemed to be the Commissioner.

(3) The Governor may, under and subject to the Public Service Act, 1902, appoint and employ such other persons as may be deemed necessary for the carrying out of this Act.

(4) For the purposes of this Act the Minister may, with the approval of the Minister of the department concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

Notification of appointment. (cf. Act No. 26, 1956, s. 5.)

5. (1) A notification in the Gazette, purporting to be made by the Minister, that any person has been appointed as Commissioner or that any other person has been appointed for the purpose of carrying out this Act, shall be prima facie evidence of such appointment.

(2) A notification in the Gazette purporting to be made by the Minister and stating that a person specified in the notification was at a time or during a period so specified a person holding or acting in an office specified in a proclamation made under subsection two of section four of this Act shall be prima facie evidence of the matters stated therein.

Delegation by Commissioner. (cf. Act No. 7, 1913, s. 17A.)

6. (1) Subject to this section the Commissioner may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Commissioner by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Commissioner who made the delegation holds office at the time of that exercise or performance.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the prescribed powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Commissioner or in his own name on behalf of the Commissioner, the power, authority, duty or function shall be deemed to have been exercised or performed by the Commissioner, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

(5) Notwithstanding any delegation made under this section the Commissioner may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(6) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Secrecy. (cf. Act No. 26, 1956, s. 6.)

7. (1) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not, either directly or indirectly, except in the performance of any power, authority, duty or function under this Act, and either while he is, or after he ceases to be so appointed or employed, make a record of, or divulge or communicate to any person, any information acquired by him in respect of the affairs of any other person disclosed or obtained under the provisions of this Act.

Penalty : Five hundred dollars or imprisonment for twelve months.

(2) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not be required to produce in any court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his powers, authorities, duties or functions under this Act, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act.

(3) Any person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall, if and when required by the Commissioner to do so, make an oath or declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

(4) Notwithstanding anything contained in this section the Commissioner may divulge or communicate any information which comes to his knowledge in the performance of his powers, authorities, duties or functions under this Act to the Commissioner of Land Tax or to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth, and the divulging or communicating of the information shall not be a contravention of this section.

PART III.

AGGREGATION TAX.

Assessment of aggregation tax.

8. (1) Subject to the provisions of this Act, aggregation tax, at such rates as may be fixed by any Act, shall be assessed in respect of any taxing year on any person who at midnight on the day upon which that year ends owns any land used for primary production during that year (excluding land that is not to be taken into account for the purpose of assessing such tax) where that land—

(a) is situated in New South Wales;

(b) comprises wholly or in part de-restricted title land; and

(c) the assessable value of that land exceeds the prescribed amount,

and the tax shall be so assessed on—

(d) the assessable value of the de-restricted title land so owned by him; or

(e) such part of the assessable value of the de-restricted title land so owned by him as is equal to the amount by which the assessable value, or the aggregate of the assessable values, of the land so owned by him exceeds the prescribed amount,

whichever is the less.

(2)

(2) In subsection one of this section, "the prescribed amount" means—

(a) in the case where the land owned as referred to in that subsection is owned by a trustee who is required to be assessed for aggregation tax in accordance with the provisions of section twenty-three of this Act and that trustee holds that land as a trustee for equitable owners of that land—an amount equal to the product of the amount fixed by or under paragraph (b) of this subsection multiplied by the number of those equitable owners; or

(b) in any other case, where an amount—

(i) has not been prescribed for the purposes of this paragraph—the amount of one hundred ~~and fifty~~ thousand dollars; or

(ii) has been so prescribed—the amount so prescribed.

(3) A reference in subsection one of this section to the assessable value of land—

(a) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he became the owner on or after the prescribed day is—

(i) where, when that person first so became the owner of the land, he first so became the owner as the sole owner of the land and since the day on which he so became the sole owner has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the day on which he first so became the sole owner of the land;

(ii) where, when that person first so became the owner of the land, he first so became the owner as a joint owner of the land and since the day on which he first so became a joint owner he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was when he first so became a joint owner of the land—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he first so became a joint owner of the land the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) when that person first so became the owner of the land, he first so became the owner as a sole owner, since the day on which he first so became the sole owner he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) when that person first so became the owner of the land, he first so became the owner as a joint owner, since the day on which he first so became a joint owner he has continued to be either a joint owner or the sole

owner

owner and is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was when he first so became a joint owner of the land,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned on the day on which he first so became the owner of the land, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land;

(b) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he was immediately before the prescribed day the sole owner or a joint owner is—

(i) where that person was the sole owner of the land immediately before the prescribed day and on and since that day has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the prescribed day;

(ii) where that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was immediately before the prescribed day—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the prescribed day the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) that person was the sole owner of the land immediately before the prescribed day, on and since that day he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or the sole owner and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was immediately before the prescribed day,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned immediately before the prescribed day, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a

joint

joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land; or

(c) owned by joint owners who are jointly assessable for aggregation tax under subsection two of section twenty-six of this Act is a reference to the sum of the assessable values upon which each of the joint owners would, if none of them was a company, be assessed under paragraph (a) or (b) of this subsection, for aggregation tax.

(4) In subsection three of this section—

"sole owner" means an owner who is not a joint owner;

"the prescribed day", in relation to an owner of de-restricted title land, means the day on which he became the owner of that land or, where he is the owner of more than one parcel of de-restricted title land, the day on which he became the owner of the parcel of de-restricted title land that he first acquired.

(5) The amount on which aggregation tax is required to be assessed on any person under subsection one of this section is for the purposes of this Act the taxable value attributable to that person.

Lands not assessable for aggregation tax. (cf. Act No. 26, 1956, s. 10.)

9. Except where otherwise expressly provided in this Act the following lands used for primary production shall not be taken into account for the purpose of assessing aggregation tax in respect of any taxing year : —

(a) lands owned by the Crown or any public authority;

(b) lands owned by or in trust for a charitable or educational institution if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;

(c) lands owned by or in trust for a religious society, where those lands are held solely for, or the proceeds of those lands are devoted solely to, religious, charitable or educational purposes, including the support of aged or infirm clergy or ministers of the society, or their wives or widows or children; and

(d) lands owned by any person and used during the taxing year—

(i) for the purpose of cultivation of commercial timber; or

(ii) for any special purpose that may be prescribed for the purposes of this subparagraph.

Limitation of operation of section 9. (cf. Act No. 26, 1956, s. 11.)

10. With respect to land which under section nine of this Act is not to be taken into account for the purpose of assessing aggregation tax the provisions of that section shall be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land.

PART

PART IV.

RETURNS, ASSESSMENT AND LIABILITY.

Taxpayer to furnish returns. (cf. Act No. 26, 1956, s. 12.)

11. (1) For the purposes of the assessment and levy of aggregation tax in respect of any taxing year, every person who at midnight on the day on which that taxing year ends is the owner of any de-restricted title land and is required by the Commissioner by notice published in the Gazette to furnish a return shall furnish to the Commissioner in the 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 that day, with such other particulars as may be prescribed or as may be specified in the notice.

(2) The Commissioner may at any time require any person to furnish a return or a further and fuller return setting forth a full and complete statement of all or any land owned by him, or in respect of which he is agent or trustee, at midnight on the day on which any taxing year ends, with such other particulars as the Commissioner requires, and whether or not any return has previously been made by that person in respect of that land, or in respect of which he is agent or trustee, on that day.

(3) All the provisions of this Act shall extend and apply to any return made or required in accordance with subsection two of this section and the Commissioner may cause assessments to be made upon or in respect of that return in such manner as is necessary.

Returns deemed to be duly made. (cf. Act No. 26, 1956, s. 13.)

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

Assessments to be made. (cf. Act No. 26, 1956, s. 14.)

13. The Commissioner shall from the returns and from any other information in his possession or from one or both of those sources, and whether any return has been furnished or not, cause an assessment of aggregation tax to be made on each person liable to be assessed in accordance with the provisions of this Act.

14.

14. If—

Assessment in case of default or unsatisfactory return. (cf. Act No. 26, 1956, s. 15.)

(a) any person makes default in furnishing any return;

(b) the Commissioner is not satisfied with the return made by any person; or

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

the Commissioner may make an assessment of any aggregation tax for which that person is liable to be assessed in accordance with the provisions of section eight of this Act.

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

Amendment of assessments. (cf. Act No. 26, 1956, s. 16.)

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

(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 may allow all information required for the purpose of deciding the application —at any time;

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

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

(3)

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

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

(a) an additional amount shall be assessed against the taxpayer equal to the difference between any aggregation tax which he has paid and the aggregation tax which he ought to have paid if the assessment had been originally made as altered or added to; and

(b) the alteration or addition shall, 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 aggregation tax overpaid.

16. 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. Act No. 26, 1956, s. 17.)

17. (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. (cf. Act No. 26, 1956, s. 18.)

(a) be conclusive evidence of the due making of the assessment; and

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

(2)

(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.

Notice of assessment. (cf. Act No. 26, 1956, s. 19.)

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

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

Owner of freehold. (cf. Act No. 26, 1956, s. 20.)

19. 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, for the purposes of this Act, be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder.

Conditional purchases, etc. (cf. Act No. 26, 1956, s. 21.)

20. Any person to whom the Crown has contracted to grant the fee-simple in any land under the Crown Lands Consolidation Act, 1913, or under any other Act relating to the alienation or disposal of lands of the Crown, and any person who under any such Act holds land under a lease from the Crown in perpetuity, shall, for the purposes of this Act, be deemed to be the owner of the land in fee-simple.

Mortgages. (cf. Act No. 26, 1956, s. 22.)

21. No deduction from the assessable value of any land shall be allowed in respect of any mortgage, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to payment of any unpaid purchase money shall be assessed for aggregation tax as if he were the owner of an unencumbered estate.

22. (1) A mortgagee or other person owning any estate or interest in land by way of security for money shall not be liable to be assessed for aggregation tax in respect of that mortgage, estate or interest : Mortgagees. (cf. Act No. 26, 1956, s. 23.)

Provided that a mortgagee in possession of land or any other person in possession of land by way of security 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 or other person in possession to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the secondary taxpayer in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation :

Provided further that the foregoing proviso shall not apply—

(a) to any mortgagee or person in possession whose possession began before the appointed day during the period commencing on the appointed day and ending on the day preceding the third anniversary of the appointed day; or

(b) to any mortgagee or person in possession whose possession began on or after the appointed day during the period commencing on the day on which he entered into possession and ending three years later,

but any such mortgagee or person in possession shall, if the mortgagor makes default in the payment of aggregation tax payable in respect of the land during or after the appropriate period referred to in paragraph (a) or (b) of this proviso, be responsible for the payment of the aggregation 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 in possession of land shall include a mortgagee who is in receipt of the rents or profits of such land, or who is in receipt of the

the income from any business carried on on such land, or who has appointed a receiver of the rents or profits of such land.

Trustees. (cf. Act No. 26, 1956, s. 24.)

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

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

Provided also that when a trustee is also the beneficial owner of other land, he shall be separately assessed for aggregation tax 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.

Equitable owner. (cf. Act No. 26, 1956, s. 25.)

24. Subject to this Act, the owner of any equitable estate or interest in any land shall be assessed in respect of aggregation 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 the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

Purchaser and vendor. (cf. Act No. 26, 1956, s. 26.)

25. (1) Where, before or after the appointed day, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

(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;

(b)

(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; and

(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—

(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) 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 made in good faith, and not for the purpose of evading the payment of aggregation 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 shall be final and conclusive.

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

(a) owing by the purchaser to the vendor, and secured by any mortgage on the land;

(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 be deemed to be unpaid purchase money.

(3)

(3) When by virtue of this section the purchaser and vendor of any land are both liable for aggregation tax in respect thereof, the purchaser shall be deemed to be the primary taxpayer and the vendor to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the vendor in respect of such part of the land as is de-restricted title 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 be the owner of the land, the vendor shall, if the purchaser makes default in payment of aggregation tax in respect of the land, be responsible for the payment of the aggregation tax due by the purchaser, which payment shall be deemed to be made by the vendor on behalf of the purchaser.

26. (1) Joint owners, any of whom is a company, of land shall be assessed for aggregation tax in accordance with the provisions of this section. Joint owners. (cf. Act No. 26, 1956, s. 27.)

(2) Joint owners (except those of them whose interests are, under section nine of this Act, not to be taken into account for the purpose of assessing aggregation tax) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner which is, under that section, not to be taken into account) as if it were owned by a single person, without regard to their respective interests therein or to 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.

In this subsection "deductions to which any of them may be entitled under this Act" shall be all the deductions to which any of them may be so entitled in respect of any land or any interest in land included in the joint assessment.

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

(a) his or its individual interest in the land (as if he or it were the owner of a part of the land in proportion to his or its interest) ; together with

(b)

(b) any other land used for primary production during the taxing year owned by him or it in severalty; and

(c) his or its individual interests in any other land used for primary production during the taxing year.

(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 or its separate assessment to be a secondary taxpayer; and from the aggregation tax assessable in respect of his or its interest in such part of the land as is de-restricted title land against each joint owner under subsection three of this section there shall be deducted such amount (if any) as is necessary to prevent double taxation.

(5) The provisions of this section have effect notwithstanding any other provision of this Act.

Separate parcels used for partnership purposes. (cf. Act No. 26, 1956, s. 28.)

27. Where separate parcels of land used for primary production are owned by different persons any of whom is a company, and such parcels are occupied, controlled, or used by a partnership whereof all such persons are members either by themselves or together with other persons, such persons shall, for the purposes and notwithstanding any other provision of this Act, be deemed to be joint owners of such parcels, and to hold such parcels and the de-restricted title land comprised in such parcels in such shares or proportions as the Commissioner may determine.

Husband and wife deemed to be single person.

28. A married man and his wife shall, for the purposes of this Act, be deemed to be one person, shall be assessed accordingly as a sole owner, and shall be jointly liable to pay the aggregation tax assessed with such rights of contribution or indemnity between themselves as is just :

Provided that the foregoing provisions of this section do not apply where the married man and his wife are living apart under an order for judicial separation made by a court of competent jurisdiction.

29. (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. Act No. 26, 1956, s. 29.)

(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;

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

30. 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 Person entitled to income of business. (cf. Act No. 26, 1956, s. 30.)

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be deemed to be the primary taxpayer, and such firstmentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

No disposition to be effective while possession retained. (cf. Act No. 26, 1956, s. 31.)

31. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the appointed day, 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), for the purposes of this Act, to be the owner of the land.

Occupation, control, or use of land. (cf. Act No. 26, 1956, s. 32.)

32. (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, 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 :

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.

(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 aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land there shall be deducted such amount (if any) as is necessary to prevent double taxation.

33.

33. Where under this Act— Deductions to prevent double taxation. (cf. Act No. 26, 1956, s. 33.)

(a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and

(b) it is provided that there shall be deducted from the aggregation tax assessable against the secondary taxpayer, in respect of any de-restricted title land or any interest in de-restricted title land, such amount (if any) as is necessary to prevent double taxation,

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

(i) the amount of aggregation tax assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the secondary taxpayer; or

(ii) the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the primary taxpayer aggregated with the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against a precedent secondary taxpayer (if any) :

Provided that the secondary taxpayer shall be assessed in respect of that de-restricted title land or that interest in de-restricted title land, notwithstanding that the land or interest is not, under section nine of this Act, to be taken into account for the purpose of assessing aggregation tax against the primary taxpayer, or that there is no primary taxpayer in respect of the land or interest.

34. Where in this Act reference is made to the aggregation tax assessable against a person in respect of any de-restricted title land or any interest in de-restricted title land, the reference is to so much of the whole aggregation tax assessable against him as bears to the whole aggregation tax assessable against him the proportion which the assessable value of the de-restricted Meaning of aggregation tax assessable in respect of certain land. (cf. Act No. 26, 1956, s. 34.)

de-restricted title land or interest referred to bears to the assessable value of all the de-restricted title land used for primary production (including any interest in de-restricted title land used for primary production) owned by him.

PART V.

OBJECTIONS AND APPEALS.

Appeal. (cf. Act No. 26, 1956, s. 35.)

35. (1) Any taxpayer who is dissatisfied with an assessment made by the Commissioner under this Act or with any alteration in or addition to any such assessment may, within thirty days after service of the notice of assessment or of the alteration in or addition to an assessment, or within such further time as the Commissioner 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.

(2) No objection shall be made to the Commissioner under this Act in respect of so much of any assessment as relates to the valuation of land shown therein if such valuation is the unimproved value of such land under this Act.

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

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

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after service of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

36. (1) The fact that an appeal in accordance with section thirty-five of this Act is pending shall not in the meantime interfere with or affect the assessment appealed from, and the aggregation tax may be levied and recovered on the assessment as if no appeal were pending. Pending appeal not to affect assessment. (cf. Act No. 26, 1956, s. 36.)

(2) If the assessment is altered on appeal a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

37. (1) An appeal to the Supreme Court under section thirty-five of this Act shall be heard by a single judge of that Court. Appeals to Supreme Court. (cf. Act No. 26, 1956, s. 37.)

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

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

(4) On the hearing of the appeal, the Court may make such order as it thinks fit, and may reduce, increase or vary the assessment.

(5) An order of the Court shall be final and conclusive on all parties except as provided in this section.

(6) The costs of the appeal shall be in the discretion of the Court.

(7) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the Court of Appeal upon any question which in the opinion of the Court is a question of law.

(8) The Court of Appeal shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(9) The Commissioner or a taxpayer may appeal to the Court of Appeal from any order made under subsection four of this section.

Power to make rules of court. (cf. Act No. 26, 1956, s. 38.)

38. (1) The judges of the Supreme Court or any five of them may make rules of court regulating the practice and procedure in relation to appeals to a single judge of the Supreme Court under this Part of this Act, and the Judges of Appeal or any three of them may make rules of court regulating the practice and procedure in relation to cases stated to the Court of Appeal under this Part of this Act.

(2) The provisions of section forty-one of the Interpretation Act, 1897, shall apply to and in respect of any such rules in the same way as they apply to regulations.

PART VI.

Collection and Recovery of Aggregation Tax.

Date of payment of aggregation tax. (cf. Act No. 26, 1956, s. 39.)

39. (1) Aggregation tax for each year shall be due and payable by the taxpayer on whom notice of assessment of the aggregation tax is served thirty days after service of that notice on him.

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

Additional aggregation tax in case of default. (cf. Act No. 26, 1956, s. 40.)

40. If the aggregation tax or the additional aggregation tax payable on an amended assessment is not paid before the expiration of the time allowed in section thirty-nine of this Act or such further time as is allowed by the Commissioner

Commissioner under section forty-one of this Act additional aggregation tax equal to ten per centum of the amount unpaid shall be payable by way of penalty.

Extension of time for payment and payment by instalments. (cf. Act No. 26, 1956, s. 41.)

41. The Commissioner may, in such cases as he thinks fit—

(a) extend the time for payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise;

(b) permit the payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise, to be made by such instalments and within such time as he considers the circumstances warrant; or

(c) remit the whole or any part of the additional aggregation tax imposed under section forty of this Act.

Recovery of aggregation tax. (cf. Act No. 26, 1956, s. 42.)

42. (1) Any aggregation tax shall be deemed, when it becomes due or is payable, to be a debt due to Her Majesty, and shall be collected and received by the Commissioner on account of and shall be paid into the Special Deposits Account in the Treasury, called the Closer Settlement and Public Reserves Fund, established under the Closer Settlement and Public Reserves Fund Act, 1970, from which shall be paid any amounts, paid as aggregation tax, that are refundable or repayable under this Act.

(2) Any aggregation tax unpaid may be recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Substituted service. (cf. Act No. 26, 1956, s. 43.)

43. If in any proceedings against a taxpayer for the recovery of aggregation tax the defendant—

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

(b) cannot after reasonable inquiry be found,

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service of any process in the proceedings may, without leave of the court, be effected on him by posting it or an office copy of it in a letter addressed to him at his last known place of business or abode in Australia, or by fixing it on a conspicuous part of the land in respect of which the aggregation tax is payable.

Provision when aggregation tax not paid during lifetime.

44. 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 :—

(cf. Act No. 26, 1956, s. 44.)

(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 years for which the aggregation tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be such amount not exceeding treble the amount of the difference between the aggregation tax so assessed and the amount actually paid by the taxpayer as the Commissioner may determine, and 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 amount payable as in the case of ordinary assessments and taxation.

45.

45. No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of aggregation tax. Statutes of limitations. (cf. Act No. 26, 1956, s. 45.)

46. (1) Where a taxpayer makes a default in the payment of aggregation 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. Act No. 26, 1956, s. 46.)

(a) If the aggregation tax is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the aggregation tax, and it may be recovered from him as if he were the defaulting taxpayer.

(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 at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

(2) Any payment to the Commissioner under this section shall be a valid discharge to the lessee or occupier for such rent or payments due by the lessee or occupier to the taxpayer as against all other persons whomsoever.

47. (1) Aggregation tax shall until payment be a first charge upon the de-restricted title land in respect of which the tax is payable in priority over all other encumbrances whatever, and where that land comprises two or more parcels the aggregation tax payable in respect of the land shall be a first charge on each and every such parcel and notwithstanding any disposition of the land or any part thereof the land or Aggregation tax to be first charge on land. (cf. Act No. 26, 1956, s. 47.)

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part shall continue to be liable in the hands of any purchaser or holder for the payment of the aggregation tax so long as it remains unpaid :

Provided that no such charge shall be of effect as 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 prescribed manner at the office of the Commissioner.

The Commissioner shall on application of the purchaser of any land and on payment of the prescribed fee issue a certificate showing whether or not there is any aggregation tax charged on the land described in the application.

The regulations may provide that the prescribed fee shall be paid by affixing to the application a duty stamp of an amount equal to the amount of the prescribed fee.

(2) The Commissioner may release the land in respect of which aggregation tax is payable or any part thereof from the charge thereon pursuant to subsection one of this section on payment of an amount he estimates to be not less than the proportion of tax referable to the land or part.

(3) The provisions of this section shall have effect notwithstanding anything contained in section thirty-four or any other provision of this Act.

48. Every person who, under any provision of this Act, pays any aggregation tax for or on behalf of any other person, shall be entitled to recover the amount thereof from that other person as a debt, together with the costs of recovery, or to retain or deduct the amount thereof out of any money in his hands belonging or payable to that other person. Recovery of aggregation tax paid on behalf of another person. (cf. Act No. 26, 1956, s. 48.)

Contribution from tax-payers jointly liable.

(cf. Act No. 26, 1956, s. 49.)

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

(a) A person who has paid the aggregation tax in respect of any land may recover by way of contribution from any other person jointly liable with him a sum which bears the same proportion to the aggregation tax as the assessable value of the estate of such other person bears to the whole of the assessable value of the land.

(b) Every person entitled to contribution in respect of aggregation 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.

Remission of aggregation tax in cases of hardship.

(cf. Act No. 26, 1956, s. 50.)

50. (1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Auditor-General and the Under Secretary of the Treasury that—

(a) a person liable to pay aggregation tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of aggregation tax will entail serious hardship; or

(b) owing to the death of a person who, if he had lived, would have been liable to pay aggregation tax, the dependants of that person are in such circumstances that the exaction of the full amount of aggregation tax will entail serious hardship,

the Board may waive the payment of the aggregation tax either wholly or in part.

(2)

(2) The Commissioner shall make such alterations in the amount of aggregation tax payable and shall make such refund of aggregation tax already paid as is necessary to give effect to the decision of the Board.

(3) A member of the Board may by writing under his hand appoint a person to act in his place at any meetings of the Board at which he is unable to be present, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

Writing off aggregation tax. (cf. Act No. 26, 1956, s. 51.)

51. (1) In any case where it is shown to the satisfaction of the Board referred to in section fifty of this Act, that every reasonable effort has been made to recover aggregation tax, or that it is impracticable without undue expense to recover aggregation tax, it may direct the amount thereof to be written off.

(2) The taxpayer shall not be released from his liability in consequence of any action taken by the Board under this section, and the Commissioner may at any future time take such action to recover any such tax as he considers the circumstances warrant.

Board's powers may be exercised by Commissioner in certain cases. (cf. Act No. 26, 1956, s. 52.)

52. The Commissioner may exercise all the powers of the Board under section fifty of this Act in any case where the amount of aggregation tax involved in respect of any one year does not exceed forty dollars.

Definition of aggregation tax for certain purposes of this Part. (cf. Act No. 26, 1956, s. 53.)

53. Aggregation tax—

(a) for the purposes of sections fifty and fifty-one of this Act includes any costs incurred in attempting to recover aggregation tax; and

(b)

(b) for the purposes of sections forty-two, forty-three, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of this Act includes additional aggregation tax whether by way of penalty or otherwise.

PART VII.

VALUATION OF LANDS.

DIVISION 1.—*Unimproved Value of Land.*

Unimproved value of land.

(cf. Act No. 26, 1956, s. 54.)

54. (1) For the purposes of this Act the unimproved value of land as at any specified date—

(a) where the land is included in the valuation list or supplementary list last furnished under the Valuation of Land Act, 1916, by the Valuer-General to a council of an area within the meaning of the Local Government Act, 1919, before that date, means the unimproved value of such land as appearing in such valuation list or supplementary list immediately before that date;

(b) where the land is within an area within the meaning of the Local Government Act, 1919, not being land to which paragraph (a) of this subsection applies, means the unimproved value of such land as appearing in the valuation book of the council of such area immediately before that date;

(c) where the land is within the Western Division, not being land within an area within the meaning of the Local Government Act, 1919, means the unimproved value of such land as appearing, immediately before that date—

(i) in the valuation roll, kept by the Western Lands Commissioner in accordance with the provisions of Part VII of the Land Tax Management Act, 1956, immediately before that date; or

(ii) where the unimproved value of the land does not appear in that valuation roll, but appears in the valuation roll kept under this Part of this Act, in that lastmentioned valuation roll immediately before that date;

(d) except as provided in paragraph (e) of this subsection where immediately before that date the land has no unimproved value under paragraph (a), (b) or (c) of this subsection by reason that the land was not included in the valuation list, supplementary list, valuation book or valuation roll referred to in those paragraphs, means the unimproved value of such land, as at that date, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area, or the Western Lands Commissioner, upon a request in that behalf made to the Valuer-General, the council of the area or the Western Lands Commissioner, as the case may be; or

(e) where immediately before that date the land (in this paragraph referred to as "the portion") had no unimproved value under paragraph (a), (b) or (c) of this subsection but immediately before that date there was an unimproved value under any such paragraph of land (in this paragraph referred to as "the whole parcel") of which the portion

forms

forms part, means an amount, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area or the Western Lands Commissioner, as the case may be, upon a request made in that behalf to that appropriate valuing authority, that bears to that unimproved value of the whole parcel the same proportion as the unimproved value (as at the date on which that unimproved value of the whole parcel was determined) of that portion (regarded as being part of the whole parcel) bears to that unimproved value of the whole parcel.

Where a valuation of land to which paragraph (d) or (e) of this subsection applies has been made by the appropriate valuing authority as aforesaid before that date and the unimproved value of such land included in such valuation does not appear in the valuation list, supplementary list, valuation book or valuation roll to which paragraph (a), (b) or (c) of this subsection applies, the unimproved value of such land means the unimproved value as included in such valuation.

Where a valuation of land is made pursuant to paragraph (d) or (e) of this subsection, such valuation shall, notwithstanding the provisions of subsection six of this section—

(i) be a valuation for the purposes of this Act only;

(ii) be a valuation of the unimproved value only; and

(iii) not be entered on the valuation roll of the Valuer-General or the valuation book of a council.

(2) Where a valuation is made pursuant to paragraph (d) or (e) of subsection one of this section there shall be separately noted on the valuation—

(a) where the land is land to which section 160E of the Local Government Act, 1919, applies and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned

apportioned under that paragraph was included in a supplementary list, a statement of the unimproved rating factor, determined in accordance with that section, in respect of the land;

(b) where the valuation is made by the Valuer-General and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned under that paragraph was included in a supplementary list—

(i) an amount designated as a rating and taxing basis determined in accordance with subsection two of section 61A of the Valuation of Land Act, 1916; and

(ii) any allowance that would have been noted on the valuation roll pursuant to section fifty-eight or 58A of the Valuation of Land Act, 1916, had the unimproved value specified in the valuation been entered on the valuation roll in accordance with either such section; and

(c) where the valuation is made by a valuer appointed by the council of an area, any deduction that would have been noted in the valuation book pursuant to section two or 2A of Schedule Three to the Local Government Act, 1919, had the unimproved value specified in the valuation been entered in the valuation book in accordance with either such section.

(3) Notwithstanding any other provision of this Act, where in relation to any land referred to in paragraph (a), (b), (d) or (e) of subsection one of this section—

(a) a statement of the unimproved rating factor, determined in accordance with section 160E of the Local Government Act, 1919, in respect of the land has been furnished with the valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the

the unimproved value of the land for the purposes of this Act, that unimproved rating factor shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land; or

(b) such a statement has not been so furnished but a rating and taxing basis, referred to in section 61A of the Valuation of Land Act, 1916, has been included in a supplementary list in which is included a valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the unimproved value of the land for the purposes of this Act, or has, in accordance with subsection two of this section, been separately noted on a valuation of that unimproved value, that rating and taxing basis shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land.

(4) Where, in relation to any land referred to in paragraph (a), (b) or (d) of subsection one of this section, there is a deductible allowance relating to the unimproved value of the land that would, but for this subsection or subsection three of this section, have been the unimproved value of any land in respect of which any aggregation tax would have been levied, and that deductible allowance has not been taken into account for the purpose of determining the unimproved value of the land under subsection one or three of this section, that deductible allowance shall be deducted from the unimproved value of the land ascertained under subsection one or three of this section and the aggregation tax shall be levied on an assessable value calculated accordingly.

In this subsection "deductible allowance" means—

(a) any allowance referred to in section fifty-eight or 58A of the Valuation of Land Act, 1916;

(b)

(b) any deduction referred to in section two or 2A of Schedule Three to the Local Government Act, 1919; and

(c) any allowance or deduction noted on a valuation pursuant to subparagraph (ii) of paragraph (b), or paragraph (c), of subsection two of this section.

(5) A person to whom a request for a determination of the unimproved value of any land has been made under paragraph (d) or (e) of subsection one of this section shall, as soon as practicable after receipt of the request, make or cause to be made the valuation requested.

(6) A determination of the unimproved value of any land made pursuant to paragraph (d) of subsection one of this section shall—

(a) where it is made by the Valuer-General, be made under and subject to the Valuation of Land Act, 1916;

(b) where it is made by the valuer appointed by the council of an area, be made under and subject to the Local Government Act, 1919; and

(c) where it is made by the Western Lands Commissioner, be made under and subject to this Part of this Act,

and, without prejudice to the generality of the foregoing provisions of this subsection, shall be subject to objection accordingly.

(7) A determination of the unimproved value of any land made under paragraph (e) of subsection one of this section shall not be subject to objection or appeal on the ground that the value assigned is too high or too low except on the ground that the value assigned is too high or too low by reason that the Valuer-General, the council or the Western Lands Commissioner, as the case may be, in making the valuation, has not complied with the provisions of that paragraph.

(8) A determination—

(a) of an unimproved rating factor pursuant to paragraph (a) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 160E of the Local Government Act, 1919;

(b) of a rating and taxing basis under subparagraph (i) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 61A of the Valuation of Land Act, 1916;

(c) of an allowance under subparagraph (ii) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section fifty-eight or 58A of the Valuation of Land Act, 1916, as the case may be; and

(d) of a deduction under paragraph (c) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section two or 2A of Schedule Three to the Local Government Act, 1919.

(9) The fact that an objection under the Valuation of Land Act, 1916, the Local Government Act, 1919, the Land Tax Management Act, 1956, or this Part of this Act, has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section shall not affect the valuation which is objected to and aggregation tax may be assessed, levied and recovered as if no objection were pending.

(10) Where—

(a) an objection has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section and such valuation has been altered upon the determination of such objection; or

(b)

(b) an alteration of any such valuation has been made in any valuation list, supplementary list, valuation book or valuation roll for the purposes of correcting any clerical error or misdescription,

the valuation as so altered shall be the unimproved value of such land for the purposes of this Act in substitution for the valuation so objected to or altered.

(11) Where any valuation has been altered as aforesaid a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

DIVISION 2.—*Valuations by Western Lands Commissioner.*

Application of Division. (cf. Act No. 26, 1956, s. 55.)

55. This Division of this Part of this Act shall apply to lands within the Western Division not being lands within an area within the meaning of the Local Government Act, 1919.

Unimproved value of land. (cf. Act No. 26, 1956, s. 56.)

56. The unimproved value of land is 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 the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made.

Valuations. (cf. Act No. 26, 1956, s. 57.)

57. (1) The Western Lands Commissioner may for the purposes of this Act make valuations of the unimproved value of such lands to which this Division of this Part of this Act applies as he may deem necessary.

Any such valuation shall be made—

(a) once at least in every six years; and

(b) for a valuation period, that is to say, for a period not exceeding six years.

Where

Where portion of a parcel of land which has been valued is sold, conveyed or resumed fresh valuations shall be made of the portion sold, conveyed or resumed and of the portion remaining.

(2) For the purpose of making any valuation the Western Lands Commissioner may require the owner or occupier of any land or interest in land to furnish such information as may be necessary to enable a correct valuation to be made, and may also make use of any information in his possession.

(3) The Western Lands Commissioner or any person authorised by him in that behalf may at all reasonable times enter on any land for the purposes of this Part of this Act.

(4) The Western Lands Commissioner shall enter on a valuation roll kept for the purpose a record of all valuations made under this Part of this Act.

A valuation shall, subject to paragraphs (d) and (e) of subsection one of section fifty-four of this Act, be deemed to be made as at the date on which the Western Lands Commissioner enters on such roll the record of such valuation.

Each entry in such valuation roll shall be signed or initialled by the Western Lands Commissioner or an officer approved in that behalf by the Western Lands Commissioner. The valuation roll so signed or initialled shall be conclusive proof of the making of the valuation on the date shown therein.

Such valuation roll may be kept in card, folder, or book form, or as the Western Lands Commissioner may direct.

Notice of valuations to be given. (cf. Act No. 26, 1956, s. 58.)

58. (1) The Western Lands Commissioner shall give to each person whose estate or interest in land he has valued under this Part of this Act notice of such valuation stating a time within which such person may lodge with the Western Lands Commissioner a written objection to such valuation.

(2) Any such person may in or to the effect of the form prescribed object to any valuation under this Part of this Act within such time as is stated in such notice.

(3) No valuation under this Part of this Act shall be invalid because of any failure to give notice of valuation.

Alteration of valuation or reference of objection to Land and Valuation Court. (cf. Act No. 26, 1956, s. 59.)

59. (1) On objection being made to any valuation, the Western Lands Commissioner may, if he sees fit, alter such valuation. Notice of the Western Lands Commissioner's decision shall be given to the objector.

An objector who is dissatisfied with the decision of the Western Lands Commissioner not being a decision altering the valuation to the extent claimed in the objection, or to such extent as may be agreed upon, may within sixty days after service of such notice, request in writing the Western Lands Commissioner to treat his objection as an appeal and to forward it to the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

(2) The Western Lands Commissioner shall forward such objections together with a list thereof to the registrar of the Land and Valuation Court for hearing and determination by that Court.

Powers of Court. (cf. Act No. 26, 1956, s. 60.)

60. The Land and Valuation Court shall hear and determine all such objections brought before it, and, if it decides that any valuation is erroneous, shall order the valuation to be altered accordingly.

Consequential alterations. (cf. Act No. 26, 1956, s. 61.)

61. If on the hearing of any objection the Land and Valuation Court orders any valuation to be altered, the Western Lands Commissioner shall make all such consequential alterations as are necessary to give effect to the decision of the Court.

PART VIII.

MISCELLANEOUS.

Public officer of company. (cf. Act No. 26, 1956, s. 63.)

62. (1) Every company which is a taxpayer shall, unless exempted by the Commissioner, 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 :—

(a) The person so appointed shall for the purposes of this Act be called the public officer of the company.

(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 an address for service, has been given to the Commissioner.

(c) 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, 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.

(d) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties.

(e) 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.

(f) 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 : One hundred dollars for every day during which the failure or neglect continues.

(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 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.

Agents and trustees. (cf. Act No. 26, 1956, s. 64.)

63. 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 aggregation 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.

(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.

(d) Where as agent or trustee he pays aggregation 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.

(e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the aggregation tax which is or will become due in respect of the land.

(f) He is hereby made personally liable for the aggregation tax payable in respect of the land if, while the aggregation tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is controlled or held by him

him in his representative capacity but he shall not be otherwise personally liable for the aggregation tax.

(g) If he is a trustee he may raise whatever moneys are necessary in order to pay the aggregation tax by mortgage or charge with or without power of 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 aggregation tax.

(h) He is hereby indemnified for all payments which he makes in pursuance of this Act, or by requirements of the Commissioner.

(i) For the purpose of ensuring the payment of aggregation tax, the Commissioner shall have the same remedies against all land or other property of any kind 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 aggregation tax, and in as full and ample a manner.

Contracts to evade aggregation tax void. (cf. Act No. 26, 1956, s. 65.)

64. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the appointed day, shall so far as it has or purports to have the purpose or effect of in any way directly or indirectly—

(a) altering the incidence of any aggregation tax;

(b) relieving any person from liability to pay any aggregation tax or make any return;

(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, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

65.

Access to lands, buildings, etc. (cf. Act No. 26, 1956, s. 67.)

65. The Commissioner or any officer authorised by him in that behalf shall at all times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or documents of title, for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers.

Furnishing of valuation lists, etc., to Commissioner. (cf. Act No. 26, 1956, s. 68.)

66. The Valuer-General, the Western Lands Commissioner and the council of any area within the meaning of the Local Government Act, 1919, shall when so requested by the Commissioner furnish to the Commissioner a copy of any valuation list, supplementary list or valuation roll kept or prepared by them and of any alterations and additions thereto.

Where any such roll or alterations or additions are so furnished by any such council the Commissioner shall pay to such council the prescribed fee.

Power to obtain evidence. (cf. Act No. 26, 1956, s. 69.)

67. (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 assessment 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, or other papers whatever in his custody or under his control relating thereto.

(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.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

Obstructing officers. (cf. Act No. 26, 1956, s. 70.)

68. Any person who obstructs or hinders any other person acting in the exercise or discharge of any powers, authorities, duties or functions conferred or imposed by or under this Act shall be guilty of an offence.

Penalty : One hundred dollars.

69.

69. (1) Any person who— Offences. (cf. Act No. 26, 1956, s. 71.)

(a) fails or neglects duly to furnish any return or information as and when required by this Act or to comply with any requirement of the Commissioner made in pursuance of this Act;

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner, or any officer duly authorised by him, or to answer truly and fully 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 information which is false in any particular or makes any false answer, whether verbal or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

Penalty : Two hundred dollars.

(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 Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars and treble the amount of any aggregation 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.

70.

70. (1) Notwithstanding anything contained in section sixty-nine of this Act, any person who— Failure to furnish returns. (cf. Act No. 26, 1956, s. 72.)

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

(b) fails to include in any return any land used for primary production owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional aggregation tax at the rate of ten per centum per annum upon the amount of aggregation 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 twenty dollars, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional aggregation tax the amount of twenty dollars or double the amount of the difference between the aggregation tax properly payable and the aggregation tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition to any additional aggregation tax by way of penalty which may become payable by him in accordance with section forty of this Act :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional aggregation 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 sections sixty-nine and seventy-one of this Act, such action may be taken by the Commissioner, and in that case the additional aggregation tax payable under this section shall not be charged.

71. 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 offence. Evading taxation. (cf. Act No. 26, 1956, s. 73.)

Penalty : One thousand dollars and treble the amount of the aggregation tax payment which he has evaded or attempted to evade.

72. Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any aggregation tax for which he would otherwise be liable. Penalties not to relieve from aggregation tax. (cf. Act No. 26, 1956, s. 74.)

73. 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. Act No. 26, 1956, s. 75.)

PART IX.

GENERAL.

74. Any notice or document required or authorised by this Act to be served or given shall be in writing and shall be sufficiently served or given— Service of notices. (cf. Act No. 26, 1956, s. 76.)

(a) if delivered personally;

(b) if left at the last known place of abode or business in or out of New South Wales of the person on or to whom such notice or document is to be served or given; or

(c) if sent by prepaid letter post addressed to the person on or to whom such notice or document is to be served or given at his address for service or last known place of abode or business in or out of New South Wales.

In the case of paragraph (c) of this section the service or giving of a notice or document shall be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

General penalty. (cf. Act No. 26, 1956, s. 78.)

75. Any person guilty of a breach of this Act for which no penalty is otherwise provided shall be liable to a penalty not exceeding two hundred dollars.

Recovery of penalties. (cf. Act No. 26, 1956, s. 79.)

76. All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate.

Report to Parliament. (cf. Act No. 26, 1956, s. 80.)

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

Amendment of certain Acts.

78. Each of the Acts specified in the first column of the Schedule to this Act is amended in the manner specified opposite that Act in the second column of that Schedule.

Regulations.

79. (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.

(2) The regulations may impose penalties not exceeding one hundred dollars for any breach thereof.

SCHEDULE.

SCHEDULE. Sec. 78.

PART I.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1956.	Land Tax Management Act, 1956.	Insert in subsection (2A) of section six after the words "under this Act to" the words "the Commissioner of Land Aggregation Tax or to".

PART II.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1970.	Closer Settlement and Public Reserves Fund Act, 1970.	Insert in paragraph (d) of section five after the words "paragraph (k) of" the words "subsection one of". Omit from the same paragraph the word "six" and insert in lieu thereof the symbols, figure and letter "(6A)".
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970.	Omit from paragraph (b) of subsection one of section two the word "commencement" where lastly occurring and insert in lieu thereof the following word and new paragraph:— commencement. Upon the issue of any certificate under subparagraph (iii) of this paragraph, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900. such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	Omit from paragraph (d) of the same subsection the word "six" where firstly occurring and insert in lieu thereof the symbols, figure and letter "(6A)". Insert in subparagraph (i) of paragraph (e) of the same subsection after the words "The provisions of this section" where firstly occurring the words ", other than subsection (6A),". Insert in the same subparagraph after the words "The provisions of this section" where secondly occurring the words ", other than subsection six,". Insert in the same subparagraph after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in subparagraph (iii) of paragraph (b) of subsection two of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900,

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in paragraph (b) of subsection four of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971
[50c]

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.*

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 27 *April,* 1971.

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

Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, April, 1971.

New South Wales

ANNO VICESIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1971.

An Act to make provision relating to the imposition assessment and collection of an aggregation tax in respect of certain lands; and for purposes connected therewith.

BE it enacted by the Queen'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 "Land Aggregation Tax Management Act, 1971". Short title and commencement.

NOTE.—The words to be *omitted* are *ruled through.*

(2) Subject to subsections three and four of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Part and Part II of this Act and the amendment made by section seventy-eight of this Act and specified in Part I of the Schedule to this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(4) The amendments made by section seventy-eight of this Act and specified in Part II of the Schedule to this Act shall commence upon the day upon which section two of the Crown Lands and Other Acts (Amendment) Act, 1970, commences.

2. This Act is divided as follows :— Division of Act.

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—ADMINISTRATION—*ss.* 4–7.

PART III.—AGGREGATION TAX—*ss.* 8–10

PART IV.—RETURNS, ASSESSMENT AND LIABILITY—*ss.* 11–34.

PART V.—OBJECTIONS AND APPEALS—*ss.* 35–38.

PART VI.—COLLECTION AND RECOVERY OF AGGREGATION TAX—*ss.* 39–53.

PART VII.—VALUATION OF LANDS—*ss.* 54–61.

DIVISION 1.—*Unimproved Value of Land—s.* 54.

DIVISION 2.—*Valuations by Western Lands Commissioner—ss.* 55–61.

PART

PART VIII.—MISCELLANEOUS—*ss.* 62–73.

PART IX.—GENERAL—*ss.* 74–79.

SCHEDULE.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Definitions. (cf. Act No. 26, 1956, s. 3.)

"Act" includes regulations;

"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 owned by the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land;

"aggregation tax" means aggregation tax calculated at the rates fixed by the Land Aggregation Tax Act, 1971, as assessed under this Act;

"appointed day" means the day appointed under subsection two of section one of this Act;

"Commissioner" means the Commissioner of Land Aggregation Tax;

"company" includes all bodies or associations corporate or unincorporate;

"de-restricted title land" means land in respect of which a certificate—

(a) has been issued under the provisions of subparagraph (iii) of paragraph (k) of subsection one of section 129B or subsection (6A) of section two hundred and seventy-two of the Crown Lands Consolidation Act, 1913, or subsection four of section thirty-one of the Closer Settlement Act, 1904, or subsection five of section ten of the Returned

Soldiers

Soldiers Settlement Act, 1916, as in force after the commencement of section two of the Crown Lands and Other Acts (Amendment) Act, 1970; and

(b) has, in accordance with any such provision, been recorded in the Register kept under the Real Property Act, 1900,

but does not include any such land so long as it continues to be owned by the person who was the owner thereof immediately before the issue of the certificate;

"joint owners" means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have a life or greater interest in shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners;

"land used for primary production" means, in relation to the use of any land during a taxing year, land used during that year primarily for any one or more of the following activities :—

(a) the cultivation thereof for the purpose of selling the produce of such cultivation;

(b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or

(c) the keeping of bees thereon for the purpose of selling their honey,

and includes land that is ordinarily used for any of the activities referred to in paragraph (a), (b) or (c) of this definition and that has lain fallow during the whole or any part of that year, and all land owned by a society registered as a rural society under the Co-operation Act, 1923;

"mortgage"

"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;

"owned" 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—

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

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

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

"public authority" means any public body declared by the Governor by order published in the Gazette to be a public authority for the purposes of this Act;

"regulations" means regulations made under this Act;

"taxing year" means a period of twelve months commencing on the appointed day or on any anniversary of the appointed day;

"taxpayer" means a person who has been assessed or is liable to be assessed for aggregation tax in accordance with this Act;

"trustee"

"trustee" includes, 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—

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(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.

(2) A reference in this Act to land in respect of which aggregation tax is payable is a reference to land which is taken into account for the purpose of assessing aggregation tax that is payable.

(3) For the purposes of this Act where joint owners are the owners of land as joint tenants each of them shall be deemed to own an interest in the land as if he were a tenant in common with the other joint owners in equal shares.

PART II.

ADMINISTRATION.

Commissioner and other officers.

4. (1) The Governor may, under and subject to the Public Service Act, 1902, appoint a Commissioner of Land Aggregation Tax who may sue and be sued by that name and who shall be responsible for the due administration of this Act. (cf. Act No. 26, 1956, s. 4.)

(2) Where the Governor, by proclamation published in the Gazette, specifies an office in the Public Service for the purposes of this subsection, the person holding or acting in that office shall, in the event of the absence, incapacity or suspension of the Commissioner, exercise and perform all

of

of the powers, authorities, duties and functions of the Commissioner under this Act and when so doing shall be deemed to be the Commissioner.

(3) The Governor may, under and subject to the Public Service Act, 1902, appoint and employ such other persons as may be deemed necessary for the carrying out of this Act.

(4) For the purposes of this Act the Minister may, with the approval of the Minister of the department concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

Notification of appointment. (cf. Act No. 26, 1956, s. 5.)

5. (1) A notification in the Gazette, purporting to be made by the Minister, that any person has been appointed as Commissioner or that any other person has been appointed for the purpose of carrying out this Act, shall be prima facie evidence of such appointment.

(2) A notification in the Gazette purporting to be made by the Minister and stating that a person specified in the notification was at a time or during a period so specified a person holding or acting in an office specified in a proclamation made under subsection two of section four of this Act shall be prima facie evidence of the matters stated therein.

Delegation by Commissioner. (cf. Act No. 7, 1913, s. 17A.)

6. (1) Subject to this section the Commissioner may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Commissioner by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Commissioner who made the delegation holds office at the time of that exercise or performance.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the prescribed powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Commissioner or in his own name on behalf of the Commissioner, the power, authority, duty or function shall be deemed to have been exercised or performed by the Commissioner, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

(5) Notwithstanding any delegation made under this section the Commissioner may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(6) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Secrecy. (cf. Act No. 26, 1956, s. 6.)

7. (1) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not, either directly or indirectly, except in the performance of any power, authority, duty or function under this Act, and either while he is, or after he ceases to be so appointed or employed, make a record of, or divulge or communicate to any person, any information acquired by him in respect of the affairs of any other person disclosed or obtained under the provisions of this Act.

Penalty : Five hundred dollars or imprisonment for twelve months.

(2) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not be required to produce in any court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his powers, authorities, duties or functions under this Act, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act.

(3) Any person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall, if and when required by the Commissioner to do so, make an oath or declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

(4) Notwithstanding anything contained in this section the Commissioner may divulge or communicate any information which comes to his knowledge in the performance of his powers, authorities, duties or functions under this Act to the Commissioner of Land Tax or to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth, and the divulging or communicating of the information shall not be a contravention of this section.

PART III.

AGGREGATION TAX.

Assessment of aggregation tax.

8. (1) Subject to the provisions of this Act, aggregation tax, at such rates as may be fixed by any Act, shall be assessed in respect of any taxing year on any person who at midnight on the day upon which that year ends owns any land used for primary production during that year (excluding land that is not to be taken into account for the purpose of assessing such tax) where that land—

(a) is situated in New South Wales;

(b) comprises wholly or in part de-restricted title land; and

(c) the assessable value of that land exceeds the prescribed amount,

and the tax shall be so assessed on—

(d) the assessable value of the de-restricted title land so owned by him; or

(e) such part of the assessable value of the de-restricted title land so owned by him as is equal to the amount by which the assessable value, or the aggregate of the assessable values, of the land so owned by him exceeds the prescribed amount,

whichever is the less.

(2)

(2) In subsection one of this section, "the prescribed amount" means—

(a) in the case where the land owned as referred to in that subsection is owned by a trustee who is required to be assessed for aggregation tax in accordance with the provisions of section twenty-three of this Act and that trustee holds that land as a trustee for equitable owners of that land—an amount equal to the product of the amount fixed by or under paragraph (b) of this subsection multiplied by the number of those equitable owners; or

(b) in any other case, where an amount—

(i) has not been prescribed for the purposes of this paragraph—the amount of one hundred ~~and fifty~~ thousand dollars; or

(ii) has been so prescribed—the amount so prescribed.

(3) A reference in subsection one of this section to the assessable value of land—

(a) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he became the owner on or after the prescribed day is—

(i) where, when that person first so became the owner of the land, he first so became the owner as the sole owner of the land and since the day on which he so became the sole owner has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the day on which he first so became the sole owner of the land;

(ii) where, when that person first so became the owner of the land, he first so became the owner as a joint owner of the land and since the day on which he first so became a joint owner he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was when he first so became a joint owner of the land—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he first so became a joint owner of the land the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) when that person first so became the owner of the land, he first so became the owner as a sole owner, since the day on which he first so became the sole owner he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) when that person first so became the owner of the land, he first so became the owner as a joint owner, since the day on which he first so became a joint owner he has continued to be either a joint owner or the sole

owner

owner and is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was when he first so became a joint owner of the land,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned on the day on which he first so became the owner of the land, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that lastmentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land;

(b) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he was immediately before the prescribed day the sole owner or a joint owner is—

(i) where that person was the sole owner of the land immediately before the prescribed day and on and since that day has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the prescribed day;

(ii) where that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was immediately before the prescribed day—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the prescribed day the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) that person was the sole owner of the land immediately before the prescribed day, on and since that day he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or the sole owner and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was immediately before the prescribed day,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned immediately before the prescribed day, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a

joint

joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land; or

(c) owned by joint owners who are jointly assessable for aggregation tax under subsection two of section twenty-six of this Act is a reference to the sum of the assessable values upon which each of the joint owners would, if none of them was a company, be assessed under paragraph (a) or (b) of this subsection, for aggregation tax.

(4) In subsection three of this section—

"sole owner" means an owner who is not a joint owner;

"the prescribed day", in relation to an owner of de-restricted title land, means the day on which he became the owner of that land or, where he is the owner of more than one parcel of de-restricted title land, the day on which he became the owner of the parcel of de-restricted title land that he first acquired.

(5) The amount on which aggregation tax is required to be assessed on any person under subsection one of this section is for the purposes of this Act the taxable value attributable to that person.

Lands not assessable for aggregation tax. (cf. Act No. 26, 1956, s. 10.)

9. Except where otherwise expressly provided in this Act the following lands used for primary production shall not be taken into account for the purpose of assessing aggregation tax in respect of any taxing year : —

(a) lands owned by the Crown or any public authority;

(b) lands owned by or in trust for a charitable or educational institution if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;

(c) lands owned by or in trust for a religious society, where those lands are held solely for, or the proceeds of those lands are devoted solely to, religious, charitable or educational purposes, including the support of aged or infirm clergy or ministers of the society, or their wives or widows or children; and

(d) lands owned by any person and used during the taxing year—

(i) for the purpose of cultivation of commercial timber; or

(ii) for any special purpose that may be prescribed for the purposes of this subparagraph.

Limitation of operation of section 9. (cf. Act No. 26, 1956, s. 11.)

10. With respect to land which under section nine of this Act is not to be taken into account for the purpose of assessing aggregation tax the provisions of that section shall be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land.

PART

PART IV.

RETURNS, ASSESSMENT AND LIABILITY.

Taxpayer to furnish returns. (cf. Act No. 26, 1956, s. 12.)

11. (1) For the purposes of the assessment and levy of aggregation tax in respect of any taxing year, every person who at midnight on the day on which that taxing year ends is the owner of any de-restricted title land and is required by the Commissioner by notice published in the Gazette to furnish a return shall furnish to the Commissioner in the 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 that day, with such other particulars as may be prescribed or as may be specified in the notice.

(2) The Commissioner may at any time require any person to furnish a return or a further and fuller return setting forth a full and complete statement of all or any land owned by him, or in respect of which he is agent or trustee, at midnight on the day on which any taxing year ends, with such other particulars as the Commissioner requires, and whether or not any return has previously been made by that person in respect of that land, or in respect of which he is agent or trustee, on that day.

(3) All the provisions of this Act shall extend and apply to any return made or required in accordance with subsection two of this section and the Commissioner may cause assessments to be made upon or in respect of that return in such manner as is necessary.

Returns deemed to be duly made. (cf. Act No. 26, 1956, s. 13.)

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

Assessments to be made. (cf. Act No. 26, 1956, s. 14.)

13. The Commissioner shall from the returns and from any other information in his possession or from one or both of those sources, and whether any return has been furnished or not, cause an assessment of aggregation tax to be made on each person liable to be assessed in accordance with the provisions of this Act.

14.

14. If—

Assessment in case of default or unsatisfactory return. (cf. Act No. 26, 1956, s. 15.)

(a) any person makes default in furnishing any return;

(b) the Commissioner is not satisfied with the return made by any person; or

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

the Commissioner may make an assessment of any aggregation tax for which that person is liable to be assessed in accordance with the provisions of section eight of this Act.

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

Amendment of assessments. (cf. Act No. 26, 1956, s. 16.)

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

(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 may allow all information required for the purpose of deciding the application —at any time;

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

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

(3)

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

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

(a) an additional amount shall be assessed against the taxpayer equal to the difference between any aggregation tax which he has paid and the aggregation tax which he ought to have paid if the assessment had been originally made as altered or added to; and

(b) the alteration or addition shall, 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 aggregation tax overpaid.

Validity of assessment.

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

(cf. Act No. 26, 1956, s. 17.)

Evidence.

17. (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—

(cf. Act No. 26, 1956, s. 18.)

(a) be conclusive evidence of the due making of the assessment; and

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

(2)

(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.

Notice of assessment. (cf. Act No. 26, 1956, s. 19.)

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

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

Owner of freehold. (cf. Act No. 26, 1956, s. 20.)

19. 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, for the purposes of this Act, be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder.

Conditional purchases, etc. (cf. Act No. 26, 1956, s. 21.)

20. Any person to whom the Crown has contracted to grant the fee-simple in any land under the Crown Lands Consolidation Act, 1913, or under any other Act relating to the alienation or disposal of lands of the Crown, and any person who under any such Act holds land under a lease from the Crown in perpetuity, shall, for the purposes of this Act, be deemed to be the owner of the land in fee-simple.

Mortgages. (cf. Act No. 26, 1956, s. 22.)

21. No deduction from the assessable value of any land shall be allowed in respect of any mortgage, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to payment of any unpaid purchase money shall be assessed for aggregation tax as if he were the owner of an unencumbered estate.

22. (1) A mortgagee or other person owning any estate or interest in land by way of security for money shall not be liable to be assessed for aggregation tax in respect of that mortgage, estate or interest : Mortgagees. (cf. Act No. 26, 1956, s. 23.)

Provided that a mortgagee in possession of land or any other person in possession of land by way of security 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 or other person in possession to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the secondary taxpayer in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation :

Provided further that the foregoing proviso shall not apply—

(a) to any mortgagee or person in possession whose possession began before the appointed day during the period commencing on the appointed day and ending on the day preceding the third anniversary of the appointed day; or

(b) to any mortgagee or person in possession whose possession began on or after the appointed day during the period commencing on the day on which he entered into possession and ending three years later,

but any such mortgagee or person in possession shall, if the mortgagor makes default in the payment of aggregation tax payable in respect of the land during or after the appropriate period referred to in paragraph (a) or (b) of this proviso, be responsible for the payment of the aggregation 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 in possession of land shall include a mortgagee who is in receipt of the rents or profits of such land, or who is in receipt of

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the income from any business carried on on such land, or who has appointed a receiver of the rents or profits of such land.

Trustees. (cf. Act No. 26, 1956, s. 24.)

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

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

Provided also that when a trustee is also the beneficial owner of other land, he shall be separately assessed for aggregation tax 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.

Equitable owner. (cf. Act No. 26, 1956, s. 25.)

24. Subject to this Act, the owner of any equitable estate or interest in any land shall be assessed in respect of aggregation 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 the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

Purchaser and vendor. (cf. Act No. 26, 1956, s. 26.)

25. (1) Where, before or after the appointed day, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

(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;

(b)

(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; and

(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—

(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) 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 made in good faith, and not for the purpose of evading the payment of aggregation 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 shall be final and conclusive.

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

(a) owing by the purchaser to the vendor, and secured by any mortgage on the land;

(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 be deemed to be unpaid purchase money.

(3)

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

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

26. (1) Joint owners, any of whom is a company, of land shall be assessed for aggregation tax in accordance with the provisions of this section. Joint owners. (cf. Act No. 26, 1956, s. 27.)

(2) Joint owners (except those of them whose interests are, under section nine of this Act, not to be taken into account for the purpose of assessing aggregation tax) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner which is, under that section, not to be taken into account) as if it were owned by a single person, without regard to their respective interests therein or to 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.

In this subsection "deductions to which any of them may be entitled under this Act" shall be all the deductions to which any of them may be so entitled in respect of any land or any interest in land included in the joint assessment.

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

(a) his or its individual interest in the land (as if he or it were the owner of a part of the land in proportion to his or its interest) ; together with

(b)

(b) any other land used for primary production during the taxing year owned by him or it in severalty; and

(c) his or its individual interests in any other land used for primary production during the taxing year.

(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 or its separate assessment to be a secondary taxpayer; and from the aggregation tax assessable in respect of his or its interest in such part of the land as is de-restricted title land against each joint owner under subsection three of this section there shall be deducted such amount (if any) as is necessary to prevent double taxation.

(5) The provisions of this section have effect notwithstanding any other provision of this Act.

Separate parcels used for partnership purposes. (cf. Act No. 26, 1956, s. 28.)

27. Where separate parcels of land used for primary production are owned by different persons any of whom is a company, and such parcels are occupied, controlled, or used by a partnership whereof all such persons are members either by themselves or together with other persons, such persons shall, for the purposes and notwithstanding any other provision of this Act, be deemed to be joint owners of such parcels, and to hold such parcels and the de-restricted title land comprised in such parcels in such shares or proportions as the Commissioner may determine.

Husband and wife deemed to be single person.

28. A married man and his wife shall, for the purposes of this Act, be deemed to be one person, shall be assessed accordingly as a sole owner, and shall be jointly liable to pay the aggregation tax assessed with such rights of contribution or indemnity between themselves as is just :

Provided that the foregoing provisions of this section do not apply where the married man and his wife are living apart under an order for judicial separation made by a court of competent jurisdiction.

29.

Companies having substantially the same shareholders. (cf. Act No. 26, 1956, s. 29.)

29. (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.

(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;

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

Person entitled to income of business. (cf. Act No. 26, 1956, s. 30.)

30. 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

be deemed to be the primary taxpayer, and such firstmentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

No disposition to be effective while possession retained. (cf. Act No. 26, 1956, s. 31.)

31. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the appointed day, 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), for the purposes of this Act, to be the owner of the land.

Occupation, control, or use of land. (cf. Act No. 26, 1956, s. 32.)

32. (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, 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 :

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.

(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 aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land there shall be deducted such amount (if any) as is necessary to prevent double taxation.

33. Where under this Act— Deductions to prevent double taxation. (cf. Act No. 26, 1956, s. 33.)

(a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and

(b) it is provided that there shall be deducted from the aggregation tax assessable against the secondary taxpayer, in respect of any de-restricted title land or any interest in de-restricted title land, such amount (if any) as is necessary to prevent double taxation,

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

(i) the amount of aggregation tax assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the secondary taxpayer; or

(ii) the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the primary taxpayer aggregated with the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against a precedent secondary taxpayer (if any) :

Provided that the secondary taxpayer shall be assessed in respect of that de-restricted title land or that interest in de-restricted title land, notwithstanding that the land or interest is not, under section nine of this Act, to be taken into account for the purpose of assessing aggregation tax against the primary taxpayer, or that there is no primary taxpayer in respect of the land or interest.

34. Where in this Act reference is made to the aggregation tax assessable against a person in respect of any de-restricted title land or any interest in de-restricted title land, the reference is to so much of the whole aggregation tax assessable against him as bears to the whole aggregation tax assessable against him the proportion which the assessable value of the de-restricted Meaning of aggregation tax assessable in respect of certain land. (cf. Act No. 26, 1956, s. 34.)

de-restricted title land or interest referred to bears to the assessable value of all the de-restricted title land used for primary production (including any interest in de-restricted title land used for primary production) owned by him.

PART V.

OBJECTIONS AND APPEALS.

Appeal. (cf. Act No. 26, 1956, s. 35.)

35. (1) Any taxpayer who is dissatisfied with an assessment made by the Commissioner under this Act or with any alteration in or addition to any such assessment may, within thirty days after service of the notice of assessment or of the alteration in or addition to an assessment, or within such further time as the Commissioner 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.

(2) No objection shall be made to the Commissioner under this Act in respect of so much of any assessment as relates to the valuation of land shown therein if such valuation is the unimproved value of such land under this Act.

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

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

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after service of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

36. (1) The fact that an appeal in accordance with section thirty-five of this Act is pending shall not in the meantime interfere with or affect the assessment appealed from, and the aggregation tax may be levied and recovered on the assessment as if no appeal were pending. Pending appeal not to affect assessment. (cf. Act No. 26, 1956, s. 36.)

(2) If the assessment is altered on appeal a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

37. (1) An appeal to the Supreme Court under section thirty-five of this Act shall be heard by a single judge of that Court. Appeals to Supreme Court. (cf. Act No. 26, 1956, s. 37.)

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

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

(4) On the hearing of the appeal, the Court may make such order as it thinks fit, and may reduce, increase or vary the assessment.

(5) An order of the Court shall be final and conclusive on all parties except as provided in this section.

(6) The costs of the appeal shall be in the discretion of the Court.

(7) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the Court of Appeal upon any question which in the opinion of the Court is a question of law.

(8) The Court of Appeal shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(9) The Commissioner or a taxpayer may appeal to the Court of Appeal from any order made under subsection four of this section.

Power to make rules of court. (cf. Act No. 26, 1956, s. 38.)

38. (1) The judges of the Supreme Court or any five of them may make rules of court regulating the practice and procedure in relation to appeals to a single judge of the Supreme Court under this Part of this Act, and the Judges of Appeal or any three of them may make rules of court regulating the practice and procedure in relation to cases stated to the Court of Appeal under this Part of this Act.

(2) The provisions of section forty-one of the Interpretation Act, 1897, shall apply to and in respect of any such rules in the same way as they apply to regulations.

PART VI.

Collection and Recovery of Aggregation Tax.

Date of payment of aggregation tax. (cf. Act No. 26, 1956, s. 39.)

39. (1) Aggregation tax for each year shall be due and payable by the taxpayer on whom notice of assessment of the aggregation tax is served thirty days after service of that notice on him.

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

Additional aggregation tax in case of default. (cf. Act No. 26, 1956, s. 40.)

40. If the aggregation tax or the additional aggregation tax payable on an amended assessment is not paid before the expiration of the time allowed in section thirty-nine of this Act or such further time as is allowed by the Commissioner

Commissioner under section forty-one of this Act additional aggregation tax equal to ten per centum of the amount unpaid shall be payable by way of penalty.

Extension of time for payment and payment by instalments. (cf. Act No. 26, 1956, s. 41.)

41. The Commissioner may, in such cases as he thinks fit—

(a) extend the time for payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise;

(b) permit the payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise, to be made by such instalments and within such time as he considers the circumstances warrant; or

(c) remit the whole or any part of the additional aggregation tax imposed under section forty of this Act.

Recovery of aggregation tax. (cf. Act No. 26, 1956, s. 42.)

42. (1) Any aggregation tax shall be deemed, when it becomes due or is payable, to be a debt due to Her Majesty, and shall be collected and received by the Commissioner on account of and shall be paid into the Special Deposits Account in the Treasury, called the Closer Settlement and Public Reserves Fund, established under the Closer Settlement and Public Reserves Fund Act, 1970, from which shall be paid any amounts, paid as aggregation tax, that are refundable or repayable under this Act.

(2) Any aggregation tax unpaid may be recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Substituted service. (cf. Act No. 26, 1956, s. 43.)

43. If in any proceedings against a taxpayer for the recovery of aggregation tax the defendant—

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

(b) cannot after reasonable inquiry be found,

service

service of any process in the proceedings may, without leave of the court, be effected on him by posting it or an office copy of it in a letter addressed to him at his last known place of business or abode in Australia, or by fixing it on a conspicuous part of the land in respect of which the aggregation tax is payable.

Provision when aggregation tax not paid during lifetime.

(cf. Act No. 26, 1956, s. 44.)

44. 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 :—

(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 years for which the aggregation tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be such amount not exceeding treble the amount of the difference between the aggregation tax so assessed and the amount actually paid by the taxpayer as the Commissioner may determine, and 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 amount payable as in the case of ordinary assessments and taxation.

45. No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of aggregation tax. Statutes of limitations. (cf. Act No. 26, 1956, s. 45.)

46. (1) Where a taxpayer makes a default in the payment of aggregation 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. Act No. 26, 1956, s. 46.)

(a) If the aggregation tax is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the aggregation tax, and it may be recovered from him as if he were the defaulting taxpayer.

(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 at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

(2) Any payment to the Commissioner under this section shall be a valid discharge to the lessee or occupier for such rent or payments due by the lessee or occupier to the taxpayer as against all other persons whomsoever.

47. (1) Aggregation tax shall until payment be a first charge upon the de-restricted title land in respect of which the tax is payable in priority over all other encumbrances whatever, and where that land comprises two or more parcels the aggregation tax payable in respect of the land shall be a first charge on each and every such parcel and notwithstanding any disposition of the land or any part thereof the land or Aggregation tax to be first charge on land. (cf. Act No. 26, 1956, s. 47.)

part

part shall continue to be liable in the hands of any purchaser or holder for the payment of the aggregation tax so long as it remains unpaid :

Provided that no such charge shall be of effect as 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 prescribed manner at the office of the Commissioner.

The Commissioner shall on application of the purchaser of any land and on payment of the prescribed fee issue a certificate showing whether or not there is any aggregation tax charged on the land described in the application.

The regulations may provide that the prescribed fee shall be paid by affixing to the application a duty stamp of an amount equal to the amount of the prescribed fee.

(2) The Commissioner may release the land in respect of which aggregation tax is payable or any part thereof from the charge thereon pursuant to subsection one of this section on payment of an amount he estimates to be not less than the proportion of tax referable to the land or part.

(3) The provisions of this section shall have effect notwithstanding anything contained in section thirty-four or any other provision of this Act.

Recovery of aggregation tax paid on behalf of another person.

48. Every person who, under any provision of this Act, pays any aggregation tax for or on behalf of any other person, shall be entitled to recover the amount thereof from that other person as a debt, together with the costs of recovery, or to retain or deduct the amount thereof out of any money in his hands belonging or payable to that other person. (cf. Act No. 26, 1956, s. 48.)

Contribution from tax-payers jointly liable.

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

(cf. Act No. 26, 1956, s. 49.)

(a) A person who has paid the aggregation tax in respect of any land may recover by way of contribution from any other person jointly liable with him a sum which bears the same proportion to the aggregation tax as the assessable value of the estate of such other person bears to the whole of the assessable value of the land.

(b) Every person entitled to contribution in respect of aggregation 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.

Remission of aggregation tax in cases of hardship.

50. (1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Auditor-General and the Under Secretary of the Treasury that—

(cf. Act No. 26, 1956, s. 50.)

(a) a person liable to pay aggregation tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of aggregation tax will entail serious hardship; or

(b) owing to the death of a person who, if he had lived, would have been liable to pay aggregation tax, the dependants of that person are in such circumstances that the exaction of the full amount of aggregation tax will entail serious hardship,

the Board may waive the payment of the aggregation tax either wholly or in part.

(2)

(2) The Commissioner shall make such alterations in the amount of aggregation tax payable and shall make such refund of aggregation tax already paid as is necessary to give effect to the decision of the Board.

(3) A member of the Board may by writing under his hand appoint a person to act in his place at any meetings of the Board at which he is unable to be present, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

Writing off aggregation tax. (cf. Act No. 26, 1956, s. 51.)

51. (1) In any case where it is shown to the satisfaction of the Board referred to in section fifty of this Act, that every reasonable effort has been made to recover aggregation tax, or that it is impracticable without undue expense to recover aggregation tax, it may direct the amount thereof to be written off.

(2) The taxpayer shall not be released from his liability in consequence of any action taken by the Board under this section, and the Commissioner may at any future time take such action to recover any such tax as he considers the circumstances warrant.

Board's powers may be exercised by Commissioner in certain cases. (cf. Act No. 26, 1956, s. 52.)

52. The Commissioner may exercise all the powers of the Board under section fifty of this Act in any case where the amount of aggregation tax involved in respect of any one year does not exceed forty dollars.

Definition of aggregation tax for certain purposes of this Part. (cf. Act No. 26, 1956, s. 53.)

53. Aggregation tax—

(a) for the purposes of sections fifty and fifty-one of this Act includes any costs incurred in attempting to recover aggregation tax; and

(b)

(b) for the purposes of sections forty-two, forty-three, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of this Act includes additional aggregation tax whether by way of penalty or otherwise.

PART VII.

VALUATION OF LANDS.

DIVISION 1.—*Unimproved Value of Land.*

54. (1) For the purposes of this Act the unimproved value of land as at any specified date— Unimproved value of land. (cf. Act No. 26, 1956, s. 54.)

(a) where the land is included in the valuation list or supplementary list last furnished under the Valuation of Land Act, 1916, by the Valuer-General to a council of an area within the meaning of the Local Government Act, 1919, before that date, means the unimproved value of such land as appearing in such valuation list or supplementary list immediately before that date;

(b) where the land is within an area within the meaning of the Local Government Act, 1919, not being land to which paragraph (a) of this subsection applies, means the unimproved value of such land as appearing in the valuation book of the council of such area immediately before that date;

(c) where the land is within the Western Division, not being land within an area within the meaning of the Local Government Act, 1919, means the unimproved value of such land as appearing, immediately before that date—

(i) in the valuation roll, kept by the Western Lands Commissioner in accordance with the provisions of Part VII of the Land Tax Management Act, 1956, immediately before that date; or

(ii) where the unimproved value of the land does not appear in that valuation roll, but appears in the valuation roll kept under this Part of this Act, in that lastmentioned valuation roll immediately before that date;

(d) except as provided in paragraph (e) of this subsection where immediately before that date the land has no unimproved value under paragraph (a), (b) or (c) of this subsection by reason that the land was not included in the valuation list, supplementary list, valuation book or valuation roll referred to in those paragraphs, means the unimproved value of such land, as at that date, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area, or the Western Lands Commissioner, upon a request in that behalf made to the Valuer-General, the council of the area or the Western Lands Commissioner, as the case may be; or

(e) where immediately before that date the land (in this paragraph referred to as "the portion") had no unimproved value under paragraph (a), (b) or (c) of this subsection but immediately before that date there was an unimproved value under any such paragraph of land (in this paragraph referred to as "the whole parcel") of which the portion

forms

forms part, means an amount, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area or the Western Lands Commissioner, as the case may be, upon a request made in that behalf to that appropriate valuing authority, that bears to that unimproved value of the whole parcel the same proportion as the unimproved value (as at the date on which that unimproved value of the whole parcel was determined) of that portion (regarded as being part of the whole parcel) bears to that unimproved value of the whole parcel.

Where a valuation of land to which paragraph (d) or (e) of this subsection applies has been made by the appropriate valuing authority as aforesaid before that date and the unimproved value of such land included in such valuation does not appear in the valuation list, supplementary list, valuation book or valuation roll to which paragraph (a), (b) or (c) of this subsection applies, the unimproved value of such land means the unimproved value as included in such valuation.

Where a valuation of land is made pursuant to paragraph (d) or (e) of this subsection, such valuation shall, notwithstanding the provisions of subsection six of this section—

(i) be a valuation for the purposes of this Act only;

(ii) be a valuation of the unimproved value only; and

(iii) not be entered on the valuation roll of the Valuer-General or the valuation book of a council.

(2) Where a valuation is made pursuant to paragraph (d) or (e) of subsection one of this section there shall be separately noted on the valuation—

(a) where the land is land to which section 160E of the Local Government Act, 1919, applies and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned

apportioned under that paragraph was included in a supplementary list, a statement of the unimproved rating factor, determined in accordance with that section, in respect of the land;

(b) where the valuation is made by the Valuer-General and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned under that paragraph was included in a supplementary list—

(i) an amount designated as a rating and taxing basis determined in accordance with subsection two of section 61A of the Valuation of Land Act, 1916; and

(ii) any allowance that would have been noted on the valuation roll pursuant to section fifty-eight or 58A of the Valuation of Land Act, 1916, had the unimproved value specified in the valuation been entered on the valuation roll in accordance with either such section; and

(c) where the valuation is made by a valuer appointed by the council of an area, any deduction that would have been noted in the valuation book pursuant to section two or 2A of Schedule Three to the Local Government Act, 1919, had the unimproved value specified in the valuation been entered in the valuation book in accordance with either such section.

(3) Notwithstanding any other provision of this Act, where in relation to any land referred to in paragraph (a), (b), (d) or (e) of subsection one of this section—

(a) a statement of the unimproved rating factor, determined in accordance with section 160E of the Local Government Act, 1919, in respect of the land has been furnished with the valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been

the

the unimproved value of the land for the purposes of this Act, that unimproved rating factor shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land; or

(b) such a statement has not been so furnished but a rating and taxing basis, referred to in section 61A of the Valuation of Land Act, 1916, has been included in a supplementary list in which is included a valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the unimproved value of the land for the purposes of this Act, or has, in accordance with subsection two of this section, been separately noted on a valuation of that unimproved value, that rating and taxing basis shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land.

(4) Where, in relation to any land referred to in paragraph (a), (b) or (d) of subsection one of this section, there is a deductible allowance relating to the unimproved value of the land that would, but for this subsection or subsection three of this section, have been the unimproved value of any land in respect of which any aggregation tax would have been levied, and that deductible allowance has not been taken into account for the purpose of determining the unimproved value of the land under subsection one or three of this section, that deductible allowance shall be deducted from the unimproved value of the land ascertained under subsection one or three of this section and the aggregation tax shall be levied on an assessable value calculated accordingly.

In this subsection "deductible allowance" means—

(a) any allowance referred to in section fifty-eight or 58A of the Valuation of Land Act, 1916;

(b)

(b) any deduction referred to in section two or 2A of Schedule Three to the Local Government Act, 1919; and

(c) any allowance or deduction noted on a valuation pursuant to subparagraph (ii) of paragraph (b), or paragraph (c), of subsection two of this section.

(5) A person to whom a request for a determination of the unimproved value of any land has been made under paragraph (d) or (e) of subsection one of this section shall, as soon as practicable after receipt of the request, make or cause to be made the valuation requested.

(6) A determination of the unimproved value of any land made pursuant to paragraph (d) of subsection one of this section shall—

(a) where it is made by the Valuer-General, be made under and subject to the Valuation of Land Act, 1916;

(b) where it is made by the valuer appointed by the council of an area, be made under and subject to the Local Government Act, 1919; and

(c) where it is made by the Western Lands Commissioner, be made under and subject to this Part of this Act,

and, without prejudice to the generality of the foregoing provisions of this subsection, shall be subject to objection accordingly.

(7) A determination of the unimproved value of any land made under paragraph (e) of subsection one of this section shall not be subject to objection or appeal on the ground that the value assigned is too high or too low except on the ground that the value assigned is too high or too low by reason that the Valuer-General, the council or the Western Lands Commissioner, as the case may be, in making the valuation, has not complied with the provisions of that paragraph.

(8) A determination—

(a) of an unimproved rating factor pursuant to paragraph (a) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 160E of the Local Government Act, 1919;

(b) of a rating and taxing basis under subparagraph (i) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 61A of the Valuation of Land Act, 1916;

(c) of an allowance under subparagraph (ii) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section fifty-eight or 58A of the Valuation of Land Act, 1916, as the case may be; and

(d) of a deduction under paragraph (c) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section two or 2A of Schedule Three to the Local Government Act, 1919.

(9) The fact that an objection under the Valuation of Land Act, 1916, the Local Government Act, 1919, the Land Tax Management Act, 1956, or this Part of this Act, has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section shall not affect the valuation which is objected to and aggregation tax may be assessed, levied and recovered as if no objection were pending.

(10) Where—

(a) an objection has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section and such valuation has been altered upon the determination of such objection; or

(b)

(b) an alteration of any such valuation has been made in any valuation list, supplementary list, valuation book or valuation roll for the purposes of correcting any clerical error or misdescription,

the valuation as so altered shall be the unimproved value of such land for the purposes of this Act in substitution for the valuation so objected to or altered.

(11) Where any valuation has been altered as aforesaid a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

DIVISION 2.—*Valuations by Western Lands Commissioner.*

Application of Division. (cf. Act No. 26, 1956, s. 55.)

55. This Division of this Part of this Act shall apply to lands within the Western Division not being lands within an area within the meaning of the Local Government Act, 1919.

Unimproved value of land. (cf. Act No. 26, 1956, s. 56.)

56. The unimproved value of land is 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 the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made.

Valuations. (cf. Act No. 26, 1956, s. 57.)

57. (1) The Western Lands Commissioner may for the purposes of this Act make valuations of the unimproved value of such lands to which this Division of this Part of this Act applies as he may deem necessary.

Any such valuation shall be made—

(a) once at least in every six years; and

(b) for a valuation period, that is to say, for a period not exceeding six years.

Where

Where portion of a parcel of land which has been valued is sold, conveyed or resumed fresh valuations shall be made of the portion sold, conveyed or resumed and of the portion remaining.

(2) For the purpose of making any valuation the Western Lands Commissioner may require the owner or occupier of any land or interest in land to furnish such information as may be necessary to enable a correct valuation to be made, and may also make use of any information in his possession.

(3) The Western Lands Commissioner or any person authorised by him in that behalf may at all reasonable times enter on any land for the purposes of this Part of this Act.

(4) The Western Lands Commissioner shall enter on a valuation roll kept for the purpose a record of all valuations made under this Part of this Act.

A valuation shall, subject to paragraphs (d) and (e) of subsection one of section fifty-four of this Act, be deemed to be made as at the date on which the Western Lands Commissioner enters on such roll the record of such valuation.

Each entry in such valuation roll shall be signed or initialled by the Western Lands Commissioner or an officer approved in that behalf by the Western Lands Commissioner. The valuation roll so signed or initialled shall be conclusive proof of the making of the valuation on the date shown therein.

Such valuation roll may be kept in card, folder, or book form, or as the Western Lands Commissioner may direct.

58. (1) The Western Lands Commissioner shall give to each person whose estate or interest in land he has valued under this Part of this Act notice of such valuation stating a time within which such person may lodge with the Western Lands Commissioner a written objection to such valuation. Notice of valuations to be given. (cf. Act No. 26, 1956, s. 58.)

(2)

(2) Any such person may in or to the effect of the form prescribed object to any valuation under this Part of this Act within such time as is stated in such notice.

(3) No valuation under this Part of this Act shall be invalid because of any failure to give notice of valuation.

Alteration of valuation or reference of objection to Land and Valuation Court. (cf. Act No. 26, 1956, s. 59.)

59. (1) On objection being made to any valuation, the Western Lands Commissioner may, if he sees fit, alter such valuation. Notice of the Western Lands Commissioner's decision shall be given to the objector.

An objector who is dissatisfied with the decision of the Western Lands Commissioner not being a decision altering the valuation to the extent claimed in the objection, or to such extent as may be agreed upon, may within sixty days after service of such notice, request in writing the Western Lands Commissioner to treat his objection as an appeal and to forward it to the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

(2) The Western Lands Commissioner shall forward such objections together with a list thereof to the registrar of the Land and Valuation Court for hearing and determination by that Court.

Powers of Court. (cf. Act No. 26, 1956, s. 60.)

60. The Land and Valuation Court shall hear and determine all such objections brought before it, and, if it decides that any valuation is erroneous, shall order the valuation to be altered accordingly.

Consequential alterations. (cf. Act No. 26, 1956, s. 61.)

61. If on the hearing of any objection the Land and Valuation Court orders any valuation to be altered, the Western Lands Commissioner shall make all such consequential alterations as are necessary to give effect to the decision of the Court.

PART VIII.

MISCELLANEOUS.

Public officer of company. (cf. Act No. 26, 1956, s. 63.)

62. (1) Every company which is a taxpayer shall, unless exempted by the Commissioner, 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 :—

(a) The person so appointed shall for the purposes of this Act be called the public officer of the company.

(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 an address for service, has been given to the Commissioner.

(c) 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, 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.

(d) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties.

(e) 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.

(f) 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 : One hundred dollars for every day during which the failure or neglect continues.

(2)

(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 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.

Agents and trustees. (cf. Act No. 26, 1956, s. 64.)

63. 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 aggregation 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.

(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.

(d) Where as agent or trustee he pays aggregation 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.

(e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the aggregation tax which is or will become due in respect of the land.

(f) He is hereby made personally liable for the aggregation tax payable in respect of the land if, while the aggregation tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is controlled or held by him

him in his representative capacity but he shall not be otherwise personally liable for the aggregation tax.

(g) If he is a trustee he may raise whatever moneys are necessary in order to pay the aggregation tax by mortgage or charge with or without power of 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 aggregation tax.

(h) He is hereby indemnified for all payments which he makes in pursuance of this Act, or by requirements of the Commissioner.

(i) For the purpose of ensuring the payment of aggregation tax, the Commissioner shall have the same remedies against all land or other property of any kind 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 aggregation tax, and in as full and ample a manner.

Contracts to evade aggregation tax void.

64. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the appointed day, shall so far as it has or purports to have the purpose or effect of in any way directly or indirectly— (cf. Act No. 26, 1956, s. 65.)

(a) altering the incidence of any aggregation tax;

(b) relieving any person from liability to pay any aggregation tax or make any return;

(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, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

65.

Access to lands, buildings, etc. (cf. Act No. 26, 1956, s. 67.)

65. The Commissioner or any officer authorised by him in that behalf shall at all times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or documents of title, for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers.

Furnishing of valuation lists, etc., to Commissioner. (cf. Act No. 26, 1956, s. 68.)

66. The Valuer-General, the Western Lands Commissioner and the council of any area within the meaning of the Local Government Act, 1919, shall when so requested by the Commissioner furnish to the Commissioner a copy of any valuation list, supplementary list or valuation roll kept or prepared by them and of any alterations and additions thereto.

Where any such roll or alterations or additions are so furnished by any such council the Commissioner shall pay to such council the prescribed fee.

Power to obtain evidence. (cf. Act No. 26, 1956, s. 69.)

67. (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 assessment 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, or other papers whatever in his custody or under his control relating thereto.

(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.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

Obstructing officers. (cf. Act No. 26, 1956, s. 70.)

68. Any person who obstructs or hinders any other person acting in the exercise or discharge of any powers, authorities, duties or functions conferred or imposed by or under this Act shall be guilty of an offence.

Penalty : One hundred dollars.

69.

69. (1) Any person who— Offences. (cf. Act No. 26, 1956, s. 71.)

(a) fails or neglects duly to furnish any return or information as and when required by this Act or to comply with any requirement of the Commissioner made in pursuance of this Act;

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner, or any officer duly authorised by him, or to answer truly and fully 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 information which is false in any particular or makes any false answer, whether verbal or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

Penalty : Two hundred dollars.

(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 Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars and treble the amount of any aggregation 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.

70.

70. (1) Notwithstanding anything contained in section sixty-nine of this Act, any person who— Failure to furnish returns. (cf. Act No. 26, 1956, s. 72.)

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

(b) fails to include in any return any land used for primary production owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional aggregation tax at the rate of ten per centum per annum upon the amount of aggregation 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 twenty dollars, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional aggregation tax the amount of twenty dollars or double the amount of the difference between the aggregation tax properly payable and the aggregation tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition to any additional aggregation tax by way of penalty which may become payable by him in accordance with section forty of this Act :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional aggregation 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 sections sixty-nine and seventy-one of this Act, such action may be taken by the Commissioner, and in that case the additional aggregation tax payable under this section shall not be charged.

Evading taxation. (cf. Act No. 26, 1956, s. 73.)

71. 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 offence.

Penalty : One thousand dollars and treble the amount of the aggregation tax payment which he has evaded or attempted to evade.

Penalties not to relieve from aggregation tax. (cf. Act No. 26, 1956, s. 74.)

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

Aiding or abetting offences. (cf. Act No. 26, 1956, s. 75.)

73. 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.

PART IX.

GENERAL.

Service of notices. (cf. Act No. 26, 1956, s. 76.)

74. Any notice or document required or authorised by this Act to be served or given shall be in writing and shall be sufficiently served or given—

(a) if delivered personally;

(b) if left at the last known place of abode or business in or out of New South Wales of the person on or to whom such notice or document is to be served or given; or

(c) if sent by prepaid letter post addressed to the person on or to whom such notice or document is to be served or given at his address for service or last known place of abode or business in or out of New South Wales.

In the case of paragraph (c) of this section the service or giving of a notice or document shall be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

General penalty. (cf. Act No. 26, 1956, s. 78.)

75. Any person guilty of a breach of this Act for which no penalty is otherwise provided shall be liable to a penalty not exceeding two hundred dollars.

Recovery of penalties. (cf. Act No. 26, 1956, s. 79.)

76. All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate.

Report to Parliament. (cf. Act No. 26, 1956, s. 80.)

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

Amendment of certain Acts.

78. Each of the Acts specified in the first column of the Schedule to this Act is amended in the manner specified opposite that Act in the second column of that Schedule.

Regulations.

79. (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.

(2) The regulations may impose penalties not exceeding one hundred dollars for any breach thereof.

SCHEDULE.

SCHEDULE. Sec. 78.

PART I.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1956.	Land Tax Management Act, 1956.	Insert in subsection (2A) of section six after the words "under this Act to" the words "the Commissioner of Land Aggregation Tax or to".

PART II.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1970.	Closer Settlement and Public Reserves Fund Act, 1970.	Insert in paragraph (d) of section five after the words "paragraph (k) of" the words "subsection one of". Omit from the same paragraph the word "six" and insert in lieu thereof the symbols, figure and letter "(6A)".
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970.	Omit from paragraph (b) of subsection one of section two the word "commencement" where lastly occurring and insert in lieu thereof the following word and new paragraph:— commencement. Upon the issue of any certificate under subparagraph (iii) of this paragraph, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900. such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	Omit from paragraph (d) of the same subsection the word "six" where firstly occurring and insert in lieu thereof the symbols, figure and letter "(6A)". Insert in subparagraph (i) of paragraph (e) of the same subsection after the words "The provisions of this section" where firstly occurring the words ", other than subsection (6A),". Insert in the same subparagraph after the words "The provisions of this section" where secondly occurring the words ", other than subsection six,". Insert in the same subparagraph after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in subparagraph (iii) of paragraph (b) of subsection two of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900,

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in paragraph (b) of subsection four of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971
[50c]

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.*

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 27 *April,* 1971.

New South Wales

ANNO VICESIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1971.

An Act to make provision relating to the imposition assessment and collection of an aggregation tax in respect of certain lands; and for purposes connected therewith.

BE it enacted by the Queen'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 "Land Aggregation Tax Management Act, 1971". Short title and commencement.

(2) Subject to subsections three and four of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Part and Part II of this Act and the amendment made by section seventy-eight of this Act and specified in Part I of the Schedule to this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(4) The amendments made by section seventy-eight of this Act and specified in Part II of the Schedule to this Act shall commence upon the day upon which section two of the Crown Lands and Other Acts (Amendment) Act, 1970, commences.

2. This Act is divided as follows :— Division of Act.

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—ADMINISTRATION—*ss.* 4–7.

PART III.—AGGREGATION TAX—*ss.* 8–10

PART IV.—RETURNS, ASSESSMENT AND LIABILITY—*ss.* 11–34.

PART V.—OBJECTIONS AND APPEALS—*ss.* 35–38.

PART VI.—COLLECTION AND RECOVERY OF AGGREGATION TAX—*ss.* 39–53.

PART VII.—VALUATION OF LANDS—*ss.* 54–61.

DIVISION 1.—*Unimproved Value of Land—s.* 54.

DIVISION 2.—*Valuations by Western Lands Commissioner—ss.* 55–61.

PART

PART VIII.—MISCELLANEOUS—*ss.* 62–73.

PART IX.—GENERAL—*ss.* 74–79.

SCHEDULE.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Definitions. (cf. Act No. 26, 1956, s. 3.)

"Act" includes regulations;

"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 owned by the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land;

"aggregation tax" means aggregation tax calculated at the rates fixed by the Land Aggregation Tax Act, 1971, as assessed under this Act;

"appointed day" means the day appointed under subsection two of section one of this Act;

"Commissioner" means the Commissioner of Land Aggregation Tax;

"company" includes all bodies or associations corporate or unincorporate;

"de-restricted title land" means land in respect of which a certificate—

(a) has been issued under the provisions of subparagraph (iii) of paragraph (k) of subsection one of section 129B or subsection (6A) of section two hundred and seventy-two of the Crown Lands Consolidation Act, 1913, or subsection four of section thirty-one of the Closer Settlement Act, 1904, or subsection five of section ten of the Returned

Soldiers

Soldiers Settlement Act, 1916, as in force after the commencement of section two of the Crown Lands and Other Acts (Amendment) Act, 1970; and

(b) has, in accordance with any such provision, been recorded in the Register kept under the Real Property Act, 1900,

but does not include any such land so long as it continues to be owned by the person who was the owner thereof immediately before the issue of the certificate;

"joint owners" means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have a life or greater interest in shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners;

"land used for primary production" means, in relation to the use of any land during a taxing year, land used during that year primarily for any one or more of the following activities :—

(a) the cultivation thereof for the purpose of selling the produce of such cultivation;

(b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or

(c) the keeping of bees thereon for the purpose of selling their honey,

and includes land that is ordinarily used for any of the activities referred to in paragraph (a), (b) or (c) of this definition and that has lain fallow during the whole or any part of that year, and all land owned by a society registered as a rural society under the Co-operation Act, 1923;

"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;

"owned" 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—

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

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

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

"public authority" means any public body declared by the Governor by order published in the Gazette to be a public authority for the purposes of this Act;

"regulations" means regulations made under this Act;

"taxing year" means a period of twelve months commencing on the appointed day or on any anniversary of the appointed day;

"taxpayer" means a person who has been assessed or is liable to be assessed for aggregation tax in accordance with this Act;

"trustee"

"trustee" includes, 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—

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(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.

(2) A reference in this Act to land in respect of which aggregation tax is payable is a reference to land which is taken into account for the purpose of assessing aggregation tax that is payable.

(3) For the purposes of this Act where joint owners are the owners of land as joint tenants each of them shall be deemed to own an interest in the land as if he were a tenant in common with the other joint owners in equal shares.

PART II.

ADMINISTRATION.

Commissioner and other officers.

4. (1) The Governor may, under and subject to the Public Service Act, 1902, appoint a Commissioner of Land Aggregation Tax who may sue and be sued by that name and who shall be responsible for the due administration of this Act. (cf. Act No. 26, 1956, s. 4.)

(2) Where the Governor, by proclamation published in the Gazette, specifies an office in the Public Service for the purposes of this subsection, the person holding or acting in that office shall, in the event of the absence, incapacity or suspension of the Commissioner, exercise and perform all

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of the powers, authorities, duties and functions of the Commissioner under this Act and when so doing shall be deemed to be the Commissioner.

(3) The Governor may, under and subject to the Public Service Act, 1902, appoint and employ such other persons as may be deemed necessary for the carrying out of this Act.

(4) For the purposes of this Act the Minister may, with the approval of the Minister of the department concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

Notification of appointment. (cf. Act No. 26, 1956, s. 5.)

5. (1) A notification in the Gazette, purporting to be made by the Minister, that any person has been appointed as Commissioner or that any other person has been appointed for the purpose of carrying out this Act, shall be prima facie evidence of such appointment.

(2) A notification in the Gazette purporting to be made by the Minister and stating that a person specified in the notification was at a time or during a period so specified a person holding or acting in an office specified in a proclamation made under subsection two of section four of this Act shall be prima facie evidence of the matters stated therein.

Delegation by Commissioner. (cf. Act No. 7, 1913, s. 17A.)

6. (1) Subject to this section the Commissioner may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Commissioner by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Commissioner who made the delegation holds office at the time of that exercise or performance.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the prescribed powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Commissioner or in his own name on behalf of the Commissioner, the power, authority, duty or function shall be deemed to have been exercised or performed by the Commissioner, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

(5) Notwithstanding any delegation made under this section the Commissioner may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(6) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Secrecy. (cf. Act No. 26, 1956, s. 6.)

7. (1) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not, either directly or indirectly, except in the performance of any power, authority, duty or function under this Act, and either while he is, or after he ceases to be so appointed or employed, make a record of, or divulge or communicate to any person, any information acquired by him in respect of the affairs of any other person disclosed or obtained under the provisions of this Act.

Penalty : Five hundred dollars or imprisonment for twelve months.

(2) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not be required to produce in any court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his powers, authorities, duties or functions under this Act, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act.

(3) Any person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall, if and when required by the Commissioner to do so, make an oath or declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

(4) Notwithstanding anything contained in this section the Commissioner may divulge or communicate any information which comes to his knowledge in the performance of his powers, authorities, duties or functions under this Act to the Commissioner of Land Tax or to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth, and the divulging or communicating of the information shall not be a contravention of this section.

PART III.

AGGREGATION TAX.

Assessment of aggregation tax.

8. (1) Subject to the provisions of this Act, aggregation tax, at such rates as may be fixed by any Act, shall be assessed in respect of any taxing year on any person who at midnight on the day upon which that year ends owns any land used for primary production during that year (excluding land that is not to be taken into account for the purpose of assessing such tax) where that land—

(a) is situated in New South Wales;

(b) comprises wholly or in part de-restricted title land; and

(c) the assessable value of that land exceeds the prescribed amount,

and the tax shall be so assessed on—

(d) the assessable value of the de-restricted title land so owned by him; or

(e) such part of the assessable value of the de-restricted title land so owned by him as is equal to the amount by which the assessable value, or the aggregate of the assessable values, of the land so owned by him exceeds the prescribed amount,

whichever is the less.

(2)

(2) In subsection one of this section, "the prescribed amount" means—

(a) in the case where the land owned as referred to in that subsection is owned by a trustee who is required to be assessed for aggregation tax in accordance with the provisions of section twenty-three of this Act and that trustee holds that land as a trustee for equitable owners of that land—an amount equal to the product of the amount fixed by or under paragraph (b) of this subsection multiplied by the number of those equitable owners; or

(b) in any other case, where an amount—

(i) has not been prescribed for the purposes of this paragraph—the amount of one hundred and fifty thousand dollars; or

(ii) has been so prescribed—the amount so prescribed.

(3) A reference in subsection one of this section to the assessable value of land—

(a) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he became the owner on or after the prescribed day is—

(i) where, when that person first so became the owner of the land, he first so became the owner as the sole owner of the land and since the day on which he so became the sole owner has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the day on which he first so became the sole owner of the land;

(ii) where, when that person first so became the owner of the land, he first so became the owner as a joint owner of the land and since the day on which he first so became a joint owner he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was when he first so became a joint owner of the land—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he first so became a joint owner of the land the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) when that person first so became the owner of the land, he first so became the owner as a sole owner, since the day on which he first so became the sole owner he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) when that person first so became the owner of the land, he first so became the owner as a joint owner, since the day on which he first so became a joint owner he has continued to be either a joint owner or the sole

owner

owner and is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was when he first so became a joint owner of the land,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned on the day on which he first so became the owner of the land, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land;

(b) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he was immediately before the prescribed day the sole owner or a joint owner is—

(i) where that person was the sole owner of the land immediately before the prescribed day and on and since that day has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the prescribed day;

(ii) where that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was immediately before the prescribed day—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the prescribed day the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) that person was the sole owner of the land immediately before the prescribed day, on and since that day he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or the sole owner and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was immediately before the prescribed day,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned immediately before the prescribed day, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a

joint

joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land; or

(c) owned by joint owners who are jointly assessable for aggregation tax under subsection two of section twenty-six of this Act is a reference to the sum of the assessable values upon which each of the joint owners would, if none of them was a company, be assessed under paragraph (a) or (b) of this subsection, for aggregation tax.

(4) In subsection three of this section—

"sole owner" means an owner who is not a joint owner;

"the prescribed day", in relation to an owner of de-restricted title land, means the day on which he became the owner of that land or, where he is the owner of more than one parcel of de-restricted title land, the day on which he became the owner of the parcel of de-restricted title land that he first acquired.

(5) The amount on which aggregation tax is required to be assessed on any person under subsection one of this section is for the purposes of this Act the taxable value attributable to that person.

Lands not assessable for aggregation tax. (cf. Act No. 26, 1956, s. 10.)

9. Except where otherwise expressly provided in this Act the following lands used for primary production shall not be taken into account for the purpose of assessing aggregation tax in respect of any taxing year :—

(a) lands owned by the Crown or any public authority;

(b) lands owned by or in trust for a charitable or educational institution if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;

(c) lands owned by or in trust for a religious society, where those lands are held solely for, or the proceeds of those lands are devoted solely to, religious, charitable or educational purposes, including the support of aged or infirm clergy or ministers of the society, or their wives or widows or children; and

(d) lands owned by any person and used during the taxing year—

(i) for the purpose of cultivation of commercial timber; or

(ii) for any special purpose that may be prescribed for the purposes of this subparagraph.

Limitation of operation of section 9. (cf. Act No. 26, 1956, s. 11.)

10. With respect to land which under section nine of this Act is not to be taken into account for the purpose of assessing aggregation tax the provisions of that section shall be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land.

PART

PART IV.

RETURNS, ASSESSMENT AND LIABILITY.

Taxpayer to furnish returns. (cf. Act No. 26, 1956, s. 12.)

11. (1) For the purposes of the assessment and levy of aggregation tax in respect of any taxing year, every person who at midnight on the day on which that taxing year ends is the owner of any de-restricted title land and is required by the Commissioner by notice published in the Gazette to furnish a return shall furnish to the Commissioner in the 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 that day, with such other particulars as may be prescribed or as may be specified in the notice.

(2) The Commissioner may at any time require any person to furnish a return or a further and fuller return setting forth a full and complete statement of all or any land owned by him, or in respect of which he is agent or trustee, at midnight on the day on which any taxing year ends, with such other particulars as the Commissioner requires, and whether or not any return has previously been made by that person in respect of that land, or in respect of which he is agent or trustee, on that day.

(3) All the provisions of this Act shall extend and apply to any return made or required in accordance with subsection two of this section and the Commissioner may cause assessments to be made upon or in respect of that return in such manner as is necessary.

Returns deemed to be duly made. (cf. Act No. 26, 1956, s. 13.)

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

Assessments to be made. (cf. Act No. 26, 1956, s. 14.)

13. The Commissioner shall from the returns and from any other information in his possession or from one or both of those sources, and whether any return has been furnished or not, cause an assessment of aggregation tax to be made on each person liable to be assessed in accordance with the provisions of this Act.

14.

14. If—

Assessment in case of default or unsatisfactory return. (cf. Act No. 26, 1956, s. 15.)

(a) any person makes default in furnishing any return;

(b) the Commissioner is not satisfied with the return made by any person; or

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

the Commissioner may make an assessment of any aggregation tax for which that person is liable to be assessed in accordance with the provisions of section eight of this Act.

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

Amendment of assessments. (cf. Act No. 26, 1956, s. 16.)

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

(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 may allow all information required for the purpose of deciding the application —at any time;

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

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

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

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

(a) an additional amount shall be assessed against the taxpayer equal to the difference between any aggregation tax which he has paid and the aggregation tax which he ought to have paid if the assessment had been originally made as altered or added to; and

(b) the alteration or addition shall, 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 aggregation tax overpaid.

Validity of assessment. (cf. Act No. 26, 1956, s. 17.)

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

Evidence. (cf. Act No. 26, 1956, s. 18.)

17. (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—

(a) be conclusive evidence of the due making of the assessment; and

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

(2)

(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.

Notice of assessment. (cf. Act No. 26, 1956, s. 19.)

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

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

Owner of freehold. (cf. Act No. 26, 1956, s. 20.)

19. 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, for the purposes of this Act, be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder.

Conditional purchases, etc. (cf. Act No. 26, 1956, s. 21.)

20. Any person to whom the Crown has contracted to grant the fee-simple in any land under the Crown Lands Consolidation Act, 1913, or under any other Act relating to the alienation or disposal of lands of the Crown, and any person who under any such Act holds land under a lease from the Crown in perpetuity, shall, for the purposes of this Act, be deemed to be the owner of the land in fee-simple.

Mortgages. (cf. Act No. 26, 1956, s. 22.)

21. No deduction from the assessable value of any land shall be allowed in respect of any mortgage, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to payment of any unpaid purchase money shall be assessed for aggregation tax as if he were the owner of an unencumbered estate.

22. (1) A mortgagee or other person owning any estate or interest in land by way of security for money shall not be liable to be assessed for aggregation tax in respect of that mortgage, estate or interest : Mortgagees. (cf. Act No. 26, 1956, s. 23.)

Provided that a mortgagee in possession of land or any other person in possession of land by way of security 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 or other person in possession to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the secondary taxpayer in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation :

Provided further that the foregoing proviso shall not apply—

(a) to any mortgagee or person in possession whose possession began before the appointed day during the period commencing on the appointed day and ending on the day preceding the third anniversary of the appointed day; or

(b) to any mortgagee or person in possession whose possession began on or after the appointed day during the period commencing on the day on which he entered into possession and ending three years later,

but any such mortgagee or person in possession shall, if the mortgagor makes default in the payment of aggregation tax payable in respect of the land during or after the appropriate period referred to in paragraph (a) or (b) of this proviso, be responsible for the payment of the aggregation 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 in possession of land shall include a mortgagee who is in receipt of the rents or profits of such land, or who is in receipt of the

the income from any business carried on on such land, or who has appointed a receiver of the rents or profits of such land.

Trustees. (cf. Act No. 26, 1956, s. 24.)

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

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

Provided also that when a trustee is also the beneficial owner of other land, he shall be separately assessed for aggregation tax 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.

Equitable owner. (cf. Act No. 26, 1956, s. 25.)

24. Subject to this Act, the owner of any equitable estate or interest in any land shall be assessed in respect of aggregation 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 the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

Purchaser and vendor. (cf. Act No. 26, 1956, s. 26.)

25. (1) Where, before or after the appointed day, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

(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;

(b)

(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; and

(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—

(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) 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 made in good faith, and not for the purpose of evading the payment of aggregation 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 shall be final and conclusive.

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

(a) owing by the purchaser to the vendor, and secured by any mortgage on the land;

(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 be deemed to be unpaid purchase money.

(3)

(3) When by virtue of this section the purchaser and vendor of any land are both liable for aggregation tax in respect thereof, the purchaser shall be deemed to be the primary taxpayer and the vendor to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the vendor in respect of such part of the land as is de-restricted title 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 be the owner of the land, the vendor shall, if the purchaser makes default in payment of aggregation tax in respect of the land, be responsible for the payment of the aggregation tax due by the purchaser, which payment shall be deemed to be made by the vendor on behalf of the purchaser.

26. (1) Joint owners, any of whom is a company, of land shall be assessed for aggregation tax in accordance with the provisions of this section. Joint owners. (cf. Act No. 26, 1956, s. 27.)

(2) Joint owners (except those of them whose interests are, under section nine of this Act, not to be taken into account for the purpose of assessing aggregation tax) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner which is, under that section, not to be taken into account) as if it were owned by a single person, without regard to their respective interests therein or to 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.

In this subsection "deductions to which any of them may be entitled under this Act" shall be all the deductions to which any of them may be so entitled in respect of any land or any interest in land included in the joint assessment.

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

(a) his or its individual interest in the land (as if he or it were the owner of a part of the land in proportion to his or its interest); together with

(b)

(b) any other land used for primary production during the taxing year owned by him or it in severalty; and

(c) his or its individual interests in any other land used for primary production during the taxing year.

(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 or its separate assessment to be a secondary taxpayer; and from the aggregation tax assessable in respect of his or its interest in such part of the land as is de-restricted title land against each joint owner under subsection three of this section there shall be deducted such amount (if any) as is necessary to prevent double taxation.

(5) The provisions of this section have effect notwithstanding any other provision of this Act.

Separate parcels used for partnership purposes. (cf. Act No. 26, 1956, s. 28.)

27. Where separate parcels of land used for primary production are owned by different persons any of whom is a company, and such parcels are occupied, controlled, or used by a partnership whereof all such persons are members either by themselves or together with other persons, such persons shall, for the purposes and notwithstanding any other provision of this Act, be deemed to be joint owners of such parcels, and to hold such parcels and the de-restricted title land comprised in such parcels in such shares or proportions as the Commissioner may determine.

Husband and wife deemed to be single person.

28. A married man and his wife shall, for the purposes of this Act, be deemed to be one person, shall be assessed accordingly as a sole owner, and shall be jointly liable to pay the aggregation tax assessed with such rights of contribution or indemnity between themselves as is just :

Provided that the foregoing provisions of this section do not apply where the married man and his wife are living apart under an order for judicial separation made by a court of competent jurisdiction.

29.

29. (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. Act No. 26, 1956, s. 29.)

(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;

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

30. 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 Person entitled to income of business. (cf. Act No. 26, 1956, s. 30.)

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be deemed to be the primary taxpayer, and such firstmentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

No disposition to be effective while possession retained. (cf. Act No. 26, 1956, s. 31.)

31. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the appointed day, 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), for the purposes of this Act, to be the owner of the land.

Occupation, control, or use of land. (cf. Act No. 26, 1956, s. 32.)

32. (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, 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 :

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.

(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 aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land there shall be deducted such amount (if any) as is necessary to prevent double taxation.

33.

33. Where under this Act—

Deductions to prevent double taxation. (cf. Act No. 26, 1956, s. 33.)

(a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and

(b) it is provided that there shall be deducted from the aggregation tax assessable against the secondary taxpayer, in respect of any de-restricted title land or any interest in de-restricted title land, such amount (if any) as is necessary to prevent double taxation,

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

(i) the amount of aggregation tax assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the secondary taxpayer; or

(ii) the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the primary taxpayer aggregated with the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against a precedent secondary taxpayer (if any) :

Provided that the secondary taxpayer shall be assessed in respect of that de-restricted title land or that interest in de-restricted title land, notwithstanding that the land or interest is not, under section nine of this Act, to be taken into account for the purpose of assessing aggregation tax against the primary taxpayer, or that there is no primary taxpayer in respect of the land or interest.

34. Where in this Act reference is made to the aggregation tax assessable against a person in respect of any de-restricted title land or any interest in de-restricted title land, the reference is to so much of the whole aggregation tax assessable against him as bears to the whole aggregation tax assessable against him the proportion which the assessable value of the de-restricted

Meaning of aggregation tax assessable in respect of certain land. (cf. Act No. 26, 1956, s. 34.)

de-restricted title land or interest referred to bears to the assessable value of all the de-restricted title land used for primary production (including any interest in de-restricted title land used for primary production) owned by him.

PART V.

Objections and Appeals.

35. (1) Any taxpayer who is dissatisfied with an assessment made by the Commissioner under this Act or with any alteration in or addition to any such assessment may, within thirty days after service of the notice of assessment or of the alteration in or addition to an assessment, or within such further time as the Commissioner 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. Appeal. (cf. Act No. 26, 1956, s. 35.)

(2) No objection shall be made to the Commissioner under this Act in respect of so much of any assessment as relates to the valuation of land shown therein if such valuation is the unimproved value of such land under this Act.

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

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

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after service of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

36.

36. (1) The fact that an appeal in accordance with section thirty-five of this Act is pending shall not in the meantime interfere with or affect the assessment appealed from, and the aggregation tax may be levied and recovered on the assessment as if no appeal were pending. Pending appeal not to affect assessment. (cf. Act No. 26, 1956, s. 36.)

(2) If the assessment is altered on appeal a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

37. (1) An appeal to the Supreme Court under section thirty-five of this Act shall be heard by a single judge of that Court. Appeals to Supreme Court. (cf. Act No. 26, 1956, s. 37.)

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

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

(4) On the hearing of the appeal, the Court may make such order as it thinks fit, and may reduce, increase or vary the assessment.

(5) An order of the Court shall be final and conclusive on all parties except as provided in this section.

(6) The costs of the appeal shall be in the discretion of the Court.

(7) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the Court of Appeal upon any question which in the opinion of the Court is a question of law.

(8) The Court of Appeal shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(9) The Commissioner or a taxpayer may appeal to the Court of Appeal from any order made under subsection four of this section.

Power to make rules of court. (cf. Act No. 26, 1956, s. 38.)

38. (1) The judges of the Supreme Court or any five of them may make rules of court regulating the practice and procedure in relation to appeals to a single judge of the Supreme Court under this Part of this Act, and the Judges of Appeal or any three of them may make rules of court regulating the practice and procedure in relation to cases stated to the Court of Appeal under this Part of this Act.

(2) The provisions of section forty-one of the Interpretation Act, 1897, shall apply to and in respect of any such rules in the same way as they apply to regulations.

PART VI.

Collection and Recovery of Aggregation Tax.

Date of payment of aggregation tax. (cf. Act No. 26, 1956, s. 39.)

39. (1) Aggregation tax for each year shall be due and payable by the taxpayer on whom notice of assessment of the aggregation tax is served thirty days after service of that notice on him.

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

Additional aggregation tax in case of default. (cf. Act No. 26, 1956, s. 40.)

40. If the aggregation tax or the additional aggregation tax payable on an amended assessment is not paid before the expiration of the time allowed in section thirty-nine of this Act or such further time as is allowed by the Commissioner

Commissioner under section forty-one of this Act additional aggregation tax equal to ten per centum of the amount unpaid shall be payable by way of penalty.

Extension of time for payment and payment by instalments. (cf. Act No. 26, 1956, s. 41.)

41. The Commissioner may, in such cases as he thinks fit—

(a) extend the time for payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise;

(b) permit the payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise, to be made by such instalments and within such time as he considers the circumstances warrant; or

(c) remit the whole or any part of the additional aggregation tax imposed under section forty of this Act.

Recovery of aggregation tax. (cf. Act No. 26, 1956, s. 42.)

42. (1) Any aggregation tax shall be deemed, when it becomes due or is payable, to be a debt due to Her Majesty, and shall be collected and received by the Commissioner on account of and shall be paid into the Special Deposits Account in the Treasury, called the Closer Settlement and Public Reserves Fund, established under the Closer Settlement and Public Reserves Fund Act, 1970, from which shall be paid any amounts, paid as aggregation tax, that are refundable or repayable under this Act.

(2) Any aggregation tax unpaid may be recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Substituted service. (cf. Act No. 26, 1956, s. 43.)

43. If in any proceedings against a taxpayer for the recovery of aggregation tax the defendant—

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

(b) cannot after reasonable inquiry be found,

service

service of any process in the proceedings may, without leave of the court, be effected on him by posting it or an office copy of it in a letter addressed to him at his last known place of business or abode in Australia, or by fixing it on a conspicuous part of the land in respect of which the aggregation tax is payable.

Provision when aggregation tax not paid during lifetime.

(cf. Act No. 26, 1956, s. 44.)

44. 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 :—

(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 years for which the aggregation tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be such amount not exceeding treble the amount of the difference between the aggregation tax so assessed and the amount actually paid by the taxpayer as the Commissioner may determine, and 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 amount payable as in the case of ordinary assessments and taxation.

45. No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of aggregation tax. Statutes of limitations. (cf. Act No. 26, 1956, s. 45.)

46. (1) Where a taxpayer makes a default in the payment of aggregation 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. Act No. 26, 1956, s. 46.)

(a) If the aggregation tax is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the aggregation tax, and it may be recovered from him as if he were the defaulting taxpayer.

(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 at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

(2) Any payment to the Commissioner under this section shall be a valid discharge to the lessee or occupier for such rent or payments due by the lessee or occupier to the taxpayer as against all other persons whomsoever.

47. (1) Aggregation tax shall until payment be a first charge upon the de-restricted title land in respect of which the tax is payable in priority over all other encumbrances whatever, and where that land comprises two or more parcels the aggregation tax payable in respect of the land shall be a first charge on each and every such parcel and notwithstanding any disposition of the land or any part thereof the land or Aggregation tax to be first charge on land. (cf. Act No. 26, 1956, s. 47.)

part

part shall continue to be liable in the hands of any purchaser or holder for the payment of the aggregation tax so long as it remains unpaid :

Provided that no such charge shall be of effect as 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 prescribed manner at the office of the Commissioner.

The Commissioner shall on application of the purchaser of any land and on payment of the prescribed fee issue a certificate showing whether or not there is any aggregation tax charged on the land described in the application.

The regulations may provide that the prescribed fee shall be paid by affixing to the application a duty stamp of an amount equal to the amount of the prescribed fee.

(2) The Commissioner may release the land in respect of which aggregation tax is payable or any part thereof from the charge thereon pursuant to subsection one of this section on payment of an amount he estimates to be not less than the proportion of tax referable to the land or part.

(3) The provisions of this section shall have effect notwithstanding anything contained in section thirty-four or any other provision of this Act.

48. Every person who, under any provision of this Act, pays any aggregation tax for or on behalf of any other person, shall be entitled to recover the amount thereof from that other person as a debt, together with the costs of recovery, or to retain or deduct the amount thereof out of any money in his hands belonging or payable to that other person. Recovery of aggregation tax paid on behalf of another person. (cf. Act No. 26, 1956, s. 48.)

49.

Contribution from tax-payers jointly liable.

(cf. Act No. 26, 1956, s. 49.)

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

(a) A person who has paid the aggregation tax in respect of any land may recover by way of contribution from any other person jointly liable with him a sum which bears the same proportion to the aggregation tax as the assessable value of the estate of such other person bears to the whole of the assessable value of the land.

(b) Every person entitled to contribution in respect of aggregation 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.

Remission of aggregation tax in cases of hardship.

(cf. Act No. 26, 1956, s. 50.)

50. (1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Auditor-General and the Under Secretary of the Treasury that—

(a) a person liable to pay aggregation tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of aggregation tax will entail serious hardship; or

(b) owing to the death of a person who, if he had lived, would have been liable to pay aggregation tax, the dependants of that person are in such circumstances that the exaction of the full amount of aggregation tax will entail serious hardship,

the Board may waive the payment of the aggregation tax either wholly or in part.

(2)

(2) The Commissioner shall make such alterations in the amount of aggregation tax payable and shall make such refund of aggregation tax already paid as is necessary to give effect to the decision of the Board.

(3) A member of the Board may by writing under his hand appoint a person to act in his place at any meetings of the Board at which he is unable to be present, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

51. (1) In any case where it is shown to the satisfaction of the Board referred to in section fifty of this Act, that every reasonable effort has been made to recover aggregation tax, or that it is impracticable without undue expense to recover aggregation tax, it may direct the amount thereof to be written off. Writing off aggregation tax. (cf. Act No. 26, 1956, s. 51.)

(2) The taxpayer shall not be released from his liability in consequence of any action taken by the Board under this section, and the Commissioner may at any future time take such action to recover any such tax as he considers the circumstances warrant.

52. The Commissioner may exercise all the powers of the Board under section fifty of this Act in any case where the amount of aggregation tax involved in respect of any one year does not exceed forty dollars. Board's powers may be exercised by Commissioner in certain cases. (cf. Act No. 26, 1956, s. 52.)

53. Aggregation tax— Definition of aggregation tax for certain purposes of this Part. (cf. Act No. 26, 1956, s. 53.)

(a) for the purposes of sections fifty and fifty-one of this Act includes any costs incurred in attempting to recover aggregation tax; and

(b)

(b) for the purposes of sections forty-two, forty-three, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of this Act includes additional aggregation tax whether by way of penalty or otherwise.

PART VII.

VALUATION OF LANDS.

DIVISION 1.—*Unimproved Value of Land.*

Unimproved value of land.

(cf. Act No. 26, 1956, s. 54.)

54. (1) For the purposes of this Act the unimproved value of land as at any specified date—

(a) where the land is included in the valuation list or supplementary list last furnished under the Valuation of Land Act, 1916, by the Valuer-General to a council of an area within the meaning of the Local Government Act, 1919, before that date, means the unimproved value of such land as appearing in such valuation list or supplementary list immediately before that date;

(b) where the land is within an area within the meaning of the Local Government Act, 1919, not being land to which paragraph (a) of this subsection applies, means the unimproved value of such land as appearing in the valuation book of the council of such area immediately before that date;

(c) where the land is within the Western Division, not being land within an area within the meaning of the Local Government Act, 1919, means the unimproved value of such land as appearing, immediately before that date—

(i) in the valuation roll, kept by the Western Lands Commissioner in accordance with the provisions of Part VII of the Land Tax Management Act, 1956, immediately before that date; or

(ii) where the unimproved value of the land does not appear in that valuation roll, but appears in the valuation roll kept under this Part of this Act, in that lastmentioned valuation roll immediately before that date;

(d) except as provided in paragraph (e) of this subsection where immediately before that date the land has no unimproved value under paragraph (a), (b) or (c) of this subsection by reason that the land was not included in the valuation list, supplementary list, valuation book or valuation roll referred to in those paragraphs, means the unimproved value of such land, as at that date, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area, or the Western Lands Commissioner, upon a request in that behalf made to the Valuer-General, the council of the area or the Western Lands Commissioner, as the case may be; or

(e) where immediately before that date the land (in this paragraph referred to as "the portion") had no unimproved value under paragraph (a), (b) or (c) of this subsection but immediately before that date there was an unimproved value under any such paragraph of land (in this paragraph referred to as "the whole parcel") of which the portion

forms

forms part, means an amount, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area or the Western Lands Commissioner, as the case may be, upon a request made in that behalf to that appropriate valuing authority, that bears to that unimproved value of the whole parcel the same proportion as the unimproved value (as at the date on which that unimproved value of the whole parcel was determined) of that portion (regarded as being part of the whole parcel) bears to that unimproved value of the whole parcel.

Where a valuation of land to which paragraph (d) or (e) of this subsection applies has been made by the appropriate valuing authority as aforesaid before that date and the unimproved value of such land included in such valuation does not appear in the valuation list, supplementary list, valuation book or valuation roll to which paragraph (a), (b) or (c) of this subsection applies, the unimproved value of such land means the unimproved value as included in such valuation.

Where a valuation of land is made pursuant to paragraph (d) or (e) of this subsection, such valuation shall, notwithstanding the provisions of subsection six of this section—

(i) be a valuation for the purposes of this Act only;

(ii) be a valuation of the unimproved value only; and

(iii) not be entered on the valuation roll of the Valuer-General or the valuation book of a council.

(2) Where a valuation is made pursuant to paragraph (d) or (e) of subsection one of this section there shall be separately noted on the valuation—

(a) where the land is land to which section 160E of the Local Government Act, 1919, applies and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned

apportioned under that paragraph was included in a supplementary list, a statement of the unimproved rating factor, determined in accordance with that section, in respect of the land;

(b) where the valuation is made by the Valuer-General and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned under that paragraph was included in a supplementary list—

(i) an amount designated as a rating and taxing basis determined in accordance with subsection two of section 61A of the Valuation of Land Act, 1916; and

(ii) any allowance that would have been noted on the valuation roll pursuant to section fifty-eight or 58A of the Valuation of Land Act, 1916, had the unimproved value specified in the valuation been entered on the valuation roll in accordance with either such section; and

(c) where the valuation is made by a valuer appointed by the council of an area, any deduction that would have been noted in the valuation book pursuant to section two or 2A of Schedule Three to the Local Government Act, 1919, had the unimproved value specified in the valuation been entered in the valuation book in accordance with either such section.

(3) Notwithstanding any other provision of this Act, where in relation to any land referred to in paragraph (a), (b), (d) or (e) of subsection one of this section—

(a) a statement of the unimproved rating factor, determined in accordance with section 160E of the Local Government Act, 1919, in respect of the land has been furnished with the valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the

the unimproved value of the land for the purposes of this Act, that unimproved rating factor shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land; or

(b) such a statement has not been so furnished but a rating and taxing basis, referred to in section 61A of the Valuation of Land Act, 1916, has been included in a supplementary list in which is included a valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the unimproved value of the land for the purposes of this Act, or has, in accordance with subsection two of this section, been separately noted on a valuation of that unimproved value, that rating and taxing basis shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land.

(4) Where, in relation to any land referred to in paragraph (a), (b) or (d) of subsection one of this section, there is a deductible allowance relating to the unimproved value of the land that would, but for this subsection or subsection three of this section, have been the unimproved value of any land in respect of which any aggregation tax would have been levied, and that deductible allowance has not been taken into account for the purpose of determining the unimproved value of the land under subsection one or three of this section, that deductible allowance shall be deducted from the unimproved value of the land ascertained under subsection one or three of this section and the aggregation tax shall be levied on an assessable value calculated accordingly.

In this subsection "deductible allowance" means—

(a) any allowance referred to in section fifty-eight or 58A of the Valuation of Land Act, 1916;

(b)

(b) any deduction referred to in section two or 2A of Schedule Three to the Local Government Act, 1919; and

(c) any allowance or deduction noted on a valuation pursuant to subparagraph (ii) of paragraph (b), or paragraph (c), of subsection two of this section.

(5) A person to whom a request for a determination of the unimproved value of any land has been made under paragraph (d) or (e) of subsection one of this section shall, as soon as practicable after receipt of the request, make or cause to be made the valuation requested.

(6) A determination of the unimproved value of any land made pursuant to paragraph (d) of subsection one of this section shall—

(a) where it is made by the Valuer-General, be made under and subject to the Valuation of Land Act, 1916;

(b) where it is made by the valuer appointed by the council of an area, be made under and subject to the Local Government Act, 1919; and

(c) where it is made by the Western Lands Commissioner, be made under and subject to this Part of this Act,

and, without prejudice to the generality of the foregoing provisions of this subsection, shall be subject to objection accordingly.

(7) A determination of the unimproved value of any land made under paragraph (e) of subsection one of this section shall not be subject to objection or appeal on the ground that the value assigned is too high or too low except on the ground that the value assigned is too high or too low by reason that the Valuer-General, the council or the Western Lands Commissioner, as the case may be, in making the valuation, has not complied with the provisions of that paragraph.

(8) A determination—

(a) of an unimproved rating factor pursuant to paragraph (a) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 160E of the Local Government Act, 1919;

(b) of a rating and taxing basis under subparagraph (i) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 61A of the Valuation of Land Act, 1916;

(c) of an allowance under subparagraph (ii) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section fifty-eight or 58A of the Valuation of Land Act, 1916, as the case may be; and

(d) of a deduction under paragraph (c) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section two or 2A of Schedule Three to the Local Government Act, 1919.

(9) The fact that an objection under the Valuation of Land Act, 1916, the Local Government Act, 1919, the Land Tax Management Act, 1956, or this Part of this Act, has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section shall not affect the valuation which is objected to and aggregation tax may be assessed, levied and recovered as if no objection were pending.

(10) Where—

(a) an objection has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section and such valuation has been altered upon the determination of such objection; or

(b)

(b) an alteration of any such valuation has been made in any valuation list, supplementary list, valuation book or valuation roll for the purposes of correcting any clerical error or misdescription,

the valuation as so altered shall be the unimproved value of such land for the purposes of this Act in substitution for the valuation so objected to or altered.

(11) Where any valuation has been altered as aforesaid a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

DIVISION 2.—*Valuations by Western Lands Commissioner.*

Application of Division. (cf. Act No. 26, 1956, s. 55.)

55. This Division of this Part of this Act shall apply to lands within the Western Division not being lands within an area within the meaning of the Local Government Act, 1919.

Unimproved value of land. (cf. Act No. 26, 1956, s. 56.)

56. The unimproved value of land is 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 the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made.

Valuations. (cf. Act No. 26, 1956, s. 57.)

57. (1) The Western Lands Commissioner may for the purposes of this Act make valuations of the unimproved value of such lands to which this Division of this Part of this Act applies as he may deem necessary.

Any such valuation shall be made—

(a) once at least in every six years; and

(b) for a valuation period, that is to say, for a period not exceeding six years.

Where

Where portion of a parcel of land which has been valued is sold, conveyed or resumed fresh valuations shall be made of the portion sold, conveyed or resumed and of the portion remaining.

(2) For the purpose of making any valuation the Western Lands Commissioner may require the owner or occupier of any land or interest in land to furnish such information as may be necessary to enable a correct valuation to be made, and may also make use of any information in his possession.

(3) The Western Lands Commissioner or any person authorised by him in that behalf may at all reasonable times enter on any land for the purposes of this Part of this Act.

(4) The Western Lands Commissioner shall enter on a valuation roll kept for the purpose a record of all valuations made under this Part of this Act.

A valuation shall, subject to paragraphs (d) and (e) of subsection one of section fifty-four of this Act, be deemed to be made as at the date on which the Western Lands Commissioner enters on such roll the record of such valuation.

Each entry in such valuation roll shall be signed or initialled by the Western Lands Commissioner or an officer approved in that behalf by the Western Lands Commissioner. The valuation roll so signed or initialled shall be conclusive proof of the making of the valuation on the date shown therein.

Such valuation roll may be kept in card, folder, or book form, or as the Western Lands Commissioner may direct.

58. (1) The Western Lands Commissioner shall give to each person whose estate or interest in land he has valued under this Part of this Act notice of such valuation stating a time within which such person may lodge with the Western Lands Commissioner a written objection to such valuation. Notice of valuations to be given. (cf. Act No. 26, 1956, s. 58.)

(2)

(2) Any such person may in or to the effect of the form prescribed object to any valuation under this Part of this Act within such time as is stated in such notice.

(3) No valuation under this Part of this Act shall be invalid because of any failure to give notice of valuation.

Alteration of valuation or reference of objection to Land and Valuation Court. (cf. Act No. 26, 1956, s. 59.)

59. (1) On objection being made to any valuation, the Western Lands Commissioner may, if he sees fit, alter such valuation. Notice of the Western Lands Commissioner's decision shall be given to the objector.

An objector who is dissatisfied with the decision of the Western Lands Commissioner not being a decision altering the valuation to the extent claimed in the objection, or to such extent as may be agreed upon, may within sixty days after service of such notice, request in writing the Western Lands Commissioner to treat his objection as an appeal and to forward it to the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

(2) The Western Lands Commissioner shall forward such objections together with a list thereof to the registrar of the Land and Valuation Court for hearing and determination by that Court.

Powers of Court. (cf. Act No. 26, 1956, s. 60.)

60. The Land and Valuation Court shall hear and determine all such objections brought before it, and, if it decides that any valuation is erroneous, shall order the valuation to be altered accordingly.

Consequential alterations. (cf. Act No. 26, 1956, s. 61.)

61. If on the hearing of any objection the Land and Valuation Court orders any valuation to be altered, the Western Lands Commissioner shall make all such consequential alterations as are necessary to give effect to the decision of the Court.

PART VIII.

MISCELLANEOUS.

Public officer of company. (cf. Act No. 26, 1956, s. 63.)

62. (1) Every company which is a taxpayer shall, unless exempted by the Commissioner, 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 :—

(a) The person so appointed shall for the purposes of this Act be called the public officer of the company.

(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 an address for service, has been given to the Commissioner.

(c) 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, 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.

(d) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties.

(e) 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.

(f) 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 : One hundred dollars for every day during which the failure or neglect continues.

(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 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.

Agents and trustees. (cf. Act No. 26, 1956, s. 64.)

63. 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 aggregation 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.

(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.

(d) Where as agent or trustee he pays aggregation 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.

(e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the aggregation tax which is or will become due in respect of the land.

(f) He is hereby made personally liable for the aggregation tax payable in respect of the land if, while the aggregation tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is controlled or held by him

him in his representative capacity but he shall not be otherwise personally liable for the aggregation tax.

(g) If he is a trustee he may raise whatever moneys are necessary in order to pay the aggregation tax by mortgage or charge with or without power of 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 aggregation tax.

(h) He is hereby indemnified for all payments which he makes in pursuance of this Act, or by requirements of the Commissioner.

(i) For the purpose of ensuring the payment of aggregation tax, the Commissioner shall have the same remedies against all land or other property of any kind 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 aggregation tax, and in as full and ample a manner.

Contracts to evade aggregation tax void.

64. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the appointed day, shall so far as it has or purports to have the purpose or effect of in any way directly or indirectly— (cf. Act No. 26, 1956, s. 65.)

(a) altering the incidence of any aggregation tax;

(b) relieving any person from liability to pay any aggregation tax or make any return;

(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, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

65.

65. The Commissioner or any officer authorised by him in that behalf shall at all times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or documents of title, for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers. Access to lands, buildings, etc. (cf. Act No. 26, 1956, s. 67.)

66. The Valuer-General, the Western Lands Commissioner and the council of any area within the meaning of the Local Government Act, 1919, shall when so requested by the Commissioner furnish to the Commissioner a copy of any valuation list, supplementary list or valuation roll kept or prepared by them and of any alterations and additions thereto. Furnishing of valuation lists, etc., to Commissioner. (cf. Act No. 26, 1956, s. 68.)

Where any such roll or alterations or additions are so furnished by any such council the Commissioner shall pay to such council the prescribed fee.

67. (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 assessment 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, or other papers whatever in his custody or under his control relating thereto. Power to obtain evidence. (cf. Act No. 26, 1956, s. 69.)

(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.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

68. Any person who obstructs or hinders any other person acting in the exercise or discharge of any powers, authorities, duties or functions conferred or imposed by or under this Act shall be guilty of an offence. Obstructing officers. (cf. Act No. 26, 1956, s. 70.)

Penalty : One hundred dollars.

69.

69. (1) Any person who— Offences. (cf. Act No. 26, 1956, s. 71.)

(a) fails or neglects duly to furnish any return or information as and when required by this Act or to comply with any requirement of the Commissioner made in pursuance of this Act;

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner, or any officer duly authorised by him, or to answer truly and fully 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 information which is false in any particular or makes any false answer, whether verbal or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

Penalty : Two hundred dollars.

(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 Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars and treble the amount of any aggregation 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.

70.

Failure to furnish returns.

(cf. Act No. 26, 1956, s. 72.)

70. (1) Notwithstanding anything contained in section sixty-nine of this Act, any person who—

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

(b) fails to include in any return any land used for primary production owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional aggregation tax at the rate of ten per centum per annum upon the amount of aggregation 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 twenty dollars, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional aggregation tax the amount of twenty dollars or double the amount of the difference between the aggregation tax properly payable and the aggregation tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition to any additional aggregation tax by way of penalty which may become payable by him in accordance with section forty of this Act :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional aggregation 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 sections sixty-nine and seventy-one of this Act, such action may be taken by the Commissioner, and in that case the additional aggregation tax payable under this section shall not be charged.

71. 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 offence. Evading taxation. (cf. Act No. 26, 1956, s. 73.)

Penalty : One thousand dollars and treble the amount of the aggregation tax payment which he has evaded or attempted to evade.

72. Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any aggregation tax for which he would otherwise be liable. Penalties not to relieve from aggregation tax. (cf. Act No. 26, 1956, s. 74.)

73. 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. Act No. 26, 1956, s. 75.)

PART IX.

GENERAL.

74. Any notice or document required or authorised by this Act to be served or given shall be in writing and shall be sufficiently served or given— Service of notices. (cf. Act No. 26, 1956, s. 76.)

(a) if delivered personally;

(b) if left at the last known place of abode or business in or out of New South Wales of the person on or to whom such notice or document is to be served or given; or

(c)

(c) if sent by prepaid letter post addressed to the person on or to whom such notice or document is to be served or given at his address for service or last known place of abode or business in or out of New South Wales.

In the case of paragraph (c) of this section the service or giving of a notice or document shall be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

General penalty. (cf. Act No. 26, 1956, s. 78.)

75. Any person guilty of a breach of this Act for which no penalty is otherwise provided shall be liable to a penalty not exceeding two hundred dollars.

Recovery of penalties. (cf. Act No. 26, 1956, s. 79.)

76. All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate.

Report to Parliament. (cf. Act No. 26, 1956, s. 80.)

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

Amendment of certain Acts.

78. Each of the Acts specified in the first column of the Schedule to this Act is amended in the manner specified opposite that Act in the second column of that Schedule.

Regulations.

79. (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.

(2) The regulations may impose penalties not exceeding one hundred dollars for any breach thereof.

SCHEDULE.

SCHEDULE.

Sec. 78.

PART I.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1956.	Land Tax Management Act, 1956.	Insert in subsection (2A) of section six after the words "under this Act to" the words "the Commissioner of Land Aggregation Tax or to".

PART II.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1970.	Closer Settlement and Public Reserves Fund Act, 1970.	Insert in paragraph (d) of section five after the words "paragraph (k) of" the words "subsection one of". Omit from the same paragraph the word "six" and insert in lieu thereof the symbols, figure and letter "(6A)".
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970.	Omit from paragraph (b) of subsection one of section two the word "commencement" where lastly occurring and insert in lieu thereof the following word and new paragraph:— commencement. Upon the issue of any certificate under subparagraph (iii) of this paragraph, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	Omit from paragraph (d) of the same subsection the word "six" where firstly occurring and insert in lieu thereof the symbols, figure and letter "(6A)". Insert in subparagraph (i) of paragraph (e) of the same subsection after the words "The provisions of this section" where firstly occurring the words ", other than subsection (6A),". Insert in the same subparagraph after the words "The provisions of this section" where secondly occurring the words ", other than subsection six,". Insert in the same subparagraph after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in subparagraph (iii) of paragraph (b) of subsection two of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900,

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in paragraph (b) of subsection four of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971
[50c]

No. , 1971.

A BILL

To make provision relating to the imposition assessment and collection of an aggregation tax in respect of certain lands; and for purposes connected therewith.

[MR LEWIS—20 *April*, 1971.]

BE it enacted by the Queen'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 "Land Aggregation Tax Management Act, 1971". Short title and commencement.

(2) Subject to subsections three and four of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Part and Part II of this Act and the amendment made by section seventy-eight of this Act and specified in Part I of the Schedule to this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(4) The amendments made by section seventy-eight of this Act and specified in Part II of the Schedule to this Act shall commence upon the day upon which section two of the Crown Lands and Other Acts (Amendment) Act, 1970, commences.

Division of Act.

2. This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—ADMINISTRATION—*ss.* 4–7.

PART III.—AGGREGATION TAX—*ss.* 8–10

PART IV.—RETURNS, ASSESSMENT AND LIABILITY—*ss.* 11–34.

PART V.—OBJECTIONS AND APPEALS—*ss.* 35–38.

PART VI.—COLLECTION AND RECOVERY OF AGGREGATION TAX—*ss.* 39–53.

PART VII.—VALUATION OF LANDS—*ss.* 54–61.

DIVISION 1.—*Unimproved Value of Land—s.* 54.

DIVISION 2.—*Valuations by Western Lands Commissioner—ss.* 55–61.

PART

PART VIII.—MISCELLANEOUS—*ss.* 62–73.

PART IX.—GENERAL—*ss.* 74–79.

SCHEDULE.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Definitions. (cf. Act No. 26, 1956, s. 3.)

"Act" includes regulations;

"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 owned by the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land;

"aggregation tax" means aggregation tax calculated at the rates fixed by the Land Aggregation Tax Act, 1971, as assessed under this Act;

"appointed day" means the day appointed under subsection two of section one of this Act;

"Commissioner" means the Commissioner of Land Aggregation Tax;

"company" includes all bodies or associations corporate or unincorporate;

"de-restricted title land" means land in respect of which a certificate—

(a) has been issued under the provisions of subparagraph (iii) of paragraph (k) of subsection one of section 129B or subsection (6A) of section two hundred and seventy-two of the Crown Lands Consolidation Act, 1913, or subsection four of section thirty-one of the Closer Settlement Act, 1904, or subsection five of section ten of the Returned

Soldiers

Soldiers Settlement Act, 1916, as in force after the commencement of section two of the Crown Lands and Other Acts (Amendment) Act, 1970; and

(b) has, in accordance with any such provision, been recorded in the Register kept under the Real Property Act, 1900,

but does not include any such land so long as it continues to be owned by the person who was the owner thereof immediately before the issue of the certificate;

"joint owners" means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have a life or greater interest in shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners;

"land used for primary production" means, in relation to the use of any land during a taxing year, land used during that year primarily for any one or more of the following activities :—

(a) the cultivation thereof for the purpose of selling the produce of such cultivation;

(b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or

(c) the keeping of bees thereon for the purpose of selling their honey,

and includes land that is ordinarily used for any of the activities referred to in paragraph (a), (b) or (c) of this definition and that has lain fallow during the whole or any part of that year, and all land owned by a society registered as a rural society under the Co-operation Act, 1923;

"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;

"owned" 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—

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

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

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

"public authority" means any public body declared by the Governor by order published in the Gazette to be a public authority for the purposes of this Act;

"regulations" means regulations made under this Act;

"taxing year" means a period of twelve months commencing on the appointed day or on any anniversary of the appointed day;

"taxpayer" means a person who has been assessed or is liable to be assessed for aggregation tax in accordance with this Act;

"trustee"

"trustee" includes, 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—

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(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.

(2) A reference in this Act to land in respect of which aggregation tax is payable is a reference to land which is taken into account for the purpose of assessing aggregation tax that is payable.

(3) For the purposes of this Act where joint owners are the owners of land as joint tenants each of them shall be deemed to own an interest in the land as if he were a tenant in common with the other joint owners in equal shares.

PART II.

ADMINISTRATION.

Commissioner and other officers. (cf. Act No. 26, 1956, s. 4.)

4. (1) The Governor may, under and subject to the Public Service Act, 1902, appoint a Commissioner of Land Aggregation Tax who may sue and be sued by that name and who shall be responsible for the due administration of this Act.

(2) Where the Governor, by proclamation published in the Gazette, specifies an office in the Public Service for the purposes of this subsection, the person holding or acting in that office shall, in the event of the absence, incapacity or suspension of the Commissioner, exercise and perform all

of

of the powers, authorities, duties and functions of the Commissioner under this Act and when so doing shall be deemed to be the Commissioner.

(3) The Governor may, under and subject to the Public Service Act, 1902, appoint and employ such other persons as may be deemed necessary for the carrying out of this Act.

(4) For the purposes of this Act the Minister may, with the approval of the Minister of the department concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

Notification of appointment. (cf. Act No. 26, 1956, s. 5.)

5. (1) A notification in the Gazette, purporting to be made by the Minister, that any person has been appointed as Commissioner or that any other person has been appointed for the purpose of carrying out this Act, shall be prima facie evidence of such appointment.

(2) A notification in the Gazette purporting to be made by the Minister and stating that a person specified in the notification was at a time or during a period so specified a person holding or acting in an office specified in a proclamation made under subsection two of section four of this Act shall be prima facie evidence of the matters stated therein.

Delegation by Commissioner. (cf. Act No. 7, 1913, s. 17A.)

6. (1) Subject to this section the Commissioner may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Commissioner by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2)

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Commissioner who made the delegation holds office at the time of that exercise or performance.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the prescribed powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Commissioner or in his own name on behalf of the Commissioner, the power, authority, duty or function shall be deemed to have been exercised or performed by the Commissioner, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

(5) Notwithstanding any delegation made under this section the Commissioner may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(6) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Secrecy. (cf. Act No. 26, 1956, s. 6.)

7. (1) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not, either directly or indirectly, except in the performance of any power, authority, duty or function under this Act, and either while he is, or after he ceases to be so appointed or employed, make a record of, or divulge or communicate to any person, any information acquired by him in respect of the affairs of any other person disclosed or obtained under the provisions of this Act.

Penalty : Five hundred dollars or imprisonment for twelve months.

(2) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not be required to produce in any court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his powers, authorities, duties or functions under this Act, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act.

(3) Any person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall, if and when required by the Commissioner to do so, make an oath or declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

(4) Notwithstanding anything contained in this section the Commissioner may divulge or communicate any information which comes to his knowledge in the performance of his powers, authorities, duties or functions under this Act to the Commissioner of Land Tax or to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth, and the divulging or communicating of the information shall not be a contravention of this section.

PART III.

AGGREGATION TAX.

Assessment of aggregation tax.

8. (1) Subject to the provisions of this Act, aggregation tax, at such rates as may be fixed by any Act, shall be assessed in respect of any taxing year on any person who at midnight on the day upon which that year ends owns any land used for primary production during that year (excluding land that is not to be taken into account for the purpose of assessing such tax) where that land—

(a) is situated in New South Wales;

(b) comprises wholly or in part de-restricted title land; and

(c) the assessable value of that land exceeds the prescribed amount,

and the tax shall be so assessed on—

(d) the assessable value of the de-restricted title land so owned by him; or

(e) such part of the assessable value of the de-restricted title land so owned by him as is equal to the amount by which the assessable value, or the aggregate of the assessable values, of the land so owned by him exceeds the prescribed amount,

whichever is the less.

(2)

(2) In subsection one of this section, "the prescribed amount" means—

(a) in the case where the land owned as referred to in that subsection is owned by a trustee who is required to be assessed for aggregation tax in accordance with the provisions of section twenty-three of this Act and that trustee holds that land as a trustee for equitable owners of that land—an amount equal to the product of the amount fixed by or under paragraph (b) of this subsection multiplied by the number of those equitable owners; or

(b) in any other case, where an amount—

(i) has not been prescribed for the purposes of this paragraph—the amount of one hundred and fifty thousand dollars; or

(ii) has been so prescribed—the amount so prescribed.

(3) A reference in subsection one of this section to the assessable value of land—

(a) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he became the owner on or after the prescribed day is—

(i) where, when that person first so became the owner of the land, he first so became the owner as the sole owner of the land and since the day on which he so became the sole owner has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the day on which he first so became the sole owner of the land;

(ii) where, when that person first so became the owner of the land, he first so became the owner as a joint owner of the land and since the day on which he first so became a joint owner he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was when he first so became a joint owner of the land—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he first so became a joint owner of the land the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) when that person first so became the owner of the land, he first so became the owner as a sole owner, since the day on which he first so became the sole owner he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) when that person first so became the owner of the land, he first so became the owner as a joint owner, since the day on which he first so became a joint owner he has continued to be either a joint owner or the sole

owner

owner and is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was when he first so became a joint owner of the land,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned on the day on which he first so became the owner of the land, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land;

(b) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he was immediately before the prescribed day the sole owner or a joint owner is—

(i) where that person was the sole owner of the land immediately before the prescribed day and on and since that day has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the prescribed day;

(ii) where that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was immediately before the prescribed day—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the prescribed day the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) that person was the sole owner of the land immediately before the prescribed day, on and since that day he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or the sole owner and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was immediately before the prescribed day,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned immediately before the prescribed day, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a

joint

joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land; or

(c) owned by joint owners who are jointly assessable for aggregation tax under subsection two of section twenty-six of this Act is a reference to the sum of the assessable values upon which each of the joint owners would, if none of them was a company, be assessed under paragraph (a) or (b) of this subsection, for aggregation tax.

(4) In subsection three of this section—

"sole owner" means an owner who is not a joint owner;

"the prescribed day", in relation to an owner of de-restricted title land, means the day on which he became the owner of that land or, where he is the owner of more than one parcel of de-restricted title land, the day on which he became the owner of the parcel of de-restricted title land that he first acquired.

(5) The amount on which aggregation tax is required to be assessed on any person under subsection one of this section is for the purposes of this Act the taxable value attributable to that person.

Lands not assessable for aggregation tax. (cf. Act No. 26, 1956, s. 10.)

9. Except where otherwise expressly provided in this Act the following lands used for primary production shall not be taken into account for the purpose of assessing aggregation tax in respect of any taxing year : —

(a) lands owned by the Crown or any public authority;

(b) lands owned by or in trust for a charitable or educational institution if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;

(c) lands owned by or in trust for a religious society, where those lands are held solely for, or the proceeds of those lands are devoted solely to, religious, charitable or educational purposes, including the support of aged or infirm clergy or ministers of the society, or their wives or widows or children; and

(d) lands owned by any person and used during the taxing year—

(i) for the purpose of cultivation of commercial timber; or

(ii) for any special purpose that may be prescribed for the purposes of this subparagraph.

Limitation of operation of section 9. (cf. Act No. 26, 1956, s. 11.)

10. With respect to land which under section nine of this Act is not to be taken into account for the purpose of assessing aggregation tax the provisions of that section shall be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land

PART

PART IV.

RETURNS, ASSESSMENT AND LIABILITY.

Taxpayer to furnish returns. (cf. Act No. 26, 1956, s. 12.)

11. (1) For the purposes of the assessment and levy of aggregation tax in respect of any taxing year, every person who at midnight on the day on which that taxing year ends is the owner of any de-restricted title land and is required by the Commissioner by notice published in the Gazette to furnish a return shall furnish to the Commissioner in the 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 that day, with such other particulars as may be prescribed or as may be specified in the notice.

(2) The Commissioner may at any time require any person to furnish a return or a further and fuller return setting forth a full and complete statement of all or any land owned by him, or in respect of which he is agent or trustee, at midnight on the day on which any taxing year ends, with such other particulars as the Commissioner requires, and whether or not any return has previously been made by that person in respect of that land, or in respect of which he is agent or trustee, on that day.

(3) All the provisions of this Act shall extend and apply to any return made or required in accordance with subsection two of this section and the Commissioner may cause assessments to be made upon or in respect of that return in such manner as is necessary.

Returns deemed to be duly made. (cf. Act No. 26, 1956, s. 13.)

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

Assessments to be made. (cf. Act No. 26, 1956, s. 14.)

13. The Commissioner shall from the returns and from any other information in his possession or from one or both of those sources, and whether any return has been furnished or not, cause an assessment of aggregation tax to be made on each person liable to be assessed in accordance with the provisions of this Act.

14.

14. If—

Assessment in case of default or unsatisfactory return. (cf. Act No. 26, 1956, s. 15.)

(a) any person makes default in furnishing any return;

(b) the Commissioner is not satisfied with the return made by any person; or

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

the Commissioner may make an assessment of any aggregation tax for which that person is liable to be assessed in accordance with the provisions of section eight of this Act.

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

Amendment of assessments. (cf. Act No. 26, 1956, s. 16.)

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

(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 may allow all information required for the purpose of deciding the application —at any time;

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

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

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

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

(a) an additional amount shall be assessed against the taxpayer equal to the difference between any aggregation tax which he has paid and the aggregation tax which he ought to have paid if the assessment had been originally made as altered or added to; and

(b) the alteration or addition shall, 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 aggregation tax overpaid.

Validity of assessment. (cf. Act No. 26, 1956, s. 17.)

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

Evidence. (cf. Act No. 26, 1956, s. 18.)

17. (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—

(a) be conclusive evidence of the due making of the assessment; and

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

(2) The production of any document under the hand of the Commissioner, 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.

Notice of assessment. (cf. Act No. 26, 1956, s. 19.)

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

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

Owner of freehold. (cf. Act No. 26, 1956, s. 20.)

19. 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, for the purposes of this Act, be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder.

Conditional purchases, etc. (cf. Act No. 26, 1956, s. 21.)

20. Any person to whom the Crown has contracted to grant the fee-simple in any land under the Crown Lands Consolidation Act, 1913, or under any other Act relating to the alienation or disposal of lands of the Crown, and any person who under any such Act holds land under a lease from the Crown in perpetuity, shall, for the purposes of this Act, be deemed to be the owner of the land in fee-simple.

Mortgages. (cf. Act No. 26, 1956, s. 22.)

21. No deduction from the assessable value of any land shall be allowed in respect of any mortgage, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to payment of any unpaid purchase money shall be assessed for aggregation tax as if he were the owner of an unencumbered estate.

22. (1) A mortgagee or other person owning any estate or interest in land by way of security for money shall not be liable to be assessed for aggregation tax in respect of that mortgage, estate or interest : Mortgagees. (cf. Act No. 26, 1956, s. 23.)

Provided that a mortgagee in possession of land or any other person in possession of land by way of security 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 or other person in possession to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the secondary taxpayer in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation :

Provided further that the foregoing proviso shall not apply—

(a) to any mortgagee or person in possession whose possession began before the appointed day during the period commencing on the appointed day and ending on the day preceding the third anniversary of the appointed day; or

(b) to any mortgagee or person in possession whose possession began on or after the appointed day during the period commencing on the day on which he entered into possession and ending three years later,

but any such mortgagee or person in possession shall, if the mortgagor makes default in the payment of aggregation tax payable in respect of the land during or after the appropriate period referred to in paragraph (a) or (b) of this proviso, be responsible for the payment of the aggregation 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 in possession of land shall include a mortgagee who is in receipt of the rents or profits of such land, or who is in receipt of the

the income from any business carried on on such land, or who has appointed a receiver of the rents or profits of such land.

Trustees. (cf. Act No. 26, 1956, s. 24.)

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

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

Provided also that when a trustee is also the beneficial owner of other land, he shall be separately assessed for aggregation tax 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.

Equitable owner. (cf. Act No. 26, 1956, s. 25.)

24. Subject to this Act, the owner of any equitable estate or interest in any land shall be assessed in respect of aggregation 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 the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

Purchaser and vendor. (cf. Act No. 26, 1956, s. 26.)

25. (1) Where, before or after the appointed day, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

(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;

(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; and

(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—

(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) 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 made in good faith, and not for the purpose of evading the payment of aggregation 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 shall be final and conclusive.

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

(a) owing by the purchaser to the vendor, and secured by any mortgage on the land;

(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 be deemed to be unpaid purchase money.

(3)

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

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

26. (1) Joint owners, any of whom is a company, of land shall be assessed for aggregation tax in accordance with the provisions of this section. Joint owners. (cf. Act No. 26, 1956, s. 27.)

(2) Joint owners (except those of them whose interests are, under section nine of this Act, not to be taken into account for the purpose of assessing aggregation tax) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner which is, under that section, not to be taken into account) as if it were owned by a single person, without regard to their respective interests therein or to 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.

In this subsection "deductions to which any of them may be entitled under this Act" shall be all the deductions to which any of them may be so entitled in respect of any land or any interest in land included in the joint assessment.

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

(a) his or its individual interest in the land (as if he or it were the owner of a part of the land in proportion to his or its interest) ; together with

(b)

(b) any other land used for primary production during the taxing year owned by him or it in severalty; and

(c) his or its individual interests in any other land used for primary production during the taxing year.

(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 or its separate assessment to be a secondary taxpayer; and from the aggregation tax assessable in respect of his or its interest in such part of the land as is de-restricted title land against each joint owner under subsection three of this section there shall be deducted such amount (if any) as is necessary to prevent double taxation.

(5) The provisions of this section have effect notwithstanding any other provision of this Act.

Separate parcels used for partnership purposes. (cf. Act No. 26, 1956, s. 28.)

27. Where separate parcels of land used for primary production are owned by different persons any of whom is a company, and such parcels are occupied, controlled, or used by a partnership whereof all such persons are members either by themselves or together with other persons, such persons shall, for the purposes and notwithstanding any other provision of this Act, be deemed to be joint owners of such parcels, and to hold such parcels and the de-restricted title land comprised in such parcels in such shares or proportions as the Commissioner may determine.

Husband and wife deemed to be single person.

28. A married man and his wife shall, for the purposes of this Act, be deemed to be one person, shall be assessed accordingly as a sole owner, and shall be jointly liable to pay the aggregation tax assessed with such rights of contribution or indemnity between themselves as is just :

Provided that the foregoing provisions of this section do not apply where the married man and his wife are living apart under an order for judicial separation made by a court of competent jurisdiction.

29.

29. (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. Act No. 26, 1956, s. 29.)

(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;

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

30. 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 Person entitled to income of business. (cf. Act No. 26, 1956, s. 30.)

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be deemed to be the primary taxpayer, and such firstmentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

No disposition to be effective while possession retained. (cf. Act No. 26, 1956, s. 31.)

31. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the appointed day, 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), for the purposes of this Act, to be the owner of the land.

Occupation, control, or use of land. (cf. Act No. 26, 1956, s. 32.)

32. (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, 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 :

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.

(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 aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land there shall be deducted such amount (if any) as is necessary to prevent double taxation.

33. Where under this Act— Deductions to prevent double taxation. (cf. Act No. 26, 1956, s. 33.)

(a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and

(b) it is provided that there shall be deducted from the aggregation tax assessable against the secondary taxpayer, in respect of any de-restricted title land or any interest in de-restricted title land, such amount (if any) as is necessary to prevent double taxation,

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

(i) the amount of aggregation tax assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the secondary taxpayer; or

(ii) the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the primary taxpayer aggregated with the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against a precedent secondary taxpayer (if any) :

Provided that the secondary taxpayer shall be assessed in respect of that de-restricted title land or that interest in de-restricted title land, notwithstanding that the land or interest is not, under section nine of this Act, to be taken into account for the purpose of assessing aggregation tax against the primary taxpayer, or that there is no primary taxpayer in respect of the land or interest.

34. Where in this Act reference is made to the aggregation tax assessable against a person in respect of any de-restricted title land or any interest in de-restricted title land, the reference is to so much of the whole aggregation tax assessable against him as bears to the whole aggregation tax assessable against him the proportion which the assessable value of the de-restricted Meaning of aggregation tax assessable in respect of certain land. (cf. Act No. 26, 1956, s. 34.)

de-restricted title land or interest referred to bears to the assessable value of all the de-restricted title land used for primary production (including any interest in de-restricted title land used for primary production) owned by him.

PART V.

OBJECTIONS AND APPEALS.

Appeal. (cf. Act No. 26, 1956, s. 35.)

35. (1) Any taxpayer who is dissatisfied with an assessment made by the Commissioner under this Act or with any alteration in or addition to any such assessment may, within thirty days after service of the notice of assessment or of the alteration in or addition to an assessment, or within such further time as the Commissioner 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.

(2) No objection shall be made to the Commissioner under this Act in respect of so much of any assessment as relates to the valuation of land shown therein if such valuation is the unimproved value of such land under this Act.

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

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

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after service of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

36. (1) The fact that an appeal in accordance with section thirty-five of this Act is pending shall not in the meantime interfere with or affect the assessment appealed from, and the aggregation tax may be levied and recovered on the assessment as if no appeal were pending. Pending appeal not to affect assessment. (cf. Act No. 26, 1956, s. 36.)

(2) If the assessment is altered on appeal a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

37. (1) An appeal to the Supreme Court under section thirty-five of this Act shall be heard by a single judge of that Court. Appeals to Supreme Court. (cf. Act No. 26, 1956, s. 37.)

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

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

(4) On the hearing of the appeal, the Court may make such order as it thinks fit, and may reduce, increase or vary the assessment.

(5) An order of the Court shall be final and conclusive on all parties except as provided in this section.

(6) The costs of the appeal shall be in the discretion of the Court.

(7) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the Court of Appeal upon any question which in the opinion of the Court is a question of law.

(8) The Court of Appeal shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(9) The Commissioner or a taxpayer may appeal to the Court of Appeal from any order made under subsection four of this section.

Power to make rules of court. (cf. Act No. 26, 1956, s. 38.)

38. (1) The judges of the Supreme Court or any five of them may make rules of court regulating the practice and procedure in relation to appeals to a single judge of the Supreme Court under this Part of this Act, and the Judges of Appeal or any three of them may make rules of court regulating the practice and procedure in relation to cases stated to the Court of Appeal under this Part of this Act.

(2) The provisions of section forty-one of the Interpretation Act, 1897, shall apply to and in respect of any such rules in the same way as they apply to regulations.

PART VI.

Collection and Recovery of Aggregation Tax.

Date of payment of aggregation tax. (cf. Act No. 26, 1956, s. 39.)

39. (1) Aggregation tax for each year shall be due and payable by the taxpayer on whom notice of assessment of the aggregation tax is served thirty days after service of that notice on him.

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

Additional aggregation tax in case of default. (cf. Act No. 26, 1956, s. 40.)

40. If the aggregation tax or the additional aggregation tax payable on an amended assessment is not paid before the expiration of the time allowed in section thirty-nine of this Act or such further time as is allowed by the Commissioner

Commissioner under section forty-one of this Act additional aggregation tax equal to ten per centum of the amount unpaid shall be payable by way of penalty.

Extension of time for payment and payment by instalments. (cf. Act No. 26, 1956, s. 41.)

41. The Commissioner may, in such cases as he thinks fit—

(a) extend the time for payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise;

(b) permit the payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise, to be made by such instalments and within such time as he considers the circumstances warrant; or

(c) remit the whole or any part of the additional aggregation tax imposed under section forty of this Act.

Recovery of aggregation tax. (cf. Act No. 26, 1956, s. 42.)

42. (1) Any aggregation tax shall be deemed, when it becomes due or is payable, to be a debt due to Her Majesty, and shall be collected and received by the Commissioner on account of and shall be paid into the Special Deposits Account in the Treasury, called the Closer Settlement and Public Reserves Fund, established under the Closer Settlement and Public Reserves Fund Act, 1970, from which shall be paid any amounts, paid as aggregation tax, that are refundable or repayable under this Act.

(2) Any aggregation tax unpaid may be recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Substituted service. (cf. Act No. 26, 1956, s. 43.)

43. If in any proceedings against a taxpayer for the recovery of aggregation tax the defendant—

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

(b) cannot after reasonable inquiry be found,

service

service of any process in the proceedings may, without leave of the court, be effected on him by posting it or an office copy of it in a letter addressed to him at his last known place of business or abode in Australia, or by fixing it on a conspicuous part of the land in respect of which the aggregation tax is payable.

Provision when aggregation tax not paid during lifetime.

(cf. Act No. 26, 1956, s. 44.)

44. 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 :—

(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 years for which the aggregation tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be such amount not exceeding treble the amount of the difference between the aggregation tax so assessed and the amount actually paid by the taxpayer as the Commissioner may determine, and 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 amount payable as in the case of ordinary assessments and taxation.

45.

45. No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of aggregation tax. Statutes of limitations. (cf. Act No. 26, 1956, s. 45.)

46. (1) Where a taxpayer makes a default in the payment of aggregation 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. Act No. 26, 1956, s. 46.)

(a) If the aggregation tax is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the aggregation tax, and it may be recovered from him as if he were the defaulting taxpayer.

(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 at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

(2) Any payment to the Commissioner under this section shall be a valid discharge to the lessee or occupier for such rent or payments due by the lessee or occupier to the taxpayer as against all other persons whomsoever.

47. (1) Aggregation tax shall until payment be a first charge upon the de-restricted title land in respect of which the tax is payable in priority over all other encumbrances whatever, and where that land comprises two or more parcels the aggregation tax payable in respect of the land shall be a first charge on each and every such parcel and notwithstanding any disposition of the land or any part thereof the land or Aggregation tax to be first charge on land. (cf. Act No. 26, 1956, s. 47.)

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part shall continue to be liable in the hands of any purchaser or holder for the payment of the aggregation tax so long as it remains unpaid :

Provided that no such charge shall be of effect as 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 prescribed manner at the office of the Commissioner.

The Commissioner shall on application of the purchaser of any land and on payment of the prescribed fee issue a certificate showing whether or not there is any aggregation tax charged on the land described in the application.

The regulations may provide that the prescribed fee shall be paid by affixing to the application a duty stamp of an amount equal to the amount of the prescribed fee.

(2) The Commissioner may release the land in respect of which aggregation tax is payable or any part thereof from the charge thereon pursuant to subsection one of this section on payment of an amount he estimates to be not less than the proportion of tax referable to the land or part.

(3) The provisions of this section shall have effect notwithstanding anything contained in section thirty-four or any other provision of this Act.

48. Every person who, under any provision of this Act, pays any aggregation tax for or on behalf of any other person, shall be entitled to recover the amount thereof from that other person as a debt, together with the costs of recovery, or to retain or deduct the amount thereof out of any money in his hands belonging or payable to that other person. Recovery of aggregation tax paid on behalf of another person. (cf. Act No. 26, 1956, s. 48.)

49.

Contribution from tax-payers jointly liable.

(cf. Act No. 26, 1956, s. 49.)

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

(a) A person who has paid the aggregation tax in respect of any land may recover by way of contribution from any other person jointly liable with him a sum which bears the same proportion to the aggregation tax as the assessable value of the estate of such other person bears to the whole of the assessable value of the land.

(b) Every person entitled to contribution in respect of aggregation 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.

Remission of aggregation tax in cases of hardship.

(cf. Act No. 26, 1956, s. 50.)

50. (1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Auditor-General and the Under Secretary of the Treasury that—

(a) a person liable to pay aggregation tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of aggregation tax will entail serious hardship; or

(b) owing to the death of a person who, if he had lived, would have been liable to pay aggregation tax, the dependants of that person are in such circumstances that the exaction of the full amount of aggregation tax will entail serious hardship,

the Board may waive the payment of the aggregation tax either wholly or in part.

(2)

(2) The Commissioner shall make such alterations in the amount of aggregation tax payable and shall make such refund of aggregation tax already paid as is necessary to give effect to the decision of the Board.

(3) A member of the Board may by writing under his hand appoint a person to act in his place at any meetings of the Board at which he is unable to be present, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

Writing off aggregation tax. (cf. Act No. 26, 1956, s. 51.)

51. (1) In any case where it is shown to the satisfaction of the Board referred to in section fifty of this Act, that every reasonable effort has been made to recover aggregation tax, or that it is impracticable without undue expense to recover aggregation tax, it may direct the amount thereof to be written off.

(2) The taxpayer shall not be released from his liability in consequence of any action taken by the Board under this section, and the Commissioner may at any future time take such action to recover any such tax as he considers the circumstances warrant.

Board's powers may be exercised by Commissioner in certain cases. (cf. Act No. 26, 1956, s. 52.)

52. The Commissioner may exercise all the powers of the Board under section fifty of this Act in any case where the amount of aggregation tax involved in respect of any one year does not exceed forty dollars.

Definition of aggregation tax for certain purposes of this Part. (cf. Act No. 26, 1956, s. 53.)

53. Aggregation tax—

(a) for the purposes of sections fifty and fifty-one of this Act includes any costs incurred in attempting to recover aggregation tax; and

(b)

(b) for the purposes of sections forty-two, forty-three, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of this Act includes additional aggregation tax whether by way of penalty or otherwise.

PART VII.

VALUATION OF LANDS.

DIVISION 1.—*Unimproved Value of Land.*

Unimproved value of land.

(cf. Act No. 26, 1956, s. 54.)

54. (1) For the purposes of this Act the unimproved value of land as at any specified date—

(a) where the land is included in the valuation list or supplementary list last furnished under the Valuation of Land Act, 1916, by the Valuer-General to a council of an area within the meaning of the Local Government Act, 1919, before that date, means the unimproved value of such land as appearing in such valuation list or supplementary list immediately before that date;

(b) where the land is within an area within the meaning of the Local Government Act, 1919, not being land to which paragraph (a) of this subsection applies, means the unimproved value of such land as appearing in the valuation book of the council of such area immediately before that date;

(c) where the land is within the Western Division, not being land within an area within the meaning of the Local Government Act, 1919, means the unimproved value of such land as appearing, immediately before that date—

(i) in the valuation roll, kept by the Western Lands Commissioner in accordance with the provisions of Part VII of the Land Tax Management Act, 1956, immediately before that date; or

(ii) where the unimproved value of the land does not appear in that valuation roll, but appears in the valuation roll kept under this Part of this Act, in that lastmentioned valuation roll immediately before that date;

(d) except as provided in paragraph (e) of this subsection where immediately before that date the land has no unimproved value under paragraph (a), (b) or (c) of this subsection by reason that the land was not included in the valuation list, supplementary list, valuation book or valuation roll referred to in those paragraphs, means the unimproved value of such land, as at that date, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area, or the Western Lands Commissioner, upon a request in that behalf made to the Valuer-General, the council of the area or the Western Lands Commissioner, as the case may be; or

(e) where immediately before that date the land (in this paragraph referred to as "the portion") had no unimproved value under paragraph (a), (b) or (c) of this subsection but immediately before that date there was an unimproved value under any such paragraph of land (in this paragraph referred to as "the whole parcel") of which the portion

forms

forms part, means an amount, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area or the Western Lands Commissioner, as the case may be, upon a request made in that behalf to that appropriate valuing authority, that bears to that unimproved value of the whole parcel the same proportion as the unimproved value (as at the date on which that unimproved value of the whole parcel was determined) of that portion (regarded as being part of the whole parcel) bears to that unimproved value of the whole parcel.

Where a valuation of land to which paragraph (d) or (e) of this subsection applies has been made by the appropriate valuing authority as aforesaid before that date and the unimproved value of such land included in such valuation does not appear in the valuation list, supplementary list, valuation book or valuation roll to which paragraph (a), (b) or (c) of this subsection applies, the unimproved value of such land means the unimproved value as included in such valuation.

Where a valuation of land is made pursuant to paragraph (d) or (e) of this subsection, such valuation shall, notwithstanding the provisions of subsection six of this section—

(i) be a valuation for the purposes of this Act only;

(ii) be a valuation of the unimproved value only; and

(iii) not be entered on the valuation roll of the Valuer-General or the valuation book of a council.

(2) Where a valuation is made pursuant to paragraph (d) or (e) of subsection one of this section there shall be separately noted on the valuation—

(a) where the land is land to which section 160E of the Local Government Act, 1919, applies and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned

apportioned under that paragraph was included in a supplementary list, a statement of the unimproved rating factor, determined in accordance with that section, in respect of the land;

(b) where the valuation is made by the Valuer-General and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned under that paragraph was included in a supplementary list—

(i) an amount designated as a rating and taxing basis determined in accordance with subsection two of section 61A of the Valuation of Land Act, 1916; and

(ii) any allowance that would have been noted on the valuation roll pursuant to section fifty-eight or 58A of the Valuation of Land Act, 1916, had the unimproved value specified in the valuation been entered on the valuation roll in accordance with either such section; and

(c) where the valuation is made by a valuer appointed by the council of an area, any deduction that would have been noted in the valuation book pursuant to section two or 2A of Schedule Three to the Local Government Act, 1919, had the unimproved value specified in the valuation been entered in the valuation book in accordance with either such section.

(3) Notwithstanding any other provision of this Act, where in relation to any land referred to in paragraph (a), (b), (d) or (e) of subsection one of this section—

(a) a statement of the unimproved rating factor, determined in accordance with section 160E of the Local Government Act, 1919, in respect of the land has been furnished with the valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been

the

the unimproved value of the land for the purposes of this Act, that unimproved rating factor shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land; or

(b) such a statement has not been so furnished but a rating and taxing basis, referred to in section 61A of the Valuation of Land Act, 1916, has been included in a supplementary list in which is included a valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the unimproved value of the land for the purposes of this Act, or has, in accordance with subsection two of this section, been separately noted on a valuation of that unimproved value, that rating and taxing basis shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land.

(4) Where, in relation to any land referred to in paragraph (a), (b) or (d) of subsection one of this section, there is a deductible allowance relating to the unimproved value of the land that would, but for this subsection or subsection three of this section, have been the unimproved value of any land in respect of which any aggregation tax would have been levied, and that deductible allowance has not been taken into account for the purpose of determining the unimproved value of the land under subsection one or three of this section, that deductible allowance shall be deducted from the unimproved value of the land ascertained under subsection one or three of this section and the aggregation tax shall be levied on an assessable value calculated accordingly.

In this subsection "deductible allowance" means—

(a) any allowance referred to in section fifty-eight or 58A of the Valuation of Land Act, 1916;

(b) any deduction referred to in section two or 2A of Schedule Three to the Local Government Act, 1919; and

(c) any allowance or deduction noted on a valuation pursuant to subparagraph (ii) of paragraph (b), or paragraph (c), of subsection two of this section.

(5) A person to whom a request for a determination of the unimproved value of any land has been made under paragraph (d) or (e) of subsection one of this section shall, as soon as practicable after receipt of the request, make or cause to be made the valuation requested.

(6) A determination of the unimproved value of any land made pursuant to paragraph (d) of subsection one of this section shall—

(a) where it is made by the Valuer-General, be made under and subject to the Valuation of Land Act, 1916;

(b) where it is made by the valuer appointed by the council of an area, be made under and subject to the Local Government Act, 1919; and

(c) where it is made by the Western Lands Commissioner, be made under and subject to this Part of this Act,

and, without prejudice to the generality of the foregoing provisions of this subsection, shall be subject to objection accordingly.

(7) A determination of the unimproved value of any land made under paragraph (e) of subsection one of this section shall not be subject to objection or appeal on the ground that the value assigned is too high or too low except on the ground that the value assigned is too high or too low by reason that the Valuer-General, the council or the Western Lands Commissioner, as the case may be, in making the valuation, has not complied with the provisions of that paragraph.

(8) A determination—

(a) of an unimproved rating factor pursuant to paragraph (a) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 160E of the Local Government Act, 1919;

(b) of a rating and taxing basis under subparagraph (i) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 61A of the Valuation of Land Act, 1916;

(c) of an allowance under subparagraph (ii) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section fifty-eight or 58A of the Valuation of Land Act, 1916, as the case may be; and

(d) of a deduction under paragraph (c) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section two or 2A of Schedule Three to the Local Government Act, 1919.

(9) The fact that an objection under the Valuation of Land Act, 1916, the Local Government Act, 1919, the Land Tax Management Act, 1956, or this Part of this Act, has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section shall not affect the valuation which is objected to and aggregation tax may be assessed, levied and recovered as if no objection were pending.

(10) Where—

(a) an objection has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section and such valuation has been altered upon the determination of such objection; or

(b) an alteration of any such valuation has been made in any valuation list, supplementary list, valuation book or valuation roll for the purposes of correcting any clerical error or misdescription,

the valuation as so altered shall be the unimproved value of such land for the purposes of this Act in substitution for the valuation so objected to or altered.

(11) Where any valuation has been altered as aforesaid a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

DIVISION 2.—*Valuations by Western Lands Commissioner.*

Application of Division. (cf. Act No. 26, 1956, s. 55.)

55. This Division of this Part of this Act shall apply to lands within the Western Division not being lands within an area within the meaning of the Local Government Act, 1919.

Unimproved value of land. (cf. Act No. 26, 1956, s. 56.)

56. The unimproved value of land is 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 the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made.

Valuations. (cf. Act No. 26, 1956, s. 57.)

57. (1) The Western Lands Commissioner may for the purposes of this Act make valuations of the unimproved value of such lands to which this Division of this Part of this Act applies as he may deem necessary.

Any such valuation shall be made—

(a) once at least in every six years; and

(b) for a valuation period, that is to say, for a period not exceeding six years.

Where

Where portion of a parcel of land which has been valued is sold, conveyed or resumed fresh valuations shall be made of the portion sold, conveyed or resumed and of the portion remaining.

(2) For the purpose of making any valuation the Western Lands Commissioner may require the owner or occupier of any land or interest in land to furnish such information as may be necessary to enable a correct valuation to be made, and may also make use of any information in his possession.

(3) The Western Lands Commissioner or any person authorised by him in that behalf may at all reasonable times enter on any land for the purposes of this Part of this Act.

(4) The Western Lands Commissioner shall enter on a valuation roll kept for the purpose a record of all valuations made under this Part of this Act.

A valuation shall, subject to paragraphs (d) and (e) of subsection one of section fifty-four of this Act, be deemed to be made as at the date on which the Western Lands Commissioner enters on such roll the record of such valuation.

Each entry in such valuation roll shall be signed or initialled by the Western Lands Commissioner or an officer approved in that behalf by the Western Lands Commissioner. The valuation roll so signed or initialled shall be conclusive proof of the making of the valuation on the date shown therein.

Such valuation roll may be kept in card, folder, or book form, or as the Western Lands Commissioner may direct.

Notice of valuations to be given. (cf. Act No. 26, 1956, s. 58.)

58. (1) The Western Lands Commissioner shall give to each person whose estate or interest in land he has valued under this Part of this Act notice of such valuation stating a time within which such person may lodge with the Western Lands Commissioner a written objection to such valuation.

(2)

(2) Any such person may in or to the effect of the form prescribed object to any valuation under this Part of this Act within such time as is stated in such notice.

(3) No valuation under this Part of this Act shall be invalid because of any failure to give notice of valuation.

Alteration of valuation or reference of objection to Land and Valuation Court. (cf. Act No. 26, 1956, s. 59.)

59. (1) On objection being made to any valuation, the Western Lands Commissioner may, if he sees fit, alter such valuation. Notice of the Western Lands Commissioner's decision shall be given to the objector.

An objector who is dissatisfied with the decision of the Western Lands Commissioner not being a decision altering the valuation to the extent claimed in the objection, or to such extent as may be agreed upon, may within sixty days after service of such notice, request in writing the Western Lands Commissioner to treat his objection as an appeal and to forward it to the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

(2) The Western Lands Commissioner shall forward such objections together with a list thereof to the registrar of the Land and Valuation Court for hearing and determination by that Court.

Powers of Court. (cf. Act No. 26, 1956, s. 60.)

60. The Land and Valuation Court shall hear and determine all such objections brought before it, and, if it decides that any valuation is erroneous, shall order the valuation to be altered accordingly.

Consequential alterations. (cf. Act No. 26, 1956, s. 61.)

61. If on the hearing of any objection the Land and Valuation Court orders any valuation to be altered, the Western Lands Commissioner shall make all such consequential alterations as are necessary to give effect to the decision of the Court.

PART VIII.

MISCELLANEOUS.

Public officer of company. (cf. Act No. 26, 1956, s. 63.)

62. (1) Every company which is a taxpayer shall, unless exempted by the Commissioner, 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 :—

(a) The person so appointed shall for the purposes of this Act be called the public officer of the company.

(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 an address for service, has been given to the Commissioner.

(c) 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, 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.

(d) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties.

(e) 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.

(f) 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 : One hundred dollars for every day during which the failure or neglect continues.

(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 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.

Agents and trustees. (cf. Act No. 26, 1956, s. 64.)

63. 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 aggregation 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.

(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.

(d) Where as agent or trustee he pays aggregation 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.

(e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the aggregation tax which is or will become due in respect of the land.

(f) He is hereby made personally liable for the aggregation tax payable in respect of the land if, while the aggregation tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is controlled or held by him

him in his representative capacity but he shall not be otherwise personally liable for the aggregation tax.

(g) If he is a trustee he may raise whatever moneys are necessary in order to pay the aggregation tax by mortgage or charge with or without power of 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 aggregation tax.

(h) He is hereby indemnified for all payments which he makes in pursuance of this Act, or by requirements of the Commissioner.

(i) For the purpose of ensuring the payment of aggregation tax, the Commissioner shall have the same remedies against all land or other property of any kind 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 aggregation tax, and in as full and ample a manner.

Contracts to evade aggregation tax void.

64. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the appointed day, shall so far as it has or purports to have the purpose or effect of in any way directly or indirectly— (cf. Act No. 26, 1956, s. 65.)

(a) altering the incidence of any aggregation tax;

(b) relieving any person from liability to pay any aggregation tax or make any return;

(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, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

65.

Access to lands, buildings, etc. (cf. Act No. 26, 1956, s. 67.)

65. The Commissioner or any officer authorised by him in that behalf shall at all times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or documents of title, for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers.

Furnishing of valuation lists, etc., to Commissioner. (cf. Act No. 26, 1956, s. 68.)

66. The Valuer-General, the Western Lands Commissioner and the council of any area within the meaning of the Local Government Act, 1919, shall when so requested by the Commissioner furnish to the Commissioner a copy of any valuation list, supplementary list or valuation roll kept or prepared by them and of any alterations and additions thereto.

Where any such roll or alterations or additions are so furnished by any such council the Commissioner shall pay to such council the prescribed fee.

Power to obtain evidence. (cf. Act No. 26, 1956, s. 69.)

67. (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 assessment 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, or other papers whatever in his custody or under his control relating thereto.

(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.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

Obstructing officers. (cf. Act No. 26, 1956, s. 70.)

68. Any person who obstructs or hinders any other person acting in the exercise or discharge of any powers, authorities, duties or functions conferred or imposed by or under this Act shall be guilty of an offence.

Penalty : One hundred dollars.

69.

Offences.
(cf. Act No. 26, 1956, s. 71.)

69. (1) Any person who—

(a) fails or neglects duly to furnish any return or information as and when required by this Act or to comply with any requirement of the Commissioner made in pursuance of this Act;

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner, or any officer duly authorised by him, or to answer truly and fully 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 information which is false in any particular or makes any false answer, whether verbal or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

Penalty : Two hundred dollars.

(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 Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars and treble the amount of any aggregation 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.

70.

70. (1) Notwithstanding anything contained in section sixty-nine of this Act, any person who— Failure to furnish returns. (cf. Act No. 26, 1956, s. 72.)

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

(b) fails to include in any return any land used for primary production owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional aggregation tax at the rate of ten per centum per annum upon the amount of aggregation 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 twenty dollars, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional aggregation tax the amount of twenty dollars or double the amount of the difference between the aggregation tax properly payable and the aggregation tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition to any additional aggregation tax by way of penalty which may become payable by him in accordance with section forty of this Act :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional aggregation 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 sections sixty-nine and seventy-one of this Act, such action may be taken by the Commissioner, and in that case the additional aggregation tax payable under this section shall not be charged.

71. 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 offence. Evading taxation. (cf. Act No. 26, 1956, s. 73.)

Penalty : One thousand dollars and treble the amount of the aggregation tax payment which he has evaded or attempted to evade.

72. Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any aggregation tax for which he would otherwise be liable. Penalties not to relieve from aggregation tax. (cf. Act No. 26, 1956, s. 74.)

73. 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. Act No. 26, 1956, s. 75.)

PART IX.

GENERAL.

74. Any notice or document required or authorised by this Act to be served or given shall be in writing and shall be sufficiently served or given— Service of notices. (cf. Act No. 26, 1956, s. 76.)

(a) if delivered personally;

(b) if left at the last known place of abode or business in or out of New South Wales of the person on or to whom such notice or document is to be served or given; or

(c)

(c) if sent by prepaid letter post addressed to the person on or to whom such notice or document is to be served or given at his address for service or last known place of abode or business in or out of New South Wales.

In the case of paragraph (c) of this section the service or giving of a notice or document shall be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

General penalty. (cf. Act No. 26, 1956, s. 78.)

75. Any person guilty of a breach of this Act for which no penalty is otherwise provided shall be liable to a penalty not exceeding two hundred dollars.

Recovery of penalties. (cf. Act No. 26, 1956, s. 79.)

76. All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate.

Report to Parliament. (cf. Act No. 26, 1956, s. 80.)

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

Amendment of certain Acts.

78. Each of the Acts specified in the first column of the Schedule to this Act is amended in the manner specified opposite that Act in the second column of that Schedule.

Regulations.

79. (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.

(2) The regulations may impose penalties not exceeding one hundred dollars for any breach thereof.

SCHEDULE.

SCHEDULE. Sec. 78.

PART I.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1956.	Land Tax Management Act, 1956.	Insert in subsection (2A) of section six after the words "under this Act to" the words "the Commissioner of Land Aggregation Tax or to".

PART II.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1970.	Closer Settlement and Public Reserves Fund Act, 1970.	Insert in paragraph (d) of section five after the words "paragraph (k) of" the words "subsection one of". Omit from the same paragraph the word "six" and insert in lieu thereof the symbols, figure and letter "(6A)".
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970.	Omit from paragraph (b) of subsection one of section two the word "commencement" where lastly occurring and insert in lieu thereof the following word and new paragraph:— commencement. Upon the issue of any certificate under subparagraph (iii) of this paragraph, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	Omit from paragraph (d) of the same subsection the word "six" where firstly occurring and insert in lieu thereof the symbols, figure and letter "(6A)". Insert in subparagraph (i) of paragraph (e) of the same subsection after the words "The provisions of this section" where firstly occurring the words ", other than subsection (6A),". Insert in the same subparagraph after the words "The provisions of this section" where secondly occurring the words ", other than subsection six,". Insert in the same subparagraph after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in subparagraph (iii) of paragraph (b) of subsection two of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900,

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in paragraph (b) of subsection four of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971
[75c]

PROOF

LAND AGGREGATION TAX MANAGEMENT BILL, 1971

EXPLANATORY NOTE

THE objects of this Bill are—

(a) to define de-restricted title land as certain land in respect of which a certificate has been issued under section 129B (1) (k) (iii) or 272 (6A) of the Crown Lands Consolidation Act, 1913, section 31 (4) of the Closer Settlement Act, 1904, or section 10 (5) of the Returned Soldiers Settlement Act, 1916;

(b) to provide for the assessment and collection of aggregation tax in respect of certain lands owned by taxpayers who own de-restricted title land; the rates of the aggregation tax to be those fixed by Act of Parliament;

(c) to provide for aggregation tax to be assessed against a taxpayer upon—

(i) the assessable value of the de-restricted title land owned by him; or

(ii) such part of the assessable value of all the de-restricted title land owned by him as exceeds the prescribed amount,

whichever is the less;

(d) to provide that the prescribed amount referred to in paragraph (c) above shall be $150,000 or such other amount as may be prescribed;

(e) to define the persons who are to be assessed for payment of aggregation tax;

(f) to make provision for objections and appeals against assessments of aggregation tax;

(g) to make provision necessary for the due administration of the collection assessment and recovery of aggregation tax;

(h) to provide for the determination of the unimproved value of certain lands for the purposes of levying aggregation tax;

(i) to make other provisions of an ancillary or consequential character.

PROOF

No. , 1971.

A BILL

To make provision relating to the imposition, assessment and collection of an aggregation tax in respect of certain lands; and for purposes connected therewith.

[MR LEWIS—20 *April,* 1971.]

BE it enacted by the Queen'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 "Land Aggregation Tax Management Act, 1971". Short title and commencement.

(2) Subject to subsections three and four of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Part and Part II of this Act and the amendment made by section seventy-eight of this Act and specified in Part I of the Schedule to this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(4) The amendments made by section seventy-eight of this Act and specified in Part II of the Schedule to this Act commence upon the day upon which section two of the Crown Lands and Other Acts (Amendment) Act, 1970, commences.

2. This Act is divided as follows :— **Division of Act.**

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—ADMINISTRATION—*ss.* 4–7.

PART III.—AGGREGATION TAX—*ss.* 8–10

PART IV.—RETURNS, ASSESSMENT AND LIABILITY—*ss.* 11–34.

PART V.—OBJECTIONS AND APPEALS—*ss.* 35–38.

PART VI.—COLLECTION AND RECOVERY OF AGGREGATION TAX—*ss.* 39–53.

PART VII.—VALUATION OF LANDS—*ss.* 54–61.

DIVISION 1.—*Unimproved Value of Land—s.* 54.

DIVISION 2.—*Valuations by Western Lands Commissioner—ss.* 55–61.

PART

PART VIII.—MISCELLANEOUS—*ss.* 62–73.

PART IX.—GENERAL—*ss.* 74–79.

SCHEDULE.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Definitions. (cf. Act No. 26, 1956, s. 3.)

"Act" includes regulations;

"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 owned by the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land;

"aggregation tax" means aggregation tax calculated at the rates fixed by the Land Aggregation Tax Act, 1971, as assessed under this Act;

"appointed day" means the day appointed under subsection two of section one of this Act;

"Commissioner" means the Commissioner of Land Aggregation Tax;

"company" includes all bodies or associations corporate or unincorporate;

"de-restricted title land" means land in respect of which a certificate—

(a) has been issued under the provisions of subparagraph (iii) of paragraph (k) of subsection one of section 129B or subsection (6A) of section two hundred and seventy-two of the Crown Lands Consolidation Act, 1913, or subsection four of section thirty-one of the Closer Settlement Act, 1904, or subsection five of section ten of the Returned

Soldiers

Soldiers Settlement Act, 1916, as in force after the commencement of section two of the Crown Lands and Other Acts (Amendment) Act, 1970; and

(b) has, in accordance with any such provision, been recorded in the Register kept under the Real Property Act, 1900,

but does not include any such land so long as it continues to be owned by the person who was the owner thereof immediately before the issue of the certificate;

"joint owners" means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have a life or greater interest in shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners;

"land used for primary production" means, in relation to the use of any land during a taxing year, land used during that year primarily for any one or more of the following activities :—

(a) the cultivation thereof for the purpose of selling the produce of such cultivation;

(b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or

(c) the keeping of bees thereon for the purpose of selling their honey,

and includes land that is ordinarily used for any of the activities referred to in paragraph (a), (b) or (c) of this definition and that has lain fallow during the whole or any part of that year, and all land owned by a society registered as a rural society under the Co-operation Act, 1923;

"mortgage"

"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;

"owned" 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—

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

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

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

"public authority" means any public body declared by the Governor by order published in the Gazette to be a public authority for the purposes of this Act;

"regulations" means regulations made under this Act;

"taxing year" means a period of twelve months commencing on the appointed day or on any anniversary of the appointed day;

"taxpayer" means a person who has been assessed or is liable to be assessed for aggregation tax in accordance with this Act;

"trustee"

"trustee" includes, 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—

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(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.

(2) A reference in this Act to land in respect of which aggregation tax is payable is a reference to land which is taken into account for the purpose of assessing aggregation tax that is payable.

(3) For the purposes of this Act where joint owners are the owners of land as joint tenants each of them shall be deemed to own an interest in the land as if he were a tenant in common with the other joint owners in equal shares.

PART II.

ADMINISTRATION.

Commissioner and other officers.

4. (1) The Governor may, under and subject to the Public Service Act, 1902, appoint a Commissioner of Land Aggregation Tax who may sue and be sued by that name and who shall be responsible for the due administration of this Act. (cf. Act No. 26, 1956, s. 4.)

(2) Where the Governor, by proclamation published in the Gazette, specifies an office in the Public Service for the purposes of this subsection, the person holding or acting in that office shall, in the event of the absence, incapacity or suspension of the Commissioner, exercise and perform all

of

of the powers, authorities, duties and functions of the Commissioner under this Act and when so doing shall be deemed to be the Commissioner.

(3) The Governor may, under and subject to the Public Service Act, 1902, appoint and employ such other persons as may be deemed necessary for the carrying out of this Act.

(4) For the purposes of this Act the Minister may, with the approval of the Minister of the department concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

Notification of appointment. (cf. Act No. 26, 1956, s. 5.)

5. (1) A notification in the Gazette, purporting to be made by the Minister, that any person has been appointed as Commissioner or that any other person has been appointed for the purpose of carrying out this Act, shall be prima facie evidence of such appointment.

(2) A notification in the Gazette purporting to be made by the Minister and stating that a person specified in the notification was at a time or during a period so specified a person holding or acting in an office specified in a proclamation made under subsection two of section four of this Act shall be prima facie evidence of the matters stated therein.

Delegation by Commissioner. (cf. Act No. 7, 1913, s. 17A.)

6. (1) Subject to this section the Commissioner may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Commissioner by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Commissioner who made the delegation holds office at the time of that exercise or performance.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the prescribed powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Commissioner or in his own name on behalf of the Commissioner, the power, authority, duty or function shall be deemed to have been exercised or performed by the Commissioner, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

(5) Notwithstanding any delegation made under this section the Commissioner may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(6) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Secrecy. (cf. Act No. 26, 1956, s. 6.)

7. (1) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not, either directly or indirectly, except in the performance of any power, authority, duty or function under this Act, and either while he is, or after he ceases to be so appointed or employed, make a record of, or divulge or communicate to any person, any information acquired by him in respect of the affairs of any other person disclosed or obtained under the provisions of this Act.

Penalty : Five hundred dollars or imprisonment for twelve months.

(2) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not be required to produce in any court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his powers, authorities, duties or functions under this Act, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act.

(3) Any person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall, if and when required by the Commissioner to do so, make an oath or declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

(4) Notwithstanding anything contained in this section the Commissioner may divulge or communicate any information which comes to his knowledge in the performance of his powers, authorities, duties or functions under this Act to the Commissioner of Land Tax or to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth, and the divulging or communicating of the information shall not be a contravention of this section.

PART III.

AGGREGATION TAX.

Assessment of aggregation tax.

8. (1) Subject to the provisions of this Act, aggregation tax, at such rates as may be fixed by any Act, shall be assessed in respect of any taxing year on any person who at midnight on the day upon which that year ends owns any land used for primary production during that year (excluding land that is not to be taken into account for the purpose of assessing such tax) where that land—

(a) is situated in New South Wales;

(b) comprises wholly or in part de-restricted title land; and

(c) the assessable value of that land exceeds the prescribed amount,

and the tax shall be so assessed on—

(d) the assessable value of the de-restricted title land so owned by him; or

(e) such part of the assessable value of the de-restricted title land so owned by him as is equal to the amount by which the assessable value, or the aggregate of the assessable values, of the land so owned by him exceeds the prescribed amount,

whichever is the less.

(2)

(2) In subsection one of this section, "the prescribed amount" means—

(a) in the case where the land owned as referred to in that subsection is owned by a trustee who is required to be assessed for aggregation tax in accordance with the provisions of section twenty-three of this Act and that trustee holds that land as a trustee for equitable owners of that land—an amount equal to the product of the amount fixed by or under paragraph (b) of this subsection multiplied by the number of those equitable owners; or

(b) in any other case, where an amount—

(i) has not been prescribed for the purposes of this paragraph—the amount of one hundred and fifty thousand dollars; or

(ii) has been so prescribed—the amount so prescribed.

(3) A reference in subsection one of this section to the assessable value of land—

(a) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he became the owner on or after the prescribed day is—

(i) where, when that person first so became the owner of the land, he first so became the owner as the sole owner of the land and since the day on which he so became the sole owner has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the day on which he first so became the sole owner of the land;

(ii) where, when that person first so became the owner of the land, he first so became the owner as a joint owner of the land and since the day on which he first so became a joint owner he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was when he first so became a joint owner of the land—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he first so became a joint owner of the land the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) when that person first so became the owner of the land, he first so became the owner as a sole owner, since the day on which he first so became the sole owner he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) when that person first so became the owner of the land, he first so became the owner as a joint owner, since the day on which he first so became a joint owner he has continued to be either a joint owner or the sole

owner

owner and is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was when he first so became a joint owner of the land,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned on the day on which he first so became the owner of the land, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land;

(b) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he was immediately before the prescribed day the sole owner or a joint owner is—

(i) where that person was the sole owner of the land immediately before the prescribed day and on and since that day has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the prescribed day;

(ii) where that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was immediately before the prescribed day—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the prescribed day the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) that person was the sole owner of the land immediately before the prescribed day, on and since that day he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or the sole owner and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was immediately before the prescribed day,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned immediately before the prescribed day, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a

joint

joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land; or

(c) owned by joint owners who are jointly assessable for aggregation tax under subsection two of section twenty-six of this Act is a reference to the sum of the assessable values upon which each of the joint owners would, if none of them was a company, be assessed under paragraph (a) or (b) of this subsection, for aggregation tax.

(4) In subsection three of this section—

"sole owner" means an owner who is not a joint owner;

"the prescribed day", in relation to an owner of de-restricted title land, means the day on which he became the owner of that land or, where he is the owner of more than one parcel of de-restricted title land, the day on which he became the owner of the parcel of de-restricted title land that he first acquired.

(5) The amount on which aggregation tax is required to be assessed on any person under subsection one of this section is for the purposes of this Act the taxable value attributable to that person.

Lands not assessable for aggregation tax. (cf. Act No. 26, 1956, s. 10.)

9. Except where otherwise expressly provided in this Act the following lands used for primary production shall not be taken into account for the purpose of assessing aggregation tax in respect of any taxing year :—

(a) lands owned by the Crown or any public authority;

(b) lands owned by or in trust for a charitable or educational institution if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;

(c) lands owned by or in trust for a religious society, where those lands are held solely for, or the proceeds of those lands are devoted solely to, religious, charitable or educational purposes, including the support of aged or infirm clergy or ministers of the society, or their wives or widows or children; and

(d) lands owned by any person and used during the taxing year—

(i) for the purpose of cultivation of commercial timber; or

(ii) for any special purpose that may be prescribed for the purposes of this subparagraph.

Limitation of operation of section 9. (cf. Act No. 26, 1956, s. 11.)

10. With respect to land which under section nine of this Act is not to be taken into account for the purpose of assessing aggregation tax the provisions of that section shall be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land.

PART

PART IV.

RETURNS, ASSESSMENT AND LIABILITY.

Taxpayer to furnish returns. (cf. Act No. 26, 1956, s. 12.)

11. (1) For the purposes of the assessment and levy of aggregation tax in respect of any taxing year, every person who at midnight on the day on which that taxing year ends is the owner of any de-restricted title land and is required by the Commissioner by notice published in the Gazette to furnish a return shall furnish to the Commissioner in the 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 that day, with such other particulars as may be prescribed or as may be specified in the notice.

(2) The Commissioner may at any time require any person to furnish a return or a further and fuller return setting forth a full and complete statement of all or any land owned by him, or in respect of which he is agent or trustee, at midnight on the day on which any taxing year ends, with such other particulars as the Commissioner requires, and whether or not any return has previously been made by that person in respect of that land, or in respect of which he is agent or trustee, on that day.

(3) All the provisions of this Act shall extend and apply to any return made or required in accordance with subsection two of this section and the Commissioner may cause assessments to be made upon or in respect of that return in such manner as is necessary.

Returns deemed to be duly made. (cf. Act No. 26, 1956, s. 13.)

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

Assessments to be made. (cf. Act No. 26, 1956, s. 14.)

13. The Commissioner shall from the returns and from any other information in his possession or from one or both of those sources, and whether any return has been furnished or not, cause an assessment of aggregation tax to be made on each person liable to be assessed in accordance with the provisions of this Act.

14.

14. If—

Assessment in case of default or unsatisfactory return. (cf. Act No. 26, 1956, s. 15.)

(a) any person makes default in furnishing any return;

(b) the Commissioner is not satisfied with the return made by any person; or

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

the Commissioner may make an assessment of any aggregation tax for which that person is liable to be assessed in accordance with the provisions of section eight of this Act.

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

Amendment of assessments. (cf. Act No. 26, 1956, s. 16.)

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

(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 may allow all information required for the purpose of deciding the application —at any time;

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

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

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

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

(a) an additional amount shall be assessed against the taxpayer equal to the difference between any aggregation tax which he has paid and the aggregation tax which he ought to have paid if the assessment had been originally made as altered or added to; and

(b) the alteration or addition shall, 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 aggregation tax overpaid.

Validity of assessment. (cf. Act No. 26, 1956, s. 17.)

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

Evidence. (cf. Act No. 26, 1956, s. 18.)

17. (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—

(a) be conclusive evidence of the due making of the assessment; and

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

(2)

(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.

Notice of assessment. (cf. Act No. 26, 1956, s. 19.)

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

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

Owner of freehold. (cf. Act No. 26, 1956, s. 20.)

19. 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, for the purposes of this Act, be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder.

Conditional purchases, etc. (cf. Act No. 26, 1956, s. 21.)

20. Any person to whom the Crown has contracted to grant the fee-simple in any land under the Crown Lands Consolidation Act, 1913, or under any other Act relating to the alienation or disposal of lands of the Crown, and any person who under any such Act holds land under a lease from the Crown in perpetuity, shall, for the purposes of this Act, be deemed to be the owner of the land in fee-simple.

Mortgages. (cf. Act No. 26, 1956, s. 22.)

21. No deduction from the assessable value of any land shall be allowed in respect of any mortgage, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to payment of any unpaid purchase money shall be assessed for aggregation tax as if he were the owner of an unencumbered estate.

22. (1) A mortgagee or other person owning any estate or interest in land by way of security for money shall not be liable to be assessed for aggregation tax in respect of that mortgage, estate or interest : Mortgagees. (cf. Act No. 26, 1956, s. 23.)

Provided that a mortgagee in possession of land or any other person in possession of land by way of security 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 or other person in possession to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the secondary taxpayer in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation :

Provided further that the foregoing proviso shall not apply—

(a) to any mortgagee or person in possession whose possession began before the appointed day during the period commencing on the appointed day and ending on the day preceding the third anniversary of the appointed day; or

(b) to any mortgagee or person in possession whose possession began on or after the appointed day during the period commencing on the day on which he entered into possession and ending three years later,

but any such mortgagee or person in possession shall, if the mortgagor makes default in the payment of aggregation tax payable in respect of the land during or after the appropriate period referred to in paragraph (a) or (b) of this proviso, be responsible for the payment of the aggregation 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 in possession of land shall include a mortgagee who is in receipt of the rents or profits of such land, or who is in receipt of

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the income from any business carried on on such land, or who has appointed a receiver of the rents or profits of such land.

Trustees. (cf. Act No. 26, 1956, s. 24.)

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

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

Provided also that when a trustee is also the beneficial owner of other land, he shall be separately assessed for aggregation tax 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.

Equitable owner. (cf. Act No. 26, 1956, s. 25.)

24. Subject to this Act, the owner of any equitable estate or interest in any land shall be assessed in respect of aggregation 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 the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

Purchaser and vendor. (cf. Act No. 26, 1956, s. 26.)

25. (1) Where, before or after the appointed day, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

(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;

(b)

(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; and

(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—

(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) 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 made in good faith, and not for the purpose of evading the payment of aggregation 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 shall be final and conclusive.

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

(a) owing by the purchaser to the vendor, and secured by any mortgage on the land;

(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 be deemed to be unpaid purchase money.

(3)

(3) When by virtue of this section the purchaser and vendor of any land are both liable for aggregation tax in respect thereof, the purchaser shall be deemed to be the primary taxpayer and the vendor to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the vendor in respect of such part of the land as is de-restricted title 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 be the owner of the land, the vendor shall, if the purchaser makes default in payment of aggregation tax in respect of the land, be responsible for the payment of the aggregation tax due by the purchaser, which payment shall be deemed to be made by the vendor on behalf of the purchaser.

Joint owners. (cf. Act No. 26, 1956, s. 27.)

26. (1) Joint owners, any of whom is a company, of land shall be assessed for aggregation tax in accordance with the provisions of this section.

(2) Joint owners (except those of them whose interests are, under section nine of this Act, not to be taken into account for the purpose of assessing aggregation tax) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner which is, under that section, not to be taken into account) as if it were owned by a single person, without regard to their respective interests therein or to 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.

In this subsection "deductions to which any of them may be entitled under this Act" shall be all the deductions to which any of them may be so entitled in respect of any land or any interest in land included in the joint assessment.

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

(a) his or its individual interest in the land (as if he or it were the owner of a part of the land in proportion to his or its interest) ; together with

(b)

(b) any other land used for primary production during the taxing year owned by him or it in severalty; and

(c) his or its individual interests in any other land used for primary production during the taxing year.

(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 or its separate assessment to be a secondary taxpayer; and from the aggregation tax assessable in respect of his or its interest in such part of the land as is de-restricted title land against each joint owner under subsection three of this section there shall be deducted such amount (if any) as is necessary to prevent double taxation.

(5) The provisions of this section have effect notwithstanding any other provision of this Act.

Separate parcels used for partnership purposes. (cf. Act No. 26, 1956, s. 28.)

27. Where separate parcels of land used for primary production are owned by different persons any of whom is a company, and such parcels are occupied, controlled, or used by a partnership whereof all such persons are members either by themselves or together with other persons, such persons shall, for the purposes and notwithstanding any other provision of this Act, be deemed to be joint owners of such parcels, and to hold such parcels and the de-restricted title land comprised in such parcels in such shares or proportions as the Commissioner may determine.

Husband and wife deemed to be single person.

28. A married man and his wife shall, for the purposes of this Act, be deemed to be one person, shall be assessed accordingly as a sole owner, and shall be jointly liable to pay the aggregation tax assessed with such rights of contribution or indemnity between themselves as is just:

Provided that the foregoing provisions of this section do not apply where the married man and his wife are living apart under an order for judicial separation made by a court of competent jurisdiction.

29.

29. (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. Act No. 26, 1956, s. 29.)

(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;

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

30. 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 Person entitled to income of business. (cf. Act No. 26, 1956, s. 30.)

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be deemed to be the primary taxpayer, and such firstmentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

No disposition to be effective while possession retained. (cf. Act No. 26, 1956, s. 31.)

31. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the appointed day, 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), for the purposes of this Act, to be the owner of the land.

Occupation, control, or use of land. (cf. Act No. 26, 1956, s. 32.)

32. (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, 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 :

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.

(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 aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land there shall be deducted such amount (if any) as is necessary to prevent double taxation.

33.

33. Where under this Act— Deductions to prevent double taxation. (cf. Act No. 26, 1956, s. 33.)

(a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and

(b) it is provided that there shall be deducted from the aggregation tax assessable against the secondary taxpayer, in respect of any de-restricted title land or any interest in de-restricted title land, such amount (if any) as is necessary to prevent double taxation,

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

(i) the amount of aggregation tax assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the secondary taxpayer; or

(ii) the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the primary taxpayer aggregated with the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against a precedent secondary taxpayer (if any) :

Provided that the secondary taxpayer shall be assessed in respect of that de-restricted title land or that interest in de-restricted title land, notwithstanding that the land or interest is not, under section nine of this Act, to be taken into account for the purpose of assessing aggregation tax against the primary taxpayer, or that there is no primary taxpayer in respect of the land or interest.

34. Where in this Act reference is made to the aggregation tax assessable against a person in respect of any de-restricted title land or any interest in de-restricted title land, the reference is to so much of the whole aggregation tax assessable against him as bears to the whole aggregation tax assessable against him the proportion which the assessable value of the de-restricted Meaning of aggregation tax assessable in respect of certain land. (cf. Act No. 26, 1956, s. 34.)

de-restricted title land or interest referred to bears to the assessable value of all the de-restricted title land used for primary production (including any interest in de-restricted title land used for primary production) owned by him.

PART V.

OBJECTIONS AND APPEALS.

Appeal. (cf. Act No. 26, 1956, s. 35.)

35. (1) Any taxpayer who is dissatisfied with an assessment made by the Commissioner under this Act or with any alteration in or addition to any such assessment may, within thirty days after service of the notice of assessment or of the alteration in or addition to an assessment, or within such further time as the Commissioner 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.

(2) No objection shall be made to the Commissioner under this Act in respect of so much of any assessment as relates to the valuation of land shown therein if such valuation is the unimproved value of such land under this Act.

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

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

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after service of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

Pending appeal not to affect assessment. (cf. Act No. 26, 1956, s. 36.)

36. (1) The fact that an appeal in accordance with section thirty-five of this Act is pending shall not in the meantime interfere with or affect the assessment appealed from, and the aggregation tax may be levied and recovered on the assessment as if no appeal were pending.

(2) If the assessment is altered on appeal a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

Appeals to Supreme Court. (cf. Act No. 26, 1956, s. 37.)

37. (1) An appeal to the Supreme Court under section thirty-five of this Act shall be heard by a single judge of that Court.

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

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

(4) On the hearing of the appeal, the Court may make such order as it thinks fit, and may reduce, increase or vary the assessment.

(5) An order of the Court shall be final and conclusive on all parties except as provided in this section.

(6) The costs of the appeal shall be in the discretion of the Court.

(7) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the Court of Appeal upon any question which in the opinion of the Court is a question of law.

(8) The Court of Appeal shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(9) The Commissioner or a taxpayer may appeal to the Court of Appeal from any order made under subsection four of this section.

Power to make rules of court. (cf. Act No. 26, 1956, s. 38.)

38. (1) The judges of the Supreme Court or any five of them may make rules of court regulating the practice and procedure in relation to appeals to a single judge of the Supreme Court under this Part of this Act, and the Judges of Appeal or any three of them may make rules of court regulating the practice and procedure in relation to cases stated to the Court of Appeal under this Part of this Act.

(2) The provisions of section forty-one of the Interpretation Act, 1897, shall apply to and in respect of any such rules in the same way as they apply to regulations.

PART VI.

Collection and Recovery of Aggregation Tax.

Date of payment of aggregation tax. (cf. Act No. 26, 1956, s. 39.)

39. (1) Aggregation tax for each year shall be due and payable by the taxpayer on whom notice of assessment of the aggregation tax is served thirty days after service of that notice on him.

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

Additional aggregation tax in case of default. (cf. Act No. 26, 1956, s. 40.)

40. If the aggregation tax or the additional aggregation tax payable on an amended assessment is not paid before the expiration of the time allowed in section thirty-nine of this Act or such further time as is allowed by the Commissioner

Commissioner under section forty-one of this Act additional aggregation tax equal to ten per centum of the amount unpaid shall be payable by way of penalty.

Extension of time for payment and payment by instalments. (cf. Act No. 26, 1956, s. 41.)

41. The Commissioner may, in such cases as he thinks fit—

(a) extend the time for payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise;

(b) permit the payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise, to be made by such instalments and within such time as he considers the circumstances warrant; or

(c) remit the whole or any part of the additional aggregation tax imposed under section forty of this Act.

Recovery of aggregation tax. (cf. Act No. 26, 1956, s. 42.)

42. (1) Any aggregation tax shall be deemed, when it becomes due or is payable, to be a debt due to Her Majesty, and shall be collected and received by the Commissioner on account of and shall be paid into the Special Deposits Account in the Treasury, called the Closer Settlement and Public Reserves Fund, established under the Closer Settlement and Public Reserves Fund Act, 1970, from which shall be paid any amounts, paid as aggregation tax, that are refundable or repayable under this Act.

(2) Any aggregation tax unpaid may be recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Substituted service. (cf. Act No. 26, 1956, s. 43.)

43. If in any proceedings against a taxpayer for the recovery of aggregation tax the defendant—

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

(b) cannot after reasonable inquiry be found,

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service of any process in the proceedings may, without leave of the court, be effected on him by posting it or an office copy of it in a letter addressed to him at his last known place of business or abode in Australia, or by fixing it on a conspicuous part of the land in respect of which the aggregation tax is payable.

44. 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 aggregation tax not paid during lifetime.** (cf. Act No. 26, 1956, s. 44.)

(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 years for which the aggregation tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be such amount not exceeding treble the amount of the difference between the aggregation tax so assessed and the amount actually paid by the taxpayer as the Commissioner may determine, and 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 amount payable as in the case of ordinary assessments and taxation.

45.

45. No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of aggregation tax. Statutes of limitations. (cf. Act No. 26, 1956, s. 45.)

46. (1) Where a taxpayer makes a default in the payment of aggregation 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. Act No. 26, 1956, s. 46.)

(a) If the aggregation tax is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the aggregation tax, and it may be recovered from him as if he were the defaulting taxpayer.

(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 at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

(2) Any payment to the Commissioner under this section shall be a valid discharge to the lessee or occupier for such rent or payments due by the lessee or occupier to the taxpayer as against all other persons whomsoever.

47. (1) Aggregation tax shall until payment be a first charge upon the de-restricted title land in respect of which the tax is payable in priority over all other encumbrances whatever, and where that land comprises two or more parcels the aggregation tax payable in respect of the land shall be a first charge on each and every such parcel and notwithstanding any disposition of the land or any part thereof the land or Aggregation tax to be first charge on land. (cf. Act No. 26, 1956, s. 47.)

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part shall continue to be liable in the hands of any purchaser or holder for the payment of the aggregation tax so long as it remains unpaid :

Provided that no such charge shall be of effect as 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 prescribed manner at the office of the Commissioner.

The Commissioner shall on application of the purchaser of any land and on payment of the prescribed fee issue a certificate showing whether or not there is any aggregation tax charged on the land described in the application.

The regulations may provide that the prescribed fee shall be paid by affixing to the application a duty stamp of an amount equal to the amount of the prescribed fee.

(2) The Commissioner may release the land in respect of which aggregation tax is payable or any part thereof from the charge thereon pursuant to subsection one of this section on payment of an amount he estimates to be not less than the proportion of tax referable to the land or part.

(3) The provisions of this section shall have effect notwithstanding anything contained in section thirty-four or any other provision of this Act.

48. Every person who, under any provision of this Act, pays any aggregation tax for or on behalf of any other person, shall be entitled to recover the amount thereof from that other person as a debt, together with the costs of recovery, or to retain or deduct the amount thereof out of any money in his hands belonging or payable to that other person. Recovery of aggregation tax paid on behalf of another person. (cf. Act No. 26, 1956, s. 48.)

49.

Contribution from tax-payers jointly liable. (cf. Act No. 26, 1956, s. 49.)

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

(a) A person who has paid the aggregation tax in respect of any land may recover by way of contribution from any other person jointly liable with him a sum which bears the same proportion to the aggregation tax as the assessable value of the estate of such other person bears to the whole of the assessable value of the land.

(b) Every person entitled to contribution in respect of aggregation 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.

Remission of aggregation tax in cases of hardship. (cf. Act No. 26, 1956, s. 50.)

50. (1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Auditor-General and the Under Secretary of the Treasury that—

(a) a person liable to pay aggregation tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of aggregation tax will entail serious hardship; or

(b) owing to the death of a person who, if he had lived, would have been liable to pay aggregation tax, the dependants of that person are in such circumstances that the exaction of the full amount of aggregation tax will entail serious hardship,

the Board may waive the payment of the aggregation tax either wholly or in part.

(2)

(2) The Commissioner shall make such alterations in the amount of aggregation tax payable and shall make such refund of aggregation tax already paid as is necessary to give effect to the decision of the Board.

(3) A member of the Board may by writing under his hand appoint a person to act in his place at any meetings of the Board at which he is unable to be present, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

Writing off aggregation tax. (cf. Act No. 26, 1956, s. 51.)

51. (1) In any case where it is shown to the satisfaction of the Board referred to in section fifty of this Act, that every reasonable effort has been made to recover aggregation tax, or that it is impracticable without undue expense to recover aggregation tax, it may direct the amount thereof to be written off.

(2) The taxpayer shall not be released from his liability in consequence of any action taken by the Board under this section, and the Commissioner may at any future time take such action to recover any such tax as he considers the circumstances warrant.

Board's powers may be exercised by Commissioner in certain cases. (cf. Act No. 26, 1956, s. 52.)

52. The Commissioner may exercise all the powers of the Board under section fifty of this Act in any case where the amount of aggregation tax involved in respect of any one year does not exceed forty dollars.

Definition of aggregation tax for certain purposes of this Part. (cf. Act No. 26, 1956, s. 53.)

53. Aggregation tax—

(a) for the purposes of sections fifty and fifty-one of this Act includes any costs incurred in attempting to recover aggregation tax; and

(b)

(b) for the purposes of sections forty-two, forty-three, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of this Act includes additional aggregation tax whether by way of penalty or otherwise.

PART VII.

VALUATION OF LANDS.

DIVISION 1.—*Unimproved Value of Land.*

Unimproved value of land.

(cf. Act No. 26, 1956, s. 54.)

54. (1) For the purposes of this Act the unimproved value of land as at any specified date—

(a) where the land is included in the valuation list or supplementary list last furnished under the Valuation of Land Act, 1916, by the Valuer-General to a council of an area within the meaning of the Local Government Act, 1919, before that date, means the unimproved value of such land as appearing in such valuation list or supplementary list immediately before that date;

(b) where the land is within an area within the meaning of the Local Government Act, 1919, not being land to which paragraph (a) of this subsection applies, means the unimproved value of such land as appearing in the valuation book of the council of such area immediately before that date;

(c) where the land is within the Western Division, not being land within an area within the meaning of the Local Government Act, 1919, means the unimproved value of such land as appearing, immediately before that date—

(i) in the valuation roll, kept by the Western Lands Commissioner in accordance with the provisions of Part VII of the Land Tax Management Act, 1956, immediately before that date; or

(ii) where the unimproved value of the land does not appear in that valuation roll, but appears in the valuation roll kept under this Part of this Act, in that lastmentioned valuation roll immediately before that date;

(d) except as provided in paragraph (e) of this subsection where immediately before that date the land has no unimproved value under paragraph (a), (b) or (c) of this subsection by reason that the land was not included in the valuation list, supplementary list, valuation book or valuation roll referred to in those paragraphs, means the unimproved value of such land, as at that date, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area, or the Western Lands Commissioner, upon a request in that behalf made to the Valuer-General, the council of the area or the Western Lands Commissioner, as the case may be; or

(e) where immediately before that date the land (in this paragraph referred to as "the portion") had no unimproved value under paragraph (a), (b) or (c) of this subsection but immediately before that date there was an unimproved value under any such paragraph of land (in this paragraph referred to as "the whole parcel") of which the portion

forms

forms part, means an amount, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area or the Western Lands Commissioner, as the case may be, upon a request made in that behalf to that appropriate valuing authority, that bears to that unimproved value of the whole parcel the same proportion as the unimproved value (as at the date on which that unimproved value of the whole parcel was determined) of that portion (regarded as being part of the whole parcel) bears to that unimproved value of the whole parcel.

Where a valuation of land to which paragraph (d) or (e) of this subsection applies has been made by the appropriate valuing authority as aforesaid before that date and the unimproved value of such land included in such valuation does not appear in the valuation list, supplementary list, valuation book or valuation roll to which paragraph (a), (b) or (c) of this subsection applies, the unimproved value of such land means the unimproved value as included in such valuation.

Where a valuation of land is made pursuant to paragraph (d) or (e) of this subsection, such valuation shall, notwithstanding the provisions of subsection six of this section—

(i) be a valuation for the purposes of this Act only;

(ii) be a valuation of the unimproved value only; and

(iii) not be entered on the valuation roll of the Valuer-General or the valuation book of a council.

(2) Where a valuation is made pursuant to paragraph (d) or (e) of subsection one of this section there shall be separately noted on the valuation—

(a) where the land is land to which section 160E of the Local Government Act, 1919, applies and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned

apportioned under that paragraph was included in a supplementary list, a statement of the unimproved rating factor, determined in accordance with that section, in respect of the land;

(b) where the valuation is made by the Valuer-General and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned under that paragraph was included in a supplementary list—

(i) an amount designated as a rating and taxing basis determined in accordance with subsection two of section 61A of the Valuation of Land Act, 1916; and

(ii) any allowance that would have been noted on the valuation roll pursuant to section fifty-eight or 58A of the Valuation of Land Act, 1916, had the unimproved value specified in the valuation been entered on the valuation roll in accordance with either such section; and

(c) where the valuation is made by a valuer appointed by the council of an area, any deduction that would have been noted in the valuation book pursuant to section two or 2A of Schedule Three to the Local Government Act, 1919, had the unimproved value specified in the valuation been entered in the valuation book in accordance with either such section.

(3) Notwithstanding any other provision of this Act, where in relation to any land referred to in paragraph (a), (b), (d) or (e) of subsection one of this section—

(a) a statement of the unimproved rating factor, determined in accordance with section 160E of the Local Government Act, 1919, in respect of the land has been furnished with the valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the

the unimproved value of the land for the purposes of this Act, that unimproved rating factor shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land; or

(b) such a statement has not been so furnished but a rating and taxing basis, referred to in section 61A of the Valuation of Land Act, 1916, has been included in a supplementary list in which is included a valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the unimproved value of the land for the purposes of this Act, or has, in accordance with subsection two of this section, been separately noted on a valuation of that unimproved value, that rating and taxing basis shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land.

(4) Where, in relation to any land referred to in paragraph (a), (b) or (d) of subsection one of this section, there is a deductible allowance relating to the unimproved value of the land that would, but for this subsection or subsection three of this section, have been the unimproved value of any land in respect of which any aggregation tax would have been levied, and that deductible allowance has not been taken into account for the purpose of determining the unimproved value of the land under subsection one or three of this section, that deductible allowance shall be deducted from the unimproved value of the land ascertained under subsection one or three of this section and the aggregation tax shall be levied on an assessable value calculated accordingly.

In this subsection "deductible allowance" means—

(a) any allowance referred to in section fifty-eight or 58A of the Valuation of Land Act, 1916;

(b)

(b) any deduction referred to in section two or 2A of Schedule Three to the Local Government Act, 1919; and

(c) any allowance or deduction noted on a valuation pursuant to subparagraph (ii) of paragraph (b), or paragraph (c), of subsection two of this section.

(5) A person to whom a request for a determination of the unimproved value of any land has been made under paragraph (d) or (e) of subsection one of this section shall, as soon as practicable after receipt of the request, make or cause to be made the valuation requested.

(6) A determination of the unimproved value of any land made pursuant to paragraph (d) of subsection one of this section shall—

(a) where it is made by the Valuer-General, be made under and subject to the Valuation of Land Act, 1916;

(b) where it is made by the valuer appointed by the council of an area, be made under and subject to the Local Government Act, 1919; and

(c) where it is made by the Western Lands Commissioner, be made under and subject to this Part of this Act,

and, without prejudice to the generality of the foregoing provisions of this subsection, shall be subject to objection accordingly.

(7) A determination of the unimproved value of any land made under paragraph (e) of subsection one of this section shall not be subject to objection or appeal on the ground that the value assigned is too high or too low except on the ground that the value assigned is too high or too low by reason that the Valuer-General, the council or the Western Lands Commissioner, as the case may be, in making the valuation, has not complied with the provisions of that paragraph.

(8)

(8) A determination—

(a) of an unimproved rating factor pursuant to paragraph (a) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 160E of the Local Government Act, 1919;

(b) of a rating and taxing basis under subparagraph (i) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 61A of the Valuation of Land Act, 1916;

(c) of an allowance under subparagraph (ii) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section fifty-eight or 58A of the Valuation of Land Act, 1916, as the case may be; and

(d) of a deduction under paragraph (c) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section two or 2A of Schedule Three to the Local Government Act, 1919.

(9) The fact that an objection under the Valuation of Land Act, 1916, the Local Government Act, 1919, the Land Tax Management Act, 1956, or this Part of this Act, has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section shall not affect the valuation which is objected to and aggregation tax may be assessed, levied and recovered as if no objection were pending.

(10) Where—

(a) an objection has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section and such valuation has been altered upon the determination of such objection; or

(b)

(b) an alteration of any such valuation has been made in any valuation list, supplementary list, valuation book or valuation roll for the purposes of correcting any clerical error or misdescription,

the valuation as so altered shall be the unimproved value of such land for the purposes of this Act in substitution for the valuation so objected to or altered.

(11) Where any valuation has been altered as aforesaid a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

DIVISION 2.—*Valuations by Western Lands Commissioner.*

Application of Division. (cf. Act No. 26, 1956, s. 55.)

55. This Division of this Part of this Act shall apply to lands within the Western Division not being lands within an area within the meaning of the Local Government Act, 1919.

Unimproved value of land. (cf. Act No. 26, 1956, s. 56.)

56. The unimproved value of land is 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 the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made.

Valuations. (cf. Act No. 26, 1956, s. 57.)

57. (1) The Western Lands Commissioner may for the purposes of this Act make valuations of the unimproved value of such lands to which this Division of this Part of this Act applies as he may deem necessary.

Any such valuation shall be made—

(a) once at least in every six years; and

(b) for a valuation period, that is to say, for a period not exceeding six years.

Where

Where portion of a parcel of land which has been valued is sold, conveyed or resumed fresh valuations shall be made of the portion sold, conveyed or resumed and of the portion remaining.

(2) For the purpose of making any valuation the Western Lands Commissioner may require the owner or occupier of any land or interest in land to furnish such information as may be necessary to enable a correct valuation to be made, and may also make use of any information in his possession.

(3) The Western Lands Commissioner or any person authorised by him in that behalf may at all reasonable times enter on any land for the purposes of this Part of this Act.

(4) The Western Lands Commissioner shall enter on a valuation roll kept for the purpose a record of all valuations made under this Part of this Act.

A valuation shall, subject to paragraphs (d) and (e) of subsection one of section fifty-four of this Act, be deemed to be made as at the date on which the Western Lands Commissioner enters on such roll the record of such valuation.

Each entry in such valuation roll shall be signed or initialled by the Western Lands Commissioner or an officer approved in that behalf by the Western Lands Commissioner. The valuation roll so signed or initialled shall be conclusive proof of the making of the valuation on the date shown therein.

Such valuation roll may be kept in card, folder, or book form, or as the Western Lands Commissioner may direct.

58. (1) The Western Lands Commissioner shall give to each person whose estate or interest in land he has valued under this Part of this Act notice of such valuation stating a time within which such person may lodge with the Western Lands Commissioner a written objection to such valuation. Notice of valuations to be given. (cf. Act No. 26, 1956, s. 58.)

(2)

(2) Any such person may in or to the effect of the form prescribed object to any valuation under this Part of this Act within such time as is stated in such notice.

(3) No valuation under this Part of this Act shall be invalid because of any failure to give notice of valuation.

Alteration of valuation or reference of objection to Land and Valuation Court. (cf. Act No. 26, 1956, s. 59.)

59. (1) On objection being made to any valuation, the Western Lands Commissioner may, if he sees fit, alter such valuation. Notice of the Western Lands Commissioner's decision shall be given to the objector.

An objector who is dissatisfied with the decision of the Western Lands Commissioner not being a decision altering the valuation to the extent claimed in the objection, or to such extent as may be agreed upon, may within sixty days after service of such notice, request in writing the Western Lands Commissioner to treat his objection as an appeal and to forward it to the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

(2) The Western Lands Commissioner shall forward such objections together with a list thereof to the registrar of the Land and Valuation Court for hearing and determination by that Court.

Powers of Court. (cf. Act No. 26, 1956, s. 60.)

60. The Land and Valuation Court shall hear and determine all such objections brought before it, and, if it decides that any valuation is erroneous, shall order the valuation to be altered accordingly.

Consequential alterations. (cf. Act No. 26, 1956, s. 61.)

61. If on the hearing of any objection the Land and Valuation Court orders any valuation to be altered, the Western Lands Commissioner shall make all such consequential alterations as are necessary to give effect to the decision of the Court.

PART VIII.

MISCELLANEOUS.

Public officer of company. (cf. Act No. 26, 1956, s. 63.)

62. (1) Every company which is a taxpayer shall, unless exempted by the Commissioner, 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 :—

(a) The person so appointed shall for the purposes of this Act be called the public officer of the company.

(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 an address for service, has been given to the Commissioner.

(c) 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, 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.

(d) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties.

(e) 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.

(f) 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 : One hundred dollars for every day during which the failure or neglect continues.

(2)

(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 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.

63. With respect to every agent, and with respect also to every trustee, the following provisions shall apply : — Agents and trustees. (cf. Act No. 26, 1956, s. 64.)

(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 aggregation 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.

(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.

(d) Where as agent or trustee he pays aggregation 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.

(e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the aggregation tax which is or will become due in respect of the land.

(f) He is hereby made personally liable for the aggregation tax payable in respect of the land if, while the aggregation tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is controlled or held by him

him in his representative capacity but he shall not be otherwise personally liable for the aggregation tax.

(g) If he is a trustee he may raise whatever moneys are necessary in order to pay the aggregation tax by mortgage or charge with or without power of 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 aggregation tax.

(h) He is hereby indemnified for all payments which he makes in pursuance of this Act, or by requirements of the Commissioner.

(i) For the purpose of ensuring the payment of aggregation tax, the Commissioner shall have the same remedies against all land or other property of any kind 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 aggregation tax, and in as full and ample a manner.

Contracts to evade aggregation tax void.

64. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the appointed day, shall so far as it has or purports to have the purpose or effect of in any way directly or indirectly— (cf. Act No. 26, 1956, s. 65.)

(a) altering the incidence of any aggregation tax;

(b) relieving any person from liability to pay any aggregation tax or make any return;

(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, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

65.

Access to lands, buildings, etc. (cf. Act No. 26, 1956, s. 67.)

65. The Commissioner or any officer authorised by him in that behalf shall at all times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or documents of title, for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers.

Furnishing of valuation lists, etc., to Commissioner. (cf. Act No. 26, 1956, s. 68.)

66. The Valuer-General, the Western Lands Commissioner and the council of any area within the meaning of the Local Government Act, 1919, shall when so requested by the Commissioner furnish to the Commissioner a copy of any valuation list, supplementary list or valuation roll kept or prepared by them and of any alterations and additions thereto.

Where any such roll or alterations or additions are so furnished by any such council the Commissioner shall pay to such council the prescribed fee.

Power to obtain evidence. (cf. Act No. 26, 1956, s. 69.)

67. (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 assessment 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, or other papers whatever in his custody or under his control relating thereto.

(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.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

Obstructing officers. (cf. Act No. 26, 1956, s. 70.)

68. Any person who obstructs or hinders any other person acting in the exercise or discharge of any powers, authorities, duties or functions conferred or imposed by or under this Act shall be guilty of an offence.

Penalty : One hundred dollars.

69.

Offences.
(cf. Act No. 26, 1956, s. 71.)

69. (1) Any person who—

(a) fails or neglects duly to furnish any return or information as and when required by this Act or to comply with any requirement of the Commissioner made in pursuance of this Act;

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner, or any officer duly authorised by him, or to answer truly and fully 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 information which is false in any particular or makes any false answer, whether verbal or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

Penalty : Two hundred dollars.

(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 Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars and treble the amount of any aggregation 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.

Failure to furnish returns.

(cf. Act No. 26, 1956, s. 72.)

70. (1) Notwithstanding anything contained in section sixty-nine of this Act, any person who—

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

(b) fails to include in any return any land used for primary production owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional aggregation tax at the rate of ten per centum per annum upon the amount of aggregation 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 twenty dollars, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional aggregation tax the amount of twenty dollars or double the amount of the difference between the aggregation tax properly payable and the aggregation tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition to any additional aggregation tax by way of penalty which may become payable by him in accordance with section forty of this Act:

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional aggregation 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 sections sixty-nine and seventy-one of this Act, such action may be taken by the Commissioner, and in that case the additional aggregation tax payable under this section shall not be charged.

71. 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 offence. Evading taxation. (cf. Act No. 26, 1956, s. 73.)

Penalty: One thousand dollars and treble the amount of the aggregation tax payment which he has evaded or attempted to evade.

72. Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any aggregation tax for which he would otherwise be liable. Penalties not to relieve from aggregation tax. (cf. Act No. 26, 1956, s. 74.)

73. 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. Act No. 26, 1956, s. 75.)

PART IX.

GENERAL.

74. Any notice or document required or authorised by this Act to be served or given shall be in writing and shall be sufficiently served or given— Service of notices. (cf. Act No. 26, 1956, s. 76.)

(a) if delivered personally;

(b) if left at the last known place of abode or business in or out of New South Wales of the person on or to whom such notice or document is to be served or given; or

(c)

(c) if sent by prepaid letter post addressed to the person on or to whom such notice or document is to be served or given at his address for service or last known place of abode or business in or out of New South Wales.

In the case of paragraph (c) of this section the service or giving of a notice or document shall be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

General penalty. (cf. Act No. 26, 1956, s. 78.)

75. Any person guilty of a breach of this Act for which no penalty is otherwise provided shall be liable to a penalty not exceeding two hundred dollars.

Recovery of penalties. (cf. Act No. 26, 1956, s. 79.)

76. All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate.

Report to Parliament. (cf. Act No. 26, 1956, s. 80.)

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

Amendment of certain Acts.

78. Each of the Acts specified in the first column of the Schedule to this Act is amended in the manner specified opposite that Act in the second column of that Schedule.

Regulations.

79. (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.

(2) The regulations may impose penalties not exceeding one hundred dollars for any breach thereof.

SCHEDULE.

SCHEDULE. Sec. 78.

PART I.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1956.	Land Tax Management Act, 1956.	Insert in subsection (2A) of section six after the words "under this Act to" the words "the Commissioner of Land Aggregation Tax or to".

PART II.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1970.	Closer Settlement and Public Reserves Fund Act, 1970.	Insert in paragraph (d) of section five after the words "paragraph (k) of" the words "subsection one of". Omit from the same paragraph the word "six" and insert in lieu thereof the symbols, figure and letter "(6A)".
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970.	Omit from paragraph (b) of subsection one of section two the word "commencement" where lastly occurring and insert in lieu thereof the following word and new paragraph:— commencement. Upon the issue of any certificate under subparagraph (iii) of this paragraph, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	Omit from paragraph (d) of the same subsection the word "six" where firstly occurring and insert in lieu thereof the symbols, figure and letter "(6A)". Insert in subparagraph (i) of paragraph (e) of the same subsection after the words "The provisions of this section" where firstly occurring the words ", other than subsection (6A),". Insert in the same subparagraph after the words "The provisions of this section" where secondly occurring the words ", other than subsection six,". Insert in the same subparagraph after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in subparagraph (iii) of paragraph (b) of subsection two of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900,

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in paragraph (b) of subsection four of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

New South Wales

ANNO VICESIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 18, 1971.

An Act to make provision relating to the imposition assessment and collection of an aggregation tax in respect of certain lands; and for purposes connected therewith. [Assented to, 25th May, 1971.]

BE it enacted by the Queen'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 "Land Aggregation Tax Management Act, 1971". Short title and commencement.

(2)

P 55383—A [50c]

(2) Subject to subsections three and four of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Part and Part II of this Act and the amendment made by section seventy-eight of this Act and specified in Part I of the Schedule to this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(4) The amendments made by section seventy-eight of this Act and specified in Part II of the Schedule to this Act shall commence upon the day upon which section two of the Crown Lands and Other Acts (Amendment) Act, 1970, commences.

Division of Act.

2. This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—ADMINISTRATION—*ss.* 4–7.

PART III.—AGGREGATION TAX—*ss.* 8–10

PART IV.—RETURNS, ASSESSMENT AND LIABILITY—*ss.* 11–34.

PART V.—OBJECTIONS AND APPEALS—*ss.* 35–38.

PART VI.—COLLECTION AND RECOVERY OF AGGREGATION TAX—*ss.* 39–53.

PART VII.—VALUATION OF LANDS—*ss.* 54–61.

DIVISION 1.—*Unimproved Value of Land—s.* 54.

DIVISION 2.—*Valuations by Western Lands Commissioner—ss.* 55–61.

PART VIII.—MISCELLANEOUS—*ss.* 62–73.

PART IX.—GENERAL—*ss.* 74–79.

SCHEDULE.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Definitions. (cf. Act No. 26, 1956, s. 3.)

"Act" includes regulations;

"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 owned by the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land;

"aggregation tax" means aggregation tax calculated at the rates fixed by the Land Aggregation Tax Act, 1971, as assessed under this Act;

"appointed day" means the day appointed under subsection two of section one of this Act;

"Commissioner" means the Commissioner of Land Aggregation Tax;

"company" includes all bodies or associations corporate or unincorporate;

"de-restricted title land" means land in respect of which a certificate—

(a) has been issued under the provisions of subparagraph (iii) of paragraph (k) of subsection one of section 129B or subsection (6A) of section two hundred and seventy-two of the Crown Lands Consolidation Act, 1913, or subsection four of section thirty-one of the Closer Settlement Act, 1904, or subsection five of section ten of the Returned

Soldiers

Soldiers Settlement Act, 1916, as in force after the commencement of section two of the Crown Lands and Other Acts (Amendment) Act, 1970; and

(b) has, in accordance with any such provision, been recorded in the Register kept under the Real Property Act, 1900,

but does not include any such land so long as it continues to be owned by the person who was the owner thereof immediately before the issue of the certificate;

"joint owners" means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have a life or greater interest in shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners;

"land used for primary production" means, in relation to the use of any land during a taxing year, land used during that year primarily for any one or more of the following activities :—

(a) the cultivation thereof for the purpose of selling the produce of such cultivation;

(b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or

(c) the keeping of bees thereon for the purpose of selling their honey,

and includes land that is ordinarily used for any of the activities referred to in paragraph (a), (b) or (c) of this definition and that has lain fallow during the whole or any part of that year, and all land owned by a society registered as a rural society under the Co-operation Act, 1923;

"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;

"owned" 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—

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

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

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

"public authority" means any public body declared by the Governor by order published in the Gazette to be a public authority for the purposes of this Act;

"regulations" means regulations made under this Act;

"taxing year" means a period of twelve months commencing on the appointed day or on any anniversary of the appointed day;

"taxpayer" means a person who has been assessed or is liable to be assessed for aggregation tax in accordance with this Act;

"trustee"

"trustee" includes, 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—

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(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.

(2) A reference in this Act to land in respect of which aggregation tax is payable is a reference to land which is taken into account for the purpose of assessing aggregation tax that is payable.

(3) For the purposes of this Act where joint owners are the owners of land as joint tenants each of them shall be deemed to own an interest in the land as if he were a tenant in common with the other joint owners in equal shares.

PART II.

ADMINISTRATION.

Commissioner and other officers. (cf. Act No. 26, 1956, s. 4.)

4. (1) The Governor may, under and subject to the Public Service Act, 1902, appoint a Commissioner of Land Aggregation Tax who may sue and be sued by that name and who shall be responsible for the due administration of this Act.

(2) Where the Governor, by proclamation published in the Gazette, specifies an office in the Public Service for the purposes of this subsection, the person holding or acting in that office shall, in the event of the absence, incapacity or suspension of the Commissioner, exercise and perform all

of

of the powers, authorities, duties and functions of the Commissioner under this Act and when so doing shall be deemed to be the Commissioner.

(3) The Governor may, under and subject to the Public Service Act, 1902, appoint and employ such other persons as may be deemed necessary for the carrying out of this Act.

(4) For the purposes of this Act the Minister may, with the approval of the Minister of the department concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

Notification of appointment. (cf. Act No. 26, 1956, s. 5.)

5. (1) A notification in the Gazette, purporting to be made by the Minister, that any person has been appointed as Commissioner or that any other person has been appointed for the purpose of carrying out this Act, shall be prima facie evidence of such appointment.

(2) A notification in the Gazette purporting to be made by the Minister and stating that a person specified in the notification was at a time or during a period so specified a person holding or acting in an office specified in a proclamation made under subsection two of section four of this Act shall be prima facie evidence of the matters stated therein.

Delegation by Commissioner. (cf. Act No. 7, 1913, s. 17A.)

6. (1) Subject to this section the Commissioner may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Commissioner by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2)

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Commissioner who made the delegation holds office at the time of that exercise or performance.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the prescribed powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Commissioner or in his own name on behalf of the Commissioner, the power, authority, duty or function shall be deemed to have been exercised or performed by the Commissioner, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

(5) Notwithstanding any delegation made under this section the Commissioner may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(6) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Secrecy. (cf. Act No. 26, 1956, s. 6.)

7. (1) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not, either directly or indirectly, except in the performance of any power, authority, duty or function under this Act, and either while he is, or after he ceases to be so appointed or employed, make a record of, or divulge or communicate to any person, any information acquired by him in respect of the affairs of any other person disclosed or obtained under the provisions of this Act.

Penalty : Five hundred dollars or imprisonment for twelve months.

(2) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not be required to produce in any court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his powers, authorities, duties or functions under this Act, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act.

(3) Any person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall, if and when required by the Commissioner to do so, make an oath or declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

(4) Notwithstanding anything contained in this section the Commissioner may divulge or communicate any information which comes to his knowledge in the performance of his powers, authorities, duties or functions under this Act to the Commissioner of Land Tax or to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth, and the divulging or communicating of the information shall not be a contravention of this section.

PART III.

AGGREGATION TAX.

Assessment of aggregation tax.

8. (1) Subject to the provisions of this Act, aggregation tax, at such rates as may be fixed by any Act, shall be assessed in respect of any taxing year on any person who at midnight on the day upon which that year ends owns any land used for primary production during that year (excluding land that is not to be taken into account for the purpose of assessing such tax) where that land—

(a) is situated in New South Wales;

(b) comprises wholly or in part de-restricted title land; and

(c) the assessable value of that land exceeds the prescribed amount,

and the tax shall be so assessed on—

(d) the assessable value of the de-restricted title land so owned by him; or

(e) such part of the assessable value of the de-restricted title land so owned by him as is equal to the amount by which the assessable value, or the aggregate of the assessable values, of the land so owned by him exceeds the prescribed amount,

whichever is the less.

(2)

(2) In subsection one of this section, "the prescribed amount" means—

(a) in the case where the land owned as referred to in that subsection is owned by a trustee who is required to be assessed for aggregation tax in accordance with the provisions of section twenty-three of this Act and that trustee holds that land as a trustee for equitable owners of that land—an amount equal to the product of the amount fixed by or under paragraph (b) of this subsection multiplied by the number of those equitable owners; or

(b) in any other case, where an amount—

(i) has not been prescribed for the purposes of this paragraph—the amount of one hundred thousand dollars; or

(ii) has been so prescribed—the amount so prescribed.

(3) A reference in subsection one of this section to the assessable value of land—

(a) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he became the owner on or after the prescribed day is—

(i) where, when that person first so became the owner of the land, he first so became the owner as the sole owner of the land and since the day on which he so became the sole owner has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the day on which he first so became the sole owner of the land;

(ii) where, when that person first so became the owner of the land, he first so became the owner as a joint owner of the land and since the day on which he first so became a joint owner he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was when he first so became a joint owner of the land—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he first so became a joint owner of the land the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) when that person first so became the owner of the land, he first so became the owner as a sole owner, since the day on which he first so became the sole owner he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) when that person first so became the owner of the land, he first so became the owner as a joint owner, since the day on which he first so became a joint owner he has continued to be either a joint owner or the sole

owner

owner and is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was when he first so became a joint owner of the land,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned on the day on which he first so became the owner of the land, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land;

(b) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he was immediately before the prescribed day the sole owner or a joint owner is—

(i) where that person was the sole owner of the land immediately before the prescribed day and on and since that day has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the prescribed day;

(ii) where that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was immediately before the prescribed day—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the prescribed day the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) that person was the sole owner of the land immediately before the prescribed day, on and since that day he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or the sole owner and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was immediately before the prescribed day,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned immediately before the prescribed day, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a

joint

joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land; or

(c) owned by joint owners who are jointly assessable for aggregation tax under subsection two of section twenty-six of this Act is a reference to the sum of the assessable values upon which each of the joint owners would, if none of them was a company, be assessed under paragraph (a) or (b) of this subsection, for aggregation tax.

(4) In subsection three of this section—

"sole owner" means an owner who is not a joint owner;

"the prescribed day", in relation to an owner of de-restricted title land, means the day on which he became the owner of that land or, where he is the owner of more than one parcel of de-restricted title land, the day on which he became the owner of the parcel of de-restricted title land that he first acquired.

(5)

(5) The amount on which aggregation tax is required to be assessed on any person under subsection one of this section is for the purposes of this Act the taxable value attributable to that person.

Lands not assessable for aggregation tax. (cf. Act No. 26, 1956, s. 10.)

9. Except where otherwise expressly provided in this Act the following lands used for primary production shall not be taken into account for the purpose of assessing aggregation tax in respect of any taxing year : —

(a) lands owned by the Crown or any public authority;

(b) lands owned by or in trust for a charitable or educational institution if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;

(c) lands owned by or in trust for a religious society, where those lands are held solely for, or the proceeds of those lands are devoted solely to, religious, charitable or educational purposes, including the support of aged or infirm clergy or ministers of the society, or their wives or widows or children; and

(d) lands owned by any person and used during the taxing year—

(i) for the purpose of cultivation of commercial timber; or

(ii) for any special purpose that may be prescribed for the purposes of this subparagraph.

Limitation of operation of section 9. (cf. Act No. 26, 1956, s. 11.)

10. With respect to land which under section nine of this Act is not to be taken into account for the purpose of assessing aggregation tax the provisions of that section shall be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land.

PART

PART IV.

RETURNS, ASSESSMENT AND LIABILITY.

Taxpayer to furnish returns. (cf. Act No. 26, 1956, s. 12.)

11. (1) For the purposes of the assessment and levy of aggregation tax in respect of any taxing year, every person who at midnight on the day on which that taxing year ends is the owner of any de-restricted title land and is required by the Commissioner by notice published in the Gazette to furnish a return shall furnish to the Commissioner in the 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 that day, with such other particulars as may be prescribed or as may be specified in the notice.

(2) The Commissioner may at any time require any person to furnish a return or a further and fuller return setting forth a full and complete statement of all or any land owned by him, or in respect of which he is agent or trustee, at midnight on the day on which any taxing year ends, with such other particulars as the Commissioner requires, and whether or not any return has previously been made by that person in respect of that land, or in respect of which he is agent or trustee, on that day.

(3) All the provisions of this Act shall extend and apply to any return made or required in accordance with subsection two of this section and the Commissioner may cause assessments to be made upon or in respect of that return in such manner as is necessary.

Returns deemed to be duly made. (cf. Act No. 26, 1956, s. 13.)

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

Assessments to be made. (cf. Act No. 26, 1956, s. 14.)

13. The Commissioner shall from the returns and from any other information in his possession or from one or both of those sources, and whether any return has been furnished or not, cause an assessment of aggregation tax to be made on each person liable to be assessed in accordance with the provisions of this Act.

14.

Assessment in case of default or unsatisfactory return. (cf. Act No. 26, 1956, s. 15.)

14. If—

(a) any person makes default in furnishing any return;

(b) the Commissioner is not satisfied with the return made by any person; or

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

the Commissioner may make an assessment of any aggregation tax for which that person is liable to be assessed in accordance with the provisions of section eight of this Act.

Amendment of assessments. (cf. Act No. 26, 1956, s. 16.)

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

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

(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 may allow all information required for the purpose of deciding the application —at any time;

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

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

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

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

(a) an additional amount shall be assessed against the taxpayer equal to the difference between any aggregation tax which he has paid and the aggregation tax which he ought to have paid if the assessment had been originally made as altered or added to; and

(b) the alteration or addition shall, 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 aggregation tax overpaid.

16. 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. Act No. 26, 1956, s. 17.)

17. (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. (cf. Act No. 26, 1956, s. 18.)

(a) be conclusive evidence of the due making of the assessment; and

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

(2)

(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.

Notice of assessment. (cf. Act No. 26, 1956, s. 19.)

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

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

Owner of freehold. (cf. Act No. 26, 1956, s. 20.)

19. 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, for the purposes of this Act, be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder.

Conditional purchases, etc. (cf. Act No. 26, 1956, s. 21.)

20. Any person to whom the Crown has contracted to grant the fee-simple in any land under the Crown Lands Consolidation Act, 1913, or under any other Act relating to the alienation or disposal of lands of the Crown, and any person who under any such Act holds land under a lease from the Crown in perpetuity, shall, for the purposes of this Act, be deemed to be the owner of the land in fee-simple.

Mortgages. (cf. Act No. 26, 1956, s. 22.)

21. No deduction from the assessable value of any land shall be allowed in respect of any mortgage, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to payment of any unpaid purchase money shall be assessed for aggregation tax as if he were the owner of an unencumbered estate.

Mortgagees. (cf. Act No. 26, 1956, s. 23.)

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

Provided that a mortgagee in possession of land or any other person in possession of land by way of security 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 or other person in possession to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the secondary taxpayer in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation :

Provided further that the foregoing proviso shall not apply—

(a) to any mortgagee or person in possession whose possession began before the appointed day during the period commencing on the appointed day and ending on the day preceding the third anniversary of the appointed day; or

(b) to any mortgagee or person in possession whose possession began on or after the appointed day during the period commencing on the day on which he entered into possession and ending three years later,

but any such mortgagee or person in possession shall, if the mortgagor makes default in the payment of aggregation tax payable in respect of the land during or after the appropriate period referred to in paragraph (a) or (b) of this proviso, be responsible for the payment of the aggregation 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 in possession of land shall include a mortgagee who is in receipt of the rents or profits of such land, or who is in receipt of

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the income from any business carried on on such land, or who has appointed a receiver of the rents or profits of such land.

Trustees. (cf. Act No. 26, 1956, s. 24.)

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

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

Provided also that when a trustee is also the beneficial owner of other land, he shall be separately assessed for aggregation tax 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.

Equitable owner. (cf. Act No. 26, 1956, s. 25.)

24. Subject to this Act, the owner of any equitable estate or interest in any land shall be assessed in respect of aggregation 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 the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

Purchaser and vendor. (cf. Act No. 26, 1956, s. 26.)

25. (1) Where, before or after the appointed day, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

(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;

(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; and

(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—

(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) 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 made in good faith, and not for the purpose of evading the payment of aggregation 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 shall be final and conclusive.

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

(a) owing by the purchaser to the vendor, and secured by any mortgage on the land;

(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 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 aggregation tax in respect thereof, the purchaser shall be deemed to be the primary taxpayer and the vendor to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the vendor in respect of such part of the land as is de-restricted title 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 be the owner of the land, the vendor shall, if the purchaser makes default in payment of aggregation tax in respect of the land, be responsible for the payment of the aggregation tax due by the purchaser, which payment shall be deemed to be made by the vendor on behalf of the purchaser.

Joint owners. (cf. Act No. 26, 1956, s. 27.)

26. (1) Joint owners, any of whom is a company, of land shall be assessed for aggregation tax in accordance with the provisions of this section.

(2) Joint owners (except those of them whose interests are, under section nine of this Act, not to be taken into account for the purpose of assessing aggregation tax) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner which is, under that section, not to be taken into account) as if it were owned by a single person, without regard to their respective interests therein or to 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.

In this subsection "deductions to which any of them may be entitled under this Act" shall be all the deductions to which any of them may be so entitled in respect of any land or any interest in land included in the joint assessment.

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

(a) his or its individual interest in the land (as if he or it were the owner of a part of the land in proportion to his or its interest); together with

(b) any other land used for primary production during the taxing year owned by him or it in severalty; and

(c) his or its individual interests in any other land used for primary production during the taxing year.

(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 or its separate assessment to be a secondary taxpayer; and from the aggregation tax assessable in respect of his or its interest in such part of the land as is de-restricted title land against each joint owner under subsection three of this section there shall be deducted such amount (if any) as is necessary to prevent double taxation.

(5) The provisions of this section have effect notwithstanding any other provision of this Act.

Separate parcels used for partnership purposes. (cf. Act No. 26, 1956, s. 28.)

27. Where separate parcels of land used for primary production are owned by different persons any of whom is a company, and such parcels are occupied, controlled, or used by a partnership whereof all such persons are members either by themselves or together with other persons, such persons shall, for the purposes and notwithstanding any other provision of this Act, be deemed to be joint owners of such parcels, and to hold such parcels and the de-restricted title land comprised in such parcels in such shares or proportions as the Commissioner may determine.

Husband and wife deemed to be single person.

28. A married man and his wife shall, for the purposes of this Act, be deemed to be one person, shall be assessed accordingly as a sole owner, and shall be jointly liable to pay the aggregation tax assessed with such rights of contribution or indemnity between themselves as is just :

Provided that the foregoing provisions of this section do not apply where the married man and his wife are living apart under an order for judicial separation made by a court of competent jurisdiction.

Companies having substantially the same shareholders. (cf. Act No. 26, 1956, s. 29.)

29. (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.

(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;

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

Person entitled to income of business. (cf. Act No. 26, 1956, s. 30.)

30. 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

be deemed to be the primary taxpayer, and such firstmentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

No disposition to be effective while possession retained. (cf. Act No. 26, 1956, s. 31.)

31. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the appointed day, 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), for the purposes of this Act, to be the owner of the land.

Occupation, control, or use of land. (cf. Act No. 26, 1956, s. 32.)

32. (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, 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 :

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.

(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 aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land there shall be deducted such amount (if any) as is necessary to prevent double taxation.

Deductions to prevent double taxation. (cf. Act No. 26, 1956, s. 33.)

33. Where under this Act—

(a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and

(b) it is provided that there shall be deducted from the aggregation tax assessable against the secondary taxpayer, in respect of any de-restricted title land or any interest in de-restricted title land, such amount (if any) as is necessary to prevent double taxation,

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

(i) the amount of aggregation tax assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the secondary taxpayer; or

(ii) the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the primary taxpayer aggregated with the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against a precedent secondary taxpayer (if any) :

Provided that the secondary taxpayer shall be assessed in respect of that de-restricted title land or that interest in de-restricted title land, notwithstanding that the land or interest is not, under section nine of this Act, to be taken into account for the purpose of assessing aggregation tax against the primary taxpayer, or that there is no primary taxpayer in respect of the land or interest.

Meaning of aggregation tax assessable in respect of certain land. (cf. Act No. 26, 1956, s. 34.)

34. Where in this Act reference is made to the aggregation tax assessable against a person in respect of any de-restricted title land or any interest in de-restricted title land, the reference is to so much of the whole aggregation tax assessable against him as bears to the whole aggregation tax assessable against him the proportion which the assessable value of the

de-restricted

de-restricted title land or interest referred to bears to the assessable value of all the de-restricted title land used for primary production (including any interest in de-restricted title land used for primary production) owned by him.

PART V.

Objections and Appeals.

Appeal. (cf. Act No. 26, 1956, s. 35.)

35. (1) Any taxpayer who is dissatisfied with an assessment made by the Commissioner under this Act or with any alteration in or addition to any such assessment may, within thirty days after service of the notice of assessment or of the alteration in or addition to an assessment, or within such further time as the Commissioner 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.

(2) No objection shall be made to the Commissioner under this Act in respect of so much of any assessment as relates to the valuation of land shown therein if such valuation is the unimproved value of such land under this Act.

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

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

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after service of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

Pending appeal not to affect assessment. (cf. Act No. 26, 1956, s. 36.)

36. (1) The fact that an appeal in accordance with section thirty-five of this Act is pending shall not in the meantime interfere with or affect the assessment appealed from, and the aggregation tax may be levied and recovered on the assessment as if no appeal were pending.

(2) If the assessment is altered on appeal a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

Appeals to Supreme Court. (cf. Act No. 26, 1956, s. 37.)

37. (1) An appeal to the Supreme Court under section thirty-five of this Act shall be heard by a single judge of that Court.

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

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

(4) On the hearing of the appeal, the Court may make such order as it thinks fit, and may reduce, increase or vary the assessment.

(5) An order of the Court shall be final and conclusive on all parties except as provided in this section.

(6) The costs of the appeal shall be in the discretion of the Court.

(7) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the Court of Appeal upon any question which in the opinion of the Court is a question of law.

(8) The Court of Appeal shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(9) The Commissioner or a taxpayer may appeal to the Court of Appeal from any order made under subsection four of this section.

38. (1) The judges of the Supreme Court or any five of them may make rules of court regulating the practice and procedure in relation to appeals to a single judge of the Supreme Court under this Part of this Act, and the Judges of Appeal or any three of them may make rules of court regulating the practice and procedure in relation to cases stated to the Court of Appeal under this Part of this Act. Power to make rules of court. (cf. Act No. 26, 1956, s. 38.)

(2) The provisions of section forty-one of the Interpretation Act, 1897, shall apply to and in respect of any such rules in the same way as they apply to regulations.

PART VI.

Collection and Recovery of Aggregation Tax.

39. (1) Aggregation tax for each year shall be due and payable by the taxpayer on whom notice of assessment of the aggregation tax is served thirty days after service of that notice on him. Date of payment of aggregation tax. (cf. Act No. 26, 1956, s. 39.)

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

40. If the aggregation tax or the additional aggregation tax payable on an amended assessment is not paid before the expiration of the time allowed in section thirty-nine of this Act or such further time as is allowed by the Commissioner Additional aggregation tax in case of default. (cf. Act No. 26, 1956, s. 40.)

Commissioner under section forty-one of this Act additional aggregation tax equal to ten per centum of the amount unpaid shall be payable by way of penalty.

Extension of time for payment and payment by instalments. (cf. Act No. 26, 1956, s. 41.)

41. The Commissioner may, in such cases as he thinks fit—

(a) extend the time for payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise;

(b) permit the payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise, to be made by such instalments and within such time as he considers the circumstances warrant; or

(c) remit the whole or any part of the additional aggregation tax imposed under section forty of this Act.

Recovery of aggregation tax. (cf. Act No. 26, 1956, s. 42.)

42. (1) Any aggregation tax shall be deemed, when it becomes due or is payable, to be a debt due to Her Majesty, and shall be collected and received by the Commissioner on account of and shall be paid into the Special Deposits Account in the Treasury, called the Closer Settlement and Public Reserves Fund, established under the Closer Settlement and Public Reserves Fund Act, 1970, from which shall be paid any amounts, paid as aggregation tax, that are refundable or repayable under this Act.

(2) Any aggregation tax unpaid may be recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Substituted service. (cf. Act No. 26, 1956, s. 43.)

43. If in any proceedings against a taxpayer for the recovery of aggregation tax the defendant—

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

(b) cannot after reasonable inquiry be found,

service

service of any process in the proceedings may, without leave of the court, be effected on him by posting it or an office copy of it in a letter addressed to him at his last known place of business or abode in Australia, or by fixing it on a conspicuous part of the land in respect of which the aggregation tax is payable.

Provision when aggregation tax not paid during lifetime.

(cf. Act No. 26, 1956, s. 44.)

44. 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 :—

(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 years for which the aggregation tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be such amount not exceeding treble the amount of the difference between the aggregation tax so assessed and the amount actually paid by the taxpayer as the Commissioner may determine, and 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 amount payable as in the case of ordinary assessments and taxation.

Statutes of limitations. (cf. Act No. 26, 1956, s. 45.)

45. No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of aggregation tax.

Remedy against other persons where taxpayer makes default. (cf. Act No. 26, 1956, s. 46.)

46. (1) Where a taxpayer makes a default in the payment of aggregation tax then, without in any way releasing him from his liability, the following provisions shall apply as long as the default continues :—

(a) If the aggregation tax is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the aggregation tax, and it may be recovered from him as if he were the defaulting taxpayer.

(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 at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

(2) Any payment to the Commissioner under this section shall be a valid discharge to the lessee or occupier for such rent or payments due by the lessee or occupier to the taxpayer as against all other persons whomsoever.

Aggregation tax to be first charge on land. (cf. Act No. 26, 1956, s. 47.)

47. (1) Aggregation tax shall until payment be a first charge upon the de-restricted title land in respect of which the tax is payable in priority over all other encumbrances whatever, and where that land comprises two or more parcels the aggregation tax payable in respect of the land shall be a first charge on each and every such parcel and notwithstanding any disposition of the land or any part thereof the land or

part

part shall continue to be liable in the hands of any purchaser or holder for the payment of the aggregation tax so long as it remains unpaid :

Provided that no such charge shall be of effect as 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 prescribed manner at the office of the Commissioner.

The Commissioner shall on application of the purchaser of any land and on payment of the prescribed fee issue a certificate showing whether or not there is any aggregation tax charged on the land described in the application.

The regulations may provide that the prescribed fee shall be paid by affixing to the application a duty stamp of an amount equal to the amount of the prescribed fee.

(2) The Commissioner may release the land in respect of which aggregation tax is payable or any part thereof from the charge thereon pursuant to subsection one of this section on payment of an amount he estimates to be not less than the proportion of tax referable to the land or part.

(3) The provisions of this section shall have effect notwithstanding anything contained in section thirty-four or any other provision of this Act.

Recovery of aggregation tax paid on behalf of another person. (cf. Act No. 26, 1956, s. 48.)

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

49.

Contribution from tax-payers jointly liable. (cf. Act No. 26, 1956, s. 49.)

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

(a) A person who has paid the aggregation tax in respect of any land may recover by way of contribution from any other person jointly liable with him a sum which bears the same proportion to the aggregation tax as the assessable value of the estate of such other person bears to the whole of the assessable value of the land.

(b) Every person entitled to contribution in respect of aggregation 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.

Remission of aggregation tax in cases of hardship. (cf. Act No. 26, 1956, s. 50.)

50. (1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Auditor-General and the Under Secretary of the Treasury that—

(a) a person liable to pay aggregation tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of aggregation tax will entail serious hardship; or

(b) owing to the death of a person who, if he had lived, would have been liable to pay aggregation tax, the dependants of that person are in such circumstances that the exaction of the full amount of aggregation tax will entail serious hardship,

the Board may waive the payment of the aggregation tax either wholly or in part.

(2) The Commissioner shall make such alterations in the amount of aggregation tax payable and shall make such refund of aggregation tax already paid as is necessary to give effect to the decision of the Board.

(3) A member of the Board may by writing under his hand appoint a person to act in his place at any meetings of the Board at which he is unable to be present, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

51. (1) In any case where it is shown to the satisfaction of the Board referred to in section fifty of this Act, that every reasonable effort has been made to recover aggregation tax, or that it is impracticable without undue expense to recover aggregation tax, it may direct the amount thereof to be written off.

Writing off aggregation tax. (cf. Act No. 26, 1956, s. 51.)

(2) The taxpayer shall not be released from his liability in consequence of any action taken by the Board under this section, and the Commissioner may at any future time take such action to recover any such tax as he considers the circumstances warrant.

52. The Commissioner may exercise all the powers of the Board under section fifty of this Act in any case where the amount of aggregation tax involved in respect of any one year does not exceed forty dollars.

Board's powers may be exercised by Commissioner in certain cases. (cf. Act No. 26, 1956, s. 52.)

53. Aggregation tax—

(a) for the purposes of sections fifty and fifty-one of this Act includes any costs incurred in attempting to recover aggregation tax; and

Definition of aggregation tax for certain purposes of this Part. (cf. Act No. 26, 1956, s. 53.)

(b)

(b) for the purposes of sections forty-two, forty-three, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of this Act includes additional aggregation tax whether by way of penalty or otherwise.

PART VII.

VALUATION OF LANDS.

DIVISION 1.—*Unimproved Value of Land.*

Unimproved value of land.
(cf. Act No. 26, 1956, s. 54.)

54. (1) For the purposes of this Act the unimproved value of land as at any specified date—

(a) where the land is included in the valuation list or supplementary list last furnished under the Valuation of Land Act, 1916, by the Valuer-General to a council of an area within the meaning of the Local Government Act, 1919, before that date, means the unimproved value of such land as appearing in such valuation list or supplementary list immediately before that date;

(b) where the land is within an area within the meaning of the Local Government Act, 1919, not being land to which paragraph (a) of this subsection applies, means the unimproved value of such land as appearing in the valuation book of the council of such area immediately before that date;

(c)

(c) where the land is within the Western Division, not being land within an area within the meaning of the Local Government Act, 1919, means the unimproved value of such land as appearing, immediately before that date—

(i) in the valuation roll, kept by the Western Lands Commissioner in accordance with the provisions of Part VII of the Land Tax Management Act, 1956, immediately before that date; or

(ii) where the unimproved value of the land does not appear in that valuation roll, but appears in the valuation roll kept under this Part of this Act, in that lastmentioned valuation roll immediately before that date;

(d) except as provided in paragraph (e) of this subsection where immediately before that date the land has no unimproved value under paragraph (a), (b) or (c) of this subsection by reason that the land was not included in the valuation list, supplementary list, valuation book or valuation roll referred to in those paragraphs, means the unimproved value of such land, as at that date, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area, or the Western Lands Commissioner, upon a request in that behalf made to the Valuer-General, the council of the area or the Western Lands Commissioner, as the case may be; or

(e) where immediately before that date the land (in this paragraph referred to as "the portion") had no unimproved value under paragraph (a), (b) or (c) of this subsection but immediately before that date there was an unimproved value under any such paragraph of land (in this paragraph referred to as "the whole parcel") of which the portion

forms

forms part, means an amount, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area or the Western Lands Commissioner, as the case may be, upon a request made in that behalf to that appropriate valuing authority, that bears to that unimproved value of the whole parcel the same proportion as the unimproved value (as at the date on which that unimproved value of the whole parcel was determined) of that portion (regarded as being part of the whole parcel) bears to that unimproved value of the whole parcel.

Where a valuation of land to which paragraph (d) or (e) of this subsection applies has been made by the appropriate valuing authority as aforesaid before that date and the unimproved value of such land included in such valuation does not appear in the valuation list, supplementary list, valuation book or valuation roll to which paragraph (a), (b) or (c) of this subsection applies, the unimproved value of such land means the unimproved value as included in such valuation.

Where a valuation of land is made pursuant to paragraph (d) or (e) of this subsection, such valuation shall, notwithstanding the provisions of subsection six of this section—

(i) be a valuation for the purposes of this Act only;

(ii) be a valuation of the unimproved value only; and

(iii) not be entered on the valuation roll of the Valuer-General or the valuation book of a council.

(2) Where a valuation is made pursuant to paragraph (d) or (e) of subsection one of this section there shall be separately noted on the valuation—

(a) where the land is land to which section 160E of the Local Government Act, 1919, applies and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned

apportioned under that paragraph was included in a supplementary list, a statement of the unimproved rating factor, determined in accordance with that section, in respect of the land;

(b) where the valuation is made by the Valuer-General and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned under that paragraph was included in a supplementary list—

(i) an amount designated as a rating and taxing basis determined in accordance with subsection two of section 61A of the Valuation of Land Act, 1916; and

(ii) any allowance that would have been noted on the valuation roll pursuant to section fifty-eight or 58A of the Valuation of Land Act, 1916, had the unimproved value specified in the valuation been entered on the valuation roll in accordance with either such section; and

(c) where the valuation is made by a valuer appointed by the council of an area, any deduction that would have been noted in the valuation book pursuant to section two or 2A of Schedule Three to the Local Government Act, 1919, had the unimproved value specified in the valuation been entered in the valuation book in accordance with either such section.

(3) Notwithstanding any other provision of this Act, where in relation to any land referred to in paragraph (a), (b), (d) or (e) of subsection one of this section—

(a) a statement of the unimproved rating factor, determined in accordance with section 160E of the Local Government Act, 1919, in respect of the land has been furnished with the valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been

the

the unimproved value of the land for the purposes of this Act, that unimproved rating factor shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land; or

(b) such a statement has not been so furnished but a rating and taxing basis, referred to in section 61A of the Valuation of Land Act, 1916, has been included in a supplementary list in which is included a valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the unimproved value of the land for the purposes of this Act, or has, in accordance with subsection two of this section, been separately noted on a valuation of that unimproved value, that rating and taxing basis shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land.

(4) Where, in relation to any land referred to in paragraph (a), (b) or (d) of subsection one of this section, there is a deductible allowance relating to the unimproved value of the land that would, but for this subsection or subsection three of this section, have been the unimproved value of any land in respect of which any aggregation tax would have been levied, and that deductible allowance has not been taken into account for the purpose of determining the unimproved value of the land under subsection one or three of this section, that deductible allowance shall be deducted from the unimproved value of the land ascertained under subsection one or three of this section and the aggregation tax shall be levied on an assessable value calculated accordingly.

In this subsection "deductible allowance" means—

(a) any allowance referred to in section fifty-eight or 58A of the Valuation of Land Act, 1916;

(b)

(b) any deduction referred to in section two or 2A of Schedule Three to the Local Government Act, 1919; and

(c) any allowance or deduction noted on a valuation pursuant to subparagraph (ii) of paragraph (b), or paragraph (c), of subsection two of this section.

(5) A person to whom a request for a determination of the unimproved value of any land has been made under paragraph (d) or (e) of subsection one of this section shall, as soon as practicable after receipt of the request, make or cause to be made the valuation requested.

(6) A determination of the unimproved value of any land made pursuant to paragraph (d) of subsection one of this section shall—

(a) where it is made by the Valuer-General, be made under and subject to the Valuation of Land Act, 1916;

(b) where it is made by the valuer appointed by the council of an area, be made under and subject to the Local Government Act, 1919; and

(c) where it is made by the Western Lands Commissioner, be made under and subject to this Part of this Act,

and, without prejudice to the generality of the foregoing provisions of this subsection, shall be subject to objection accordingly.

(7) A determination of the unimproved value of any land made under paragraph (e) of subsection one of this section shall not be subject to objection or appeal on the ground that the value assigned is too high or too low except on the ground that the value assigned is too high or too low by reason that the Valuer-General, the council or the Western Lands Commissioner, as the case may be, in making the valuation, has not complied with the provisions of that paragraph.

(8) A determination—

(a) of an unimproved rating factor pursuant to paragraph (a) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 160E of the Local Government Act, 1919;

(b) of a rating and taxing basis under subparagraph (i) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 61A of the Valuation of Land Act, 1916;

(c) of an allowance under subparagraph (ii) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section fifty-eight or 58A of the Valuation of Land Act, 1916, as the case may be; and

(d) of a deduction under paragraph (c) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section two or 2A of Schedule Three to the Local Government Act, 1919.

(9) The fact that an objection under the Valuation of Land Act, 1916, the Local Government Act, 1919, the Land Tax Management Act, 1956, or this Part of this Act, has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section shall not affect the valuation which is objected to and aggregation tax may be assessed, levied and recovered as if no objection were pending.

(10) Where—

(a) an objection has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section and such valuation has been altered upon the determination of such objection; or

(b)

(b) an alteration of any such valuation has been made in any valuation list, supplementary list, valuation book or valuation roll for the purposes of correcting any clerical error or misdescription,

the valuation as so altered shall be the unimproved value of such land for the purposes of this Act in substitution for the valuation so objected to or altered.

(11) Where any valuation has been altered as aforesaid a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

DIVISION 2.—*Valuations by Western Lands Commissioner.*

Application of Division. (cf. Act No. 26, 1956, s. 55.)

55. This Division of this Part of this Act shall apply to lands within the Western Division not being lands within an area within the meaning of the Local Government Act, 1919.

Unimproved value of land. (cf. Act No. 26, 1956, s. 56.)

56. The unimproved value of land is 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 the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made.

Valuations. (cf. Act No. 26, 1956, s. 57.)

57. (1) The Western Lands Commissioner may for the purposes of this Act make valuations of the unimproved value of such lands to which this Division of this Part of this Act applies as he may deem necessary.

Any such valuation shall be made—

(a) once at least in every six years; and

(b) for a valuation period, that is to say, for a period not exceeding six years.

Where

Where portion of a parcel of land which has been valued is sold, conveyed or resumed fresh valuations shall be made of the portion sold, conveyed or resumed and of the portion remaining.

(2) For the purpose of making any valuation the Western Lands Commissioner may require the owner or occupier of any land or interest in land to furnish such information as may be necessary to enable a correct valuation to be made, and may also make use of any information in his possession.

(3) The Western Lands Commissioner or any person authorised by him in that behalf may at all reasonable times enter on any land for the purposes of this Part of this Act.

(4) The Western Lands Commissioner shall enter on a valuation roll kept for the purpose a record of all valuations made under this Part of this Act.

A valuation shall, subject to paragraphs (d) and (e) of subsection one of section fifty-four of this Act, be deemed to be made as at the date on which the Western Lands Commissioner enters on such roll the record of such valuation.

Each entry in such valuation roll shall be signed or initialled by the Western Lands Commissioner or an officer approved in that behalf by the Western Lands Commissioner. The valuation roll so signed or initialled shall be conclusive proof of the making of the valuation on the date shown therein.

Such valuation roll may be kept in card, folder, or book form, or as the Western Lands Commissioner may direct.

Notice of valuations to be given. (cf. Act No. 26, 1956, s. 58.)

58. (1) The Western Lands Commissioner shall give to each person whose estate or interest in land he has valued under this Part of this Act notice of such valuation stating a time within which such person may lodge with the Western Lands Commissioner a written objection to such valuation.

(2)

(2) Any such person may in or to the effect of the form prescribed object to any valuation under this Part of this Act within such time as is stated in such notice.

(3) No valuation under this Part of this Act shall be invalid because of any failure to give notice of valuation.

Alteration of valuation or reference of objection to Land and Valuation Court. (cf. Act No. 26, 1956, s. 59.)

59. (1) On objection being made to any valuation, the Western Lands Commissioner may, if he sees fit, alter such valuation. Notice of the Western Lands Commissioner's decision shall be given to the objector.

An objector who is dissatisfied with the decision of the Western Lands Commissioner not being a decision altering the valuation to the extent claimed in the objection, or to such extent as may be agreed upon, may within sixty days after service of such notice, request in writing the Western Lands Commissioner to treat his objection as an appeal and to forward it to the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

(2) The Western Lands Commissioner shall forward such objections together with a list thereof to the registrar of the Land and Valuation Court for hearing and determination by that Court.

Powers of Court. (cf. Act No. 26, 1956, s. 60.)

60. The Land and Valuation Court shall hear and determine all such objections brought before it, and, if it decides that any valuation is erroneous, shall order the valuation to be altered accordingly.

Consequential alterations. (cf. Act No. 26, 1956, s. 61.)

61. If on the hearing of any objection the Land and Valuation Court orders any valuation to be altered, the Western Lands Commissioner shall make all such consequential alterations as are necessary to give effect to the decision of the Court.

PART

PART VIII.

MISCELLANEOUS.

Public officer of company. (cf. Act No. 26, 1956, s. 63.)

62. (1) Every company which is a taxpayer shall, unless exempted by the Commissioner, 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 :—

(a) The person so appointed shall for the purposes of this Act be called the public officer of the company.

(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 an address for service, has been given to the Commissioner.

(c) 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, 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.

(d) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties.

(e) 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.

(f) 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 : One hundred dollars for every day during which the failure or neglect continues.

(2)

(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 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.

Agents and trustees. (cf. Act No. 26, 1956, s. 64.)

63. 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 aggregation 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.

(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.

(d) Where as agent or trustee he pays aggregation 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.

(e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the aggregation tax which is or will become due in respect of the land.

(f) He is hereby made personally liable for the aggregation tax payable in respect of the land if, while the aggregation tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is controlled or held by him

him in his representative capacity but he shall not be otherwise personally liable for the aggregation tax.

(g) If he is a trustee he may raise whatever moneys are necessary in order to pay the aggregation tax by mortgage or charge with or without power of 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 aggregation tax.

(h) He is hereby indemnified for all payments which he makes in pursuance of this Act, or by requirements of the Commissioner.

(i) For the purpose of ensuring the payment of aggregation tax, the Commissioner shall have the same remedies against all land or other property of any kind 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 aggregation tax, and in as full and ample a manner.

Contracts to evade aggregation tax void. (cf. Act No. 26, 1956, s. 65.)

64. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the appointed day, shall so far as it has or purports to have the purpose or effect of in any way directly or indirectly—

(a) altering the incidence of any aggregation tax;

(b) relieving any person from liability to pay any aggregation tax or make any return;

(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, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

65.

Access to lands, buildings, etc.

65. The Commissioner or any officer authorised by him in that behalf shall at all times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or documents of title, for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers. (cf. Act No. 26, 1956, s. 67.)

Furnishing of valuation lists, etc., to Commissioner.

66. The Valuer-General, the Western Lands Commissioner and the council of any area within the meaning of the Local Government Act, 1919, shall when so requested by the Commissioner furnish to the Commissioner a copy of any valuation list, supplementary list or valuation roll kept or prepared by them and of any alterations and additions thereto. (cf. Act No. 26, 1956, s. 68.)

Where any such roll or alterations or additions are so furnished by any such council the Commissioner shall pay to such council the prescribed fee.

Power to obtain evidence.

67. (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 assessment 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, or other papers whatever in his custody or under his control relating thereto. (cf. Act No. 26, 1956, s. 69.)

(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.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

Obstructing officers.

68. Any person who obstructs or hinders any other person acting in the exercise or discharge of any powers, authorities, duties or functions conferred or imposed by or under this Act shall be guilty of an offence. (cf. Act No. 26, 1956, s. 70.)

Penalty : One hundred dollars.

69.

Offences. (cf. Act No. 26, 1956, s. 71.)

69. (1) Any person who—

(a) fails or neglects duly to furnish any return or information as and when required by this Act or to comply with any requirement of the Commissioner made in pursuance of this Act;

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner, or any officer duly authorised by him, or to answer truly and fully 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 information which is false in any particular or makes any false answer, whether verbal or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

Penalty : Two hundred dollars.

(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 Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars and treble the amount of any aggregation 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.

70. (1) Notwithstanding anything contained in section sixty-nine of this Act, any person who— Failure to furnish returns. (cf. Act No. 26, 1956, s. 72.)

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

(b) fails to include in any return any land used for primary production owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional aggregation tax at the rate of ten per centum per annum upon the amount of aggregation 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 twenty dollars, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional aggregation tax the amount of twenty dollars or double the amount of the difference between the aggregation tax properly payable and the aggregation tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition to any additional aggregation tax by way of penalty which may become payable by him in accordance with section forty of this Act :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional aggregation 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 sections sixty-nine and seventy-one of this Act, such action may be taken by the Commissioner, and in that case the additional aggregation tax payable under this section shall not be charged.

Evading taxation. (cf. Act No. 26, 1956, s. 73.)

71. 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 offence.

Penalty : One thousand dollars and treble the amount of the aggregation tax payment which he has evaded or attempted to evade.

Penalties not to relieve from aggregation tax. (cf. Act No. 26, 1956, s. 74.)

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

Aiding or abetting offences. (cf. Act No. 26, 1956, s. 75.)

73. 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.

PART IX.

GENERAL.

Service of notices. (cf. Act No. 26, 1956, s. 76.)

74. Any notice or document required or authorised by this Act to be served or given shall be in writing and shall be sufficiently served or given—

(a) if delivered personally;

(b) if left at the last known place of abode or business in or out of New South Wales of the person on or to whom such notice or document is to be served or given; or

(c) if sent by prepaid letter post addressed to the person on or to whom such notice or document is to be served or given at his address for service or last known place of abode or business in or out of New South Wales.

In the case of paragraph (c) of this section the service or giving of a notice or document shall be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

General penalty. (cf. Act No. 26, 1956, s. 78.)

75. Any person guilty of a breach of this Act for which no penalty is otherwise provided shall be liable to a penalty not exceeding two hundred dollars.

Recovery of penalties. (cf. Act No. 26, 1956, s. 79.)

76. All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate.

Report to Parliament. (cf. Act No. 26, 1956, s. 80.)

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

Amendment of certain Acts.

78. Each of the Acts specified in the first column of the Schedule to this Act is amended in the manner specified opposite that Act in the second column of that Schedule.

Regulations.

79. (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.

(2) The regulations may impose penalties not exceeding one hundred dollars for any breach thereof.

SCHEDULE.

Sec. 78.

SCHEDULE.

PART I.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1956.	Land Tax Management Act, 1956.	Insert in subsection (2A) of section six after the words "under this Act to" the words "the Commissioner of Land Aggregation Tax or to".

PART II.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1970.	Closer Settlement and Public Reserves Fund Act, 1970.	Insert in paragraph (d) of section five after the words "paragraph (k) of" the words "subsection one of". Omit from the same paragraph the word "six" and insert in lieu thereof the symbols, figure and letter "(6A)".
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970.	Omit from paragraph (b) of subsection one of section two the word "commencement" where lastly occurring and insert in lieu thereof the following word and new paragraph:— commencement. Upon the issue of any certificate under subparagraph (iii) of this paragraph, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	Omit from paragraph (d) of the same subsection the word "six" where firstly occurring and insert in lieu thereof the symbols, figure and letter "(6A)". Insert in subparagraph (i) of paragraph (e) of the same subsection after the words "The provisions of this section" where firstly occurring the words ", other than subsection (6A),". Insert in the same subparagraph after the words "The provisions of this section" where secondly occurring the words ", other than subsection six,". Insert in the same subparagraph after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in subparagraph (iii) of paragraph (b) of subsection two of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900,

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in paragraph (b) of subsection four of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

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

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 6 *May,* 1971.

New South Wales

ANNO VICESIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 18, 1971.

An Act to make provision relating to the imposition assessment and collection of an aggregation tax in respect of certain lands; and for purposes connected therewith. [Assented to, 25th May, 1971.]

BE it enacted by the Queen'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 "Land Aggregation Tax Management Act, 1971". Short title and commencement.

(2)

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

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

(2) Subject to subsections three and four of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Part and Part II of this Act and the amendment made by section seventy-eight of this Act and specified in Part I of the Schedule to this Act shall commence upon the day upon which the assent of Her Majesty to this Act is signified.

(4) The amendments made by section seventy-eight of this Act and specified in Part II of the Schedule to this Act shall commence upon the day upon which section two of the Crown Lands and Other Acts (Amendment) Act, 1970, commences.

Division of Act.

2. This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—ADMINISTRATION—*ss.* 4–7.

PART III.—AGGREGATION TAX—*ss.* 8–10

PART IV.—RETURNS, ASSESSMENT AND LIABILITY—*ss.* 11–34.

PART V.—OBJECTIONS AND APPEALS—*ss.* 35–38.

PART VI.—COLLECTION AND RECOVERY OF AGGREGATION TAX—*ss.* 39–53.

PART VII.—VALUATION OF LANDS—*ss.* 54–61.

DIVISION 1.—*Unimproved Value of Land—s.* 54.

DIVISION 2.—*Valuations by Western Lands Commissioner—ss.* 55–61.

PART VIII.—MISCELLANEOUS—*ss.* 62–73.

PART IX.—GENERAL—*ss.* 74–79.

SCHEDULE.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Definitions. (cf. Act No. 26, 1956, s. 3.)

"Act" includes regulations;

"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 owned by the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land;

"aggregation tax" means aggregation tax calculated at the rates fixed by the Land Aggregation Tax Act, 1971, as assessed under this Act;

"appointed day" means the day appointed under subsection two of section one of this Act;

"Commissioner" means the Commissioner of Land Aggregation Tax;

"company" includes all bodies or associations corporate or unincorporate;

"de-restricted title land" means land in respect of which a certificate—

(a) has been issued under the provisions of subparagraph (iii) of paragraph (k) of subsection one of section 129B or subsection (6A) of section two hundred and seventy-two of the Crown Lands Consolidation Act, 1913, or subsection four of section thirty-one of the Closer Settlement Act, 1904, or subsection five of section ten of the Returned

Soldiers

Soldiers Settlement Act, 1916, as in force after the commencement of section two of the Crown Lands and Other Acts (Amendment) Act, 1970; and

(b) has, in accordance with any such provision, been recorded in the Register kept under the Real Property Act, 1900,

but does not include any such land so long as it continues to be owned by the person who was the owner thereof immediately before the issue of the certificate;

"joint owners" means persons who own land jointly or in common, whether as partners or otherwise, and includes persons who have a life or greater interest in shares of the income from the land and persons who by virtue of this Act are deemed to be joint owners;

"land used for primary production" means, in relation to the use of any land during a taxing year, land used during that year primarily for any one or more of the following activities :—

(a) the cultivation thereof for the purpose of selling the produce of such cultivation;

(b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or

(c) the keeping of bees thereon for the purpose of selling their honey,

and includes land that is ordinarily used for any of the activities referred to in paragraph (a), (b) or (c) of this definition and that has lain fallow during the whole or any part of that year, and all land owned by a society registered as a rural society under the Co-operation Act, 1923;

"mortgage"

"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;

"owned" 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—

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

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

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

"public authority" means any public body declared by the Governor by order published in the Gazette to be a public authority for the purposes of this Act;

"regulations" means regulations made under this Act;

"taxing year" means a period of twelve months commencing on the appointed day or on any anniversary of the appointed day;

"taxpayer" means a person who has been assessed or is liable to be assessed for aggregation tax in accordance with this Act;

"trustee" includes, 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—

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(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.

(2) A reference in this Act to land in respect of which aggregation tax is payable is a reference to land which is taken into account for the purpose of assessing aggregation tax that is payable.

(3) For the purposes of this Act where joint owners are the owners of land as joint tenants each of them shall be deemed to own an interest in the land as if he were a tenant in common with the other joint owners in equal shares.

PART II.

ADMINISTRATION.

Commissioner and other officers. (cf. Act No. 26, 1956, s. 4.)

4. (1) The Governor may, under and subject to the Public Service Act, 1902, appoint a Commissioner of Land Aggregation Tax who may sue and be sued by that name and who shall be responsible for the due administration of this Act.

(2) Where the Governor, by proclamation published in the Gazette, specifies an office in the Public Service for the purposes of this subsection, the person holding or acting in that office shall, in the event of the absence, incapacity or suspension of the Commissioner, exercise and perform all

of

of the powers, authorities, duties and functions of the Commissioner under this Act and when so doing shall be deemed to be the Commissioner.

(3) The Governor may, under and subject to the Public Service Act, 1902, appoint and employ such other persons as may be deemed necessary for the carrying out of this Act.

(4) For the purposes of this Act the Minister may, with the approval of the Minister of the department concerned and of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

Notification of appointment. (cf. Act No. 26, 1956, s. 5.)

5. (1) A notification in the Gazette, purporting to be made by the Minister, that any person has been appointed as Commissioner or that any other person has been appointed for the purpose of carrying out this Act, shall be prima facie evidence of such appointment.

(2) A notification in the Gazette purporting to be made by the Minister and stating that a person specified in the notification was at a time or during a period so specified a person holding or acting in an office specified in a proclamation made under subsection two of section four of this Act shall be prima facie evidence of the matters stated therein.

Delegation by Commissioner. (cf. Act No. 7, 1913, s. 17A.)

6. (1) Subject to this section the Commissioner may by instrument in writing delegate to the holder of any prescribed office the exercise or performance of such of the powers (other than this power of delegation), authorities, duties and functions conferred or imposed upon the Commissioner by or under this Act as may be prescribed in relation to the holder of that office and may in like manner revoke wholly or in part any such delegation or any such delegation made by a predecessor in office.

(2) Any power, authority, duty or function, the exercise or performance of which has been delegated under this section to the holder of a prescribed office, may while the delegation remains unrevoked be exercised or performed from time to time in accordance with the terms of the delegation by the person for the time being holding or acting in that office, whether or not the Commissioner who made the delegation holds office at the time of that exercise or performance.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the prescribed powers, authorities, duties or functions delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Where any prescribed power, authority, duty or function is exercised or performed by the holder of a prescribed office in relation to whom that power, authority, duty or function is prescribed and the exercise or performance of the power, authority, duty or function is evidenced in writing, signed by the holder of, or person for the time being acting in, that office in the name of the Commissioner or in his own name on behalf of the Commissioner, the power, authority, duty or function shall be deemed to have been exercised or performed by the Commissioner, whether or not an instrument delegating the exercise or performance of the power, authority, duty or function to that holder was, when the power, authority, duty or function was exercised or performed, in force and whether or not any conditions or limitations referred to in subsection three of this section were observed by the person exercising or performing the power, authority, duty or function.

(5) Notwithstanding any delegation made under this section the Commissioner may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(6) A regulation under subsection one of this section relating to the powers, authorities, duties or functions that may be delegated to the holder of a prescribed office may describe any power, authority, duty or function in general or particular terms and may so describe the power, authority, duty or function that its exercise or performance by the holder of the prescribed office in relation to whom it is prescribed shall be subject to such conditions or limitations as may be specified in the regulation.

Secrecy. (cf. Act No. 26, 1956, s. 6.)

7. (1) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not, either directly or indirectly, except in the performance of any power, authority, duty or function under this Act, and either while he is, or after he ceases to be so appointed or employed, make a record of, or divulge or communicate to any person, any information acquired by him in respect of the affairs of any other person disclosed or obtained under the provisions of this Act.

Penalty : Five hundred dollars or imprisonment for twelve months.

(2) A person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall not be required to produce in any court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his powers, authorities, duties or functions under this Act, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act.

(3) Any person appointed or employed under this Act or whose services are made use of pursuant to subsection four of section four of this Act shall, if and when required by the Commissioner to do so, make an oath or declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

(4) Notwithstanding anything contained in this section the Commissioner may divulge or communicate any information which comes to his knowledge in the performance of his powers, authorities, duties or functions under this Act to the Commissioner of Land Tax or to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth, and the divulging or communicating of the information shall not be a contravention of this section.

PART III.

AGGREGATION TAX.

Assessment of aggregation tax.

8. (1) Subject to the provisions of this Act, aggregation tax, at such rates as may be fixed by any Act, shall be assessed in respect of any taxing year on any person who at midnight on the day upon which that year ends owns any land used for primary production during that year (excluding land that is not to be taken into account for the purpose of assessing such tax) where that land—

(a) is situated in New South Wales;

(b) comprises wholly or in part de-restricted title land; and

(c) the assessable value of that land exceeds the prescribed amount,

and the tax shall be so assessed on—

(d) the assessable value of the de-restricted title land so owned by him; or

(e) such part of the assessable value of the de-restricted title land so owned by him as is equal to the amount by which the assessable value, or the aggregate of the assessable values, of the land so owned by him exceeds the prescribed amount,

whichever is the less.

(2)

(2) In subsection one of this section, "the prescribed amount" means—

(a) in the case where the land owned as referred to in that subsection is owned by a trustee who is required to be assessed for aggregation tax in accordance with the provisions of section twenty-three of this Act and that trustee holds that land as a trustee for equitable owners of that land—an amount equal to the product of the amount fixed by or under paragraph (b) of this subsection multiplied by the number of those equitable owners; or

(b) in any other case, where an amount—

(i) has not been prescribed for the purposes of this paragraph—the amount of one hundred thousand dollars; or

(ii) has been so prescribed—the amount so prescribed.

(3) A reference in subsection one of this section to the assessable value of land—

(a) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he became the owner on or after the prescribed day is—

(i) where, when that person first so became the owner of the land, he first so became the owner as the sole owner of the land and since the day on which he so became the sole owner has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the day on which he first so became the sole owner of the land;

(ii) where, when that person first so became the owner of the land, he first so became the owner as a joint owner of the land and since the day on which he first so became a joint owner he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was when he first so became a joint owner of the land—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he first so became a joint owner of the land the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) when that person first so became the owner of the land, he first so became the owner as a sole owner, since the day on which he first so became the sole owner he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) when that person first so became the owner of the land, he first so became the owner as a joint owner, since the day on which he first so became a joint owner he has continued to be either a joint owner or the sole

owner

owner and is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was when he first so became a joint owner of the land,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned on the day on which he first so became the owner of the land, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that lastmentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land;

(b) owned by a person assessable for aggregation tax otherwise than under subsection two of section twenty-six of this Act and of which he was immediately before the prescribed day the sole owner or a joint owner is—

(i) where that person was the sole owner of the land immediately before the prescribed day and on and since that day has continued to be the sole owner of the land—a reference to the unimproved value of the land as at the first day of January next preceding the prescribed day;

(ii) where that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or a sole owner of the land and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is not greater or less than it was immediately before the prescribed day—a reference to an amount that bears to the unimproved value of the land as at the first day of January next preceding the prescribed day the same proportion as his interest, as a joint owner, in the land bears to the whole of the interests of the joint owners in the land;

(iii) where—

(a) that person was the sole owner of the land immediately before the prescribed day, on and since that day he has continued to be either a sole owner or a joint owner and he is as at midnight referred to in subsection one of this section a joint owner of the land; or

(b) that person was a joint owner of the land immediately before the prescribed day, on and since that day he has continued to be either a joint owner or the sole owner and he is as at midnight referred to in subsection one of this section a joint owner of the land under a joint ownership in which his interest is greater or less than it was immediately before the prescribed day,

a reference—

(c) to the extent that any interest that he owns in the land is not greater than the interest or interests in the land that he owned immediately before the prescribed day, to an amount that bears to the unimproved value of the land as at the first day of January next preceding that day the same proportion as that firstmentioned interest in the land as at that midnight bears to the whole of the interests in the land at that midnight; aggregated with

(d) to the extent (if any) that his interest in the land is greater than his interest in the land was on that day and that each part of that interest in the land that he acquired at any one time is greater than his interest in the land immediately before that time, an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became the owner of that part the same proportion as that part bore to the whole of the interests in the land as at that last-mentioned day; or

(iv) where that person is as at midnight referred to in subsection one of this section the sole owner of the land but immediately before he became or last became the sole owner he was a joint owner of the land—a reference to—

(a) the assessable value of the land that was last attributable to him as a

joint

joint owner under subparagraph (ii) or (iii) of this paragraph or would have been so attributable to him if none of the joint owners had been a company; aggregated with

(b) an amount that bears to the unimproved value of the land as at the first day of January next preceding the day on which he became or last became the sole owner of the land the same proportion as the interests of the joint owners, other than that person, under the joint ownership under which that person was a joint owner as referred to in paragraph (a) of this subparagraph bore to the whole of the interests in the land; or

(c) owned by joint owners who are jointly assessable for aggregation tax under subsection two of section twenty-six of this Act is a reference to the sum of the assessable values upon which each of the joint owners would, if none of them was a company, be assessed under paragraph (a) or (b) of this subsection, for aggregation tax.

(4) In subsection three of this section—

"sole owner" means an owner who is not a joint owner;

"the prescribed day", in relation to an owner of de-restricted title land, means the day on which he became the owner of that land or, where he is the owner of more than one parcel of de-restricted title land, the day on which he became the owner of the parcel of de-restricted title land that he first acquired.

(5) The amount on which aggregation tax is required to be assessed on any person under subsection one of this section is for the purposes of this Act the taxable value attributable to that person.

Lands not assessable for aggregation tax. (cf. Act No. 26, 1956, s. 10.)

9. Except where otherwise expressly provided in this Act the following lands used for primary production shall not be taken into account for the purpose of assessing aggregation tax in respect of any taxing year : —

(a) lands owned by the Crown or any public authority;

(b) lands owned by or in trust for a charitable or educational institution if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;

(c) lands owned by or in trust for a religious society, where those lands are held solely for, or the proceeds of those lands are devoted solely to, religious, charitable or educational purposes, including the support of aged or infirm clergy or ministers of the society, or their wives or widows or children; and

(d) lands owned by any person and used during the taxing year—

(i) for the purpose of cultivation of commercial timber; or

(ii) for any special purpose that may be prescribed for the purposes of this subparagraph.

Limitation of operation of section 9. (cf. Act No. 26, 1956, s. 11.)

10. With respect to land which under section nine of this Act is not to be taken into account for the purpose of assessing aggregation tax the provisions of that section shall be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land.

PART

PART IV.

RETURNS, ASSESSMENT AND LIABILITY.

Taxpayer to furnish returns. (cf. Act No. 26, 1956, s. 12.)

11. (1) For the purposes of the assessment and levy of aggregation tax in respect of any taxing year, every person who at midnight on the day on which that taxing year ends is the owner of any de-restricted title land and is required by the Commissioner by notice published in the Gazette to furnish a return shall furnish to the Commissioner in the 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 that day, with such other particulars as may be prescribed or as may be specified in the notice.

(2) The Commissioner may at any time require any person to furnish a return or a further and fuller return setting forth a full and complete statement of all or any land owned by him, or in respect of which he is agent or trustee, at midnight on the day on which any taxing year ends, with such other particulars as the Commissioner requires, and whether or not any return has previously been made by that person in respect of that land, or in respect of which he is agent or trustee, on that day.

(3) All the provisions of this Act shall extend and apply to any return made or required in accordance with subsection two of this section and the Commissioner may cause assessments to be made upon or in respect of that return in such manner as is necessary.

Returns deemed to be duly made. (cf. Act No. 26, 1956, s. 13.)

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

Assessments to be made. (cf. Act No. 26, 1956, s. 14.)

13. The Commissioner shall from the returns and from any other information in his possession or from one or both of those sources, and whether any return has been furnished or not, cause an assessment of aggregation tax to be made on each person liable to be assessed in accordance with the provisions of this Act.

14.

Assessment in case of default or unsatisfactory return. (cf. Act No. 26, 1956, s. 15.)

14. If—

(a) any person makes default in furnishing any return;

(b) the Commissioner is not satisfied with the return made by any person; or

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

the Commissioner may make an assessment of any aggregation tax for which that person is liable to be assessed in accordance with the provisions of section eight of this Act.

Amendment of assessments. (cf. Act No. 26, 1956, s. 16.)

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

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

(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 may allow all information required for the purpose of deciding the application —at any time;

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

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

(3)

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

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

(a) an additional amount shall be assessed against the taxpayer equal to the difference between any aggregation tax which he has paid and the aggregation tax which he ought to have paid if the assessment had been originally made as altered or added to; and

(b) the alteration or addition shall, 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 aggregation tax overpaid.

Validity of assessment. (cf. Act No. 26, 1956, s. 17.)

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

Evidence. (cf. Act No. 26, 1956, s. 18.)

17. (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—

(a) be conclusive evidence of the due making of the assessment; and

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

(2)

(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.

Notice of assessment. (cf. Act No. 26, 1956, s. 19.)

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

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

Owner of freehold. (cf. Act No. 26, 1956, s. 20.)

19. 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, for the purposes of this Act, be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder.

Conditional purchases, etc. (cf. Act No. 26, 1956, s. 21.)

20. Any person to whom the Crown has contracted to grant the fee-simple in any land under the Crown Lands Consolidation Act, 1913, or under any other Act relating to the alienation or disposal of lands of the Crown, and any person who under any such Act holds land under a lease from the Crown in perpetuity, shall, for the purposes of this Act, be deemed to be the owner of the land in fee-simple.

Mortgages. (cf. Act No. 26, 1956, s. 22.)

21. No deduction from the assessable value of any land shall be allowed in respect of any mortgage, or in respect of any unpaid purchase money; and a mortgagor or person who holds land subject to payment of any unpaid purchase money shall be assessed for aggregation tax as if he were the owner of an unencumbered estate.

22. (1) A mortgagee or other person owning any estate or interest in land by way of security for money shall not be liable to be assessed for aggregation tax in respect of that mortgage, estate or interest : Mortgagees. (cf. Act No. 26, 1956, s. 23.)

Provided that a mortgagee in possession of land or any other person in possession of land by way of security 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 or other person in possession to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the secondary taxpayer in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation :

Provided further that the foregoing proviso shall not apply—

(a) to any mortgagee or person in possession whose possession began before the appointed day during the period commencing on the appointed day and ending on the day preceding the third anniversary of the appointed day; or

(b) to any mortgagee or person in possession whose possession began on or after the appointed day during the period commencing on the day on which he entered into possession and ending three years later,

but any such mortgagee or person in possession shall, if the mortgagor makes default in the payment of aggregation tax payable in respect of the land during or after the appropriate period referred to in paragraph (a) or (b) of this proviso, be responsible for the payment of the aggregation 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 in possession of land shall include a mortgagee who is in receipt of the rents or profits of such land, or who is in receipt of

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the income from any business carried on on such land, or who has appointed a receiver of the rents or profits of such land.

Trustees. (cf. Act No. 26, 1956, s. 24.)

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

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

Provided also that when a trustee is also the beneficial owner of other land, he shall be separately assessed for aggregation tax 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.

Equitable owner. (cf. Act No. 26, 1956, s. 25.)

24. Subject to this Act, the owner of any equitable estate or interest in any land shall be assessed in respect of aggregation 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 the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

Purchaser and vendor. (cf. Act No. 26, 1956, s. 26.)

25. (1) Where, before or after the appointed day, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

(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;

(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; and

(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—

(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) 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 made in good faith, and not for the purpose of evading the payment of aggregation 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 shall be final and conclusive.

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

(a) owing by the purchaser to the vendor, and secured by any mortgage on the land;

(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 be deemed to be unpaid purchase money.

(3)

(3) When by virtue of this section the purchaser and vendor of any land are both liable for aggregation tax in respect thereof, the purchaser shall be deemed to be the primary taxpayer and the vendor to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the vendor in respect of such part of the land as is de-restricted title 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 be the owner of the land, the vendor shall, if the purchaser makes default in payment of aggregation tax in respect of the land, be responsible for the payment of the aggregation tax due by the purchaser, which payment shall be deemed to be made by the vendor on behalf of the purchaser.

Joint owners. (cf. Act No. 26, 1956, s. 27.)

26. (1) Joint owners, any of whom is a company, of land shall be assessed for aggregation tax in accordance with the provisions of this section.

(2) Joint owners (except those of them whose interests are, under section nine of this Act, not to be taken into account for the purpose of assessing aggregation tax) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner which is, under that section, not to be taken into account) as if it were owned by a single person, without regard to their respective interests therein or to 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.

In this subsection "deductions to which any of them may be entitled under this Act" shall be all the deductions to which any of them may be so entitled in respect of any land or any interest in land included in the joint assessment.

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

(a) his or its individual interest in the land (as if he or it were the owner of a part of the land in proportion to his or its interest); together with

(b)

(b) any other land used for primary production during the taxing year owned by him or it in severalty; and

(c) his or its individual interests in any other land used for primary production during the taxing year.

(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 or its separate assessment to be a secondary taxpayer; and from the aggregation tax assessable in respect of his or its interest in such part of the land as is de-restricted title land against each joint owner under subsection three of this section there shall be deducted such amount (if any) as is necessary to prevent double taxation.

(5) The provisions of this section have effect notwithstanding any other provision of this Act.

Separate parcels used for partnership purposes. (cf. Act No. 26, 1956, s. 28.)

27. Where separate parcels of land used for primary production are owned by different persons any of whom is a company, and such parcels are occupied, controlled, or used by a partnership whereof all such persons are members either by themselves or together with other persons, such persons shall, for the purposes and notwithstanding any other provision of this Act, be deemed to be joint owners of such parcels, and to hold such parcels and the de-restricted title land comprised in such parcels in such shares or proportions as the Commissioner may determine.

Husband and wife deemed to be single person.

28. A married man and his wife shall, for the purposes of this Act, be deemed to be one person, shall be assessed accordingly as a sole owner, and shall be jointly liable to pay the aggregation tax assessed with such rights of contribution or indemnity between themselves as is just :

Provided that the foregoing provisions of this section do not apply where the married man and his wife are living apart under an order for judicial separation made by a court of competent jurisdiction.

29.

Companies having substantially the same shareholders. (cf. Act No. 26, 1956, s. 29.)

29. (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.

(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;

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

Person entitled to income of business. (cf. Act No. 26, 1956, s. 30.)

30. 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

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be deemed to be the primary taxpayer, and such firstmentioned person shall be deemed to be the secondary taxpayer; and there shall be deducted from the aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land such amount (if any) as is necessary to prevent double taxation.

No disposition to be effective while possession retained. (cf. Act No. 26, 1956, s. 31.)

31. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the appointed day, 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), for the purposes of this Act, to be the owner of the land.

Occupation, control, or use of land. (cf. Act No. 26, 1956, s. 32.)

32. (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, 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 :

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.

(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 aggregation tax assessable against the latter in respect of such part of the land as is de-restricted title land there shall be deducted such amount (if any) as is necessary to prevent double taxation.

33.

Deductions to prevent double taxation. (cf. Act No. 26, 1956, s. 33.)

33. Where under this Act—

(a) any person is deemed to be the secondary taxpayer in respect of any land or interest; and

(b) it is provided that there shall be deducted from the aggregation tax assessable against the secondary taxpayer, in respect of any de-restricted title land or any interest in de-restricted title land, such amount (if any) as is necessary to prevent double taxation,

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

(i) the amount of aggregation tax assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the secondary taxpayer; or

(ii) the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against the primary taxpayer aggregated with the amount of aggregation tax (if any) assessable, in respect of that de-restricted title land or that interest in de-restricted title land, against a precedent secondary taxpayer (if any) :

Provided that the secondary taxpayer shall be assessed in respect of that de-restricted title land or that interest in de-restricted title land, notwithstanding that the land or interest is not, under section nine of this Act, to be taken into account for the purpose of assessing aggregation tax against the primary taxpayer, or that there is no primary taxpayer in respect of the land or interest.

Meaning of aggregation tax assessable in respect of certain land. (cf. Act No. 26, 1956, s. 34.)

34. Where in this Act reference is made to the aggregation tax assessable against a person in respect of any de-restricted title land or any interest in de-restricted title land, the reference is to so much of the whole aggregation tax assessable against him as bears to the whole aggregation tax assessable against him the proportion which the assessable value of the

de-restricted title land or interest referred to bears to the assessable value of all the de-restricted title land used for primary production (including any interest in de-restricted title land used for primary production) owned by him.

PART V.

OBJECTIONS AND APPEALS.

Appeal. (cf. Act No. 26, 1956, s. 35.)

35. (1) Any taxpayer who is dissatisfied with an assessment made by the Commissioner under this Act or with any alteration in or addition to any such assessment may, within thirty days after service of the notice of assessment or of the alteration in or addition to an assessment, or within such further time as the Commissioner 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.

(2) No objection shall be made to the Commissioner under this Act in respect of so much of any assessment as relates to the valuation of land shown therein if such valuation is the unimproved value of such land under this Act.

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

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

(5) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after service of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

36.

Pending appeal not to affect assessment. (cf. Act No. 26, 1956, s. 36.)

36. (1) The fact that an appeal in accordance with section thirty-five of this Act is pending shall not in the meantime interfere with or affect the assessment appealed from, and the aggregation tax may be levied and recovered on the assessment as if no appeal were pending.

(2) If the assessment is altered on appeal a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

Appeals to Supreme Court. (cf. Act No. 26, 1956, s. 37.)

37. (1) An appeal to the Supreme Court under section thirty-five of this Act shall be heard by a single judge of that Court.

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

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

(4) On the hearing of the appeal, the Court may make such order as it thinks fit, and may reduce, increase or vary the assessment.

(5) An order of the Court shall be final and conclusive on all parties except as provided in this section.

(6) The costs of the appeal shall be in the discretion of the Court.

(7) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the Court of Appeal upon any question which in the opinion of the Court is a question of law.

(8) The Court of Appeal shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(9) The Commissioner or a taxpayer may appeal to the Court of Appeal from any order made under subsection four of this section.

Power to make rules of court. (cf. Act No. 26, 1956, s. 38.)

38. (1) The judges of the Supreme Court or any five of them may make rules of court regulating the practice and procedure in relation to appeals to a single judge of the Supreme Court under this Part of this Act, and the Judges of Appeal or any three of them may make rules of court regulating the practice and procedure in relation to cases stated to the Court of Appeal under this Part of this Act.

(2) The provisions of section forty-one of the Interpretation Act, 1897, shall apply to and in respect of any such rules in the same way as they apply to regulations.

PART VI.

Collection and Recovery of Aggregation Tax.

Date of payment of aggregation tax. (cf. Act No. 26, 1956, s. 39.)

39. (1) Aggregation tax for each year shall be due and payable by the taxpayer on whom notice of assessment of the aggregation tax is served thirty days after service of that notice on him.

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

Additional aggregation tax in case of default. (cf. Act No. 26, 1956, s. 40.)

40. If the aggregation tax or the additional aggregation tax payable on an amended assessment is not paid before the expiration of the time allowed in section thirty-nine of this Act or such further time as is allowed by the

Commissioner

Commissioner under section forty-one of this Act additional aggregation tax equal to ten per centum of the amount unpaid shall be payable by way of penalty.

Extension of time for payment and payment by instalments. (cf. Act No. 26, 1956, s. 41.)

41. The Commissioner may, in such cases as he thinks fit—

(a) extend the time for payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise;

(b) permit the payment of any aggregation tax or additional aggregation tax, whether by way of penalty or otherwise, to be made by such instalments and within such time as he considers the circumstances warrant; or

(c) remit the whole or any part of the additional aggregation tax imposed under section forty of this Act.

Recovery of aggregation tax. (cf. Act No. 26, 1956, s. 42.)

42. (1) Any aggregation tax shall be deemed, when it becomes due or is payable, to be a debt due to Her Majesty, and shall be collected and received by the Commissioner on account of and shall be paid into the Special Deposits Account in the Treasury, called the Closer Settlement and Public Reserves Fund, established under the Closer Settlement and Public Reserves Fund Act, 1970, from which shall be paid any amounts, paid as aggregation tax, that are refundable or repayable under this Act.

(2) Any aggregation tax unpaid may be recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

Substituted service. (cf. Act No. 26, 1956, s. 43.)

43. If in any proceedings against a taxpayer for the recovery of aggregation tax the defendant—

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

(b) cannot after reasonable inquiry be found,

service

service of any process in the proceedings may, without leave of the court, be effected on him by posting it or an office copy of it in a letter addressed to him at his last known place of business or abode in Australia, or by fixing it on a conspicuous part of the land in respect of which the aggregation tax is payable.

Provision when aggregation tax not paid during lifetime.

(cf. Act No. 26, 1956, s. 44.)

44. 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 :—

(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 years for which the aggregation tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be such amount not exceeding treble the amount of the difference between the aggregation tax so assessed and the amount actually paid by the taxpayer as the Commissioner may determine, and 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 amount payable as in the case of ordinary assessments and taxation.

Statutes of limitations. (cf. Act No. 26, 1956, s. 45.)

45. No statute of limitations at any time in force shall bar or affect any action or remedy for recovery of aggregation tax.

Remedy against other persons where taxpayer makes default. (cf. Act No. 26, 1956, s. 46.)

46. (1) Where a taxpayer makes a default in the payment of aggregation tax then, without in any way releasing him from his liability, the following provisions shall apply as long as the default continues :—

(a) If the aggregation tax is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the aggregation tax, and it may be recovered from him as if he were the defaulting taxpayer.

(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 at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

(2) Any payment to the Commissioner under this section shall be a valid discharge to the lessee or occupier for such rent or payments due by the lessee or occupier to the taxpayer as against all other persons whomsoever.

Aggregation tax to be first charge on land. (cf. Act No. 26, 1956, s. 47.)

47. (1) Aggregation tax shall until payment be a first charge upon the de-restricted title land in respect of which the tax is payable in priority over all other encumbrances whatever, and where that land comprises two or more parcels the aggregation tax payable in respect of the land shall be a first charge on each and every such parcel and notwithstanding any disposition of the land or any part thereof the land or

part

part shall continue to be liable in the hands of any purchaser or holder for the payment of the aggregation tax so long as it remains unpaid :

Provided that no such charge shall be of effect as 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 prescribed manner at the office of the Commissioner.

The Commissioner shall on application of the purchaser of any land and on payment of the prescribed fee issue a certificate showing whether or not there is any aggregation tax charged on the land described in the application.

The regulations may provide that the prescribed fee shall be paid by affixing to the application a duty stamp of an amount equal to the amount of the prescribed fee.

(2) The Commissioner may release the land in respect of which aggregation tax is payable or any part thereof from the charge thereon pursuant to subsection one of this section on payment of an amount he estimates to be not less than the proportion of tax referable to the land or part.

(3) The provisions of this section shall have effect notwithstanding anything contained in section thirty-four or any other provision of this Act.

Recovery of aggregation tax paid on behalf of another person.

48. Every person who, under any provision of this Act, pays any aggregation tax for or on behalf of any other person, shall be entitled to recover the amount thereof from that other person as a debt, together with the costs of recovery, or to retain or deduct the amount thereof out of any money in his hands belonging or payable to that other person. (cf. Act No. 26, 1956, s. 48.)

49.

Contribution from tax-payers jointly liable.

(cf. Act No. 26, 1956, s. 49.)

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

(a) A person who has paid the aggregation tax in respect of any land may recover by way of contribution from any other person jointly liable with him a sum which bears the same proportion to the aggregation tax as the assessable value of the estate of such other person bears to the whole of the assessable value of the land.

(b) Every person entitled to contribution in respect of aggregation 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.

Remission of aggregation tax in cases of hardship.

(cf. Act No. 26, 1956, s. 50.)

50. (1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Auditor-General and the Under Secretary of the Treasury that—

(a) a person liable to pay aggregation tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of aggregation tax will entail serious hardship; or

(b) owing to the death of a person who, if he had lived, would have been liable to pay aggregation tax, the dependants of that person are in such circumstances that the exaction of the full amount of aggregation tax will entail serious hardship,

the Board may waive the payment of the aggregation tax either wholly or in part.

(2)

(2) The Commissioner shall make such alterations in the amount of aggregation tax payable and shall make such refund of aggregation tax already paid as is necessary to give effect to the decision of the Board.

(3) A member of the Board may by writing under his hand appoint a person to act in his place at any meetings of the Board at which he is unable to be present, and such person, while so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he was so appointed.

Writing off aggregation tax. (cf. Act No. 26, 1956, s. 51.)

51. (1) In any case where it is shown to the satisfaction of the Board referred to in section fifty of this Act, that every reasonable effort has been made to recover aggregation tax, or that it is impracticable without undue expense to recover aggregation tax, it may direct the amount thereof to be written off.

(2) The taxpayer shall not be released from his liability in consequence of any action taken by the Board under this section, and the Commissioner may at any future time take such action to recover any such tax as he considers the circumstances warrant.

Board's powers may be exercised by Commissioner in certain cases. (cf. Act No. 26, 1956, s. 52.)

52. The Commissioner may exercise all the powers of the Board under section fifty of this Act in any case where the amount of aggregation tax involved in respect of any one year does not exceed forty dollars.

Definition of aggregation tax for certain purposes of this Part. (cf. Act No 26, 1956, s. 53.)

53. Aggregation tax—

(a) for the purposes of sections fifty and fifty-one of this Act includes any costs incurred in attempting to recover aggregation tax; and

(b)

(b) for the purposes of sections forty-two, forty-three, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of this Act includes additional aggregation tax whether by way of penalty or otherwise.

PART VII.

VALUATION OF LANDS.

DIVISION 1.—*Unimproved Value of Land.*

Unimproved value of land.

(cf. Act No. 26, 1956, s. 54.)

54. (1) For the purposes of this Act the unimproved value of land as at any specified date—

(a) where the land is included in the valuation list or supplementary list last furnished under the Valuation of Land Act, 1916, by the Valuer-General to a council of an area within the meaning of the Local Government Act, 1919, before that date, means the unimproved value of such land as appearing in such valuation list or supplementary list immediately before that date;

(b) where the land is within an area within the meaning of the Local Government Act, 1919, not being land to which paragraph (a) of this subsection applies, means the unimproved value of such land as appearing in the valuation book of the council of such area immediately before that date;

(c) where the land is within the Western Division, not being land within an area within the meaning of the Local Government Act, 1919, means the unimproved value of such land as appearing, immediately before that date—

(i) in the valuation roll, kept by the Western Lands Commissioner in accordance with the provisions of Part VII of the Land Tax Management Act, 1956, immediately before that date; or

(ii) where the unimproved value of the land does not appear in that valuation roll, but appears in the valuation roll kept under this Part of this Act, in that lastmentioned valuation roll immediately before that date;

(d) except as provided in paragraph (e) of this subsection where immediately before that date the land has no unimproved value under paragraph (a), (b) or (c) of this subsection by reason that the land was not included in the valuation list, supplementary list, valuation book or valuation roll referred to in those paragraphs, means the unimproved value of such land, as at that date, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area, or the Western Lands Commissioner, upon a request in that behalf made to the Valuer-General, the council of the area or the Western Lands Commissioner, as the case may be; or

(e) where immediately before that date the land (in this paragraph referred to as "the portion") had no unimproved value under paragraph (a), (b) or (c) of this subsection but immediately before that date there was an unimproved value under any such paragraph of land (in this paragraph referred to as "the whole parcel") of which the portion

forms

forms part, means an amount, as determined by the appropriate valuing authority, namely, the Valuer-General, the valuer appointed by the council of an area or the Western Lands Commissioner, as the case may be, upon a request made in that behalf to that appropriate valuing authority, that bears to that unimproved value of the whole parcel the same proportion as the unimproved value (as at the date on which that unimproved value of the whole parcel was determined) of that portion (regarded as being part of the whole parcel) bears to that unimproved value of the whole parcel.

Where a valuation of land to which paragraph (d) or (e) of this subsection applies has been made by the appropriate valuing authority as aforesaid before that date and the unimproved value of such land included in such valuation does not appear in the valuation list, supplementary list, valuation book or valuation roll to which paragraph (a), (b) or (c) of this subsection applies, the unimproved value of such land means the unimproved value as included in such valuation.

Where a valuation of land is made pursuant to paragraph (d) or (e) of this subsection, such valuation shall, notwithstanding the provisions of subsection six of this section—

(i) be a valuation for the purposes of this Act only;

(ii) be a valuation of the unimproved value only; and

(iii) not be entered on the valuation roll of the Valuer-General or the valuation book of a council.

(2) Where a valuation is made pursuant to paragraph (d) or (e) of subsection one of this section there shall be separately noted on the valuation—

(a) where the land is land to which section 160E of the Local Government Act, 1919, applies and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned

apportioned under that paragraph was included in a supplementary list, a statement of the unimproved rating factor, determined in accordance with that section, in respect of the land;

(b) where the valuation is made by the Valuer-General and, in the case of a valuation made pursuant to paragraph (e) of subsection one of this section, the unimproved value of the whole parcel required to be apportioned under that paragraph was included in a supplementary list—

(i) an amount designated as a rating and taxing basis determined in accordance with subsection two of section 61A of the Valuation of Land Act, 1916; and

(ii) any allowance that would have been noted on the valuation roll pursuant to section fifty-eight or 58A of the Valuation of Land Act, 1916, had the unimproved value specified in the valuation been entered on the valuation roll in accordance with either such section; and

(c) where the valuation is made by a valuer appointed by the council of an area, any deduction that would have been noted in the valuation book pursuant to section two or 2A of Schedule Three to the Local Government Act, 1919, had the unimproved value specified in the valuation been entered in the valuation book in accordance with either such section.

(3) Notwithstanding any other provision of this Act, where in relation to any land referred to in paragraph (a), (b), (d) or (e) of subsection one of this section—

(a) a statement of the unimproved rating factor, determined in accordance with section 160E of the Local Government Act, 1919, in respect of the land has been furnished with the valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been

the

the unimproved value of the land for the purposes of this Act, that unimproved rating factor shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land; or

(b) such a statement has not been so furnished but a rating and taxing basis, referred to in section 61A of the Valuation of Land Act, 1916, has been included in a supplementary list in which is included a valuation of the unimproved value that would, but for this paragraph or subsection four of this section, have been the unimproved value of the land for the purposes of this Act, or has, in accordance with subsection two of this section, been separately noted on a valuation of that unimproved value, that rating and taxing basis shall, subject to subsection four of this section, be deemed, for the purposes of this Act, to be the unimproved value of the land.

(4) Where, in relation to any land referred to in paragraph (a), (b) or (d) of subsection one of this section, there is a deductible allowance relating to the unimproved value of the land that would, but for this subsection or subsection three of this section, have been the unimproved value of any land in respect of which any aggregation tax would have been levied, and that deductible allowance has not been taken into account for the purpose of determining the unimproved value of the land under subsection one or three of this section, that deductible allowance shall be deducted from the unimproved value of the land ascertained under subsection one or three of this section and the aggregation tax shall be levied on an assessable value calculated accordingly.

In this subsection "deductible allowance" means—

(a) any allowance referred to in section fifty-eight or 58A of the Valuation of Land Act, 1916;

(b)

(b) any deduction referred to in section two or 2A of Schedule Three to the Local Government Act, 1919; and

(c) any allowance or deduction noted on a valuation pursuant to subparagraph (ii) of paragraph (b), or paragraph (c), of subsection two of this section.

(5) A person to whom a request for a determination of the unimproved value of any land has been made under paragraph (d) or (e) of subsection one of this section shall, as soon as practicable after receipt of the request, make or cause to be made the valuation requested.

(6) A determination of the unimproved value of any land made pursuant to paragraph (d) of subsection one of this section shall—

(a) where it is made by the Valuer-General, be made under and subject to the Valuation of Land Act, 1916;

(b) where it is made by the valuer appointed by the council of an area, be made under and subject to the Local Government Act, 1919; and

(c) where it is made by the Western Lands Commissioner, be made under and subject to this Part of this Act,

and, without prejudice to the generality of the foregoing provisions of this subsection, shall be subject to objection accordingly.

(7) A determination of the unimproved value of any land made under paragraph (e) of subsection one of this section shall not be subject to objection or appeal on the ground that the value assigned is too high or too low except on the ground that the value assigned is too high or too low by reason that the Valuer-General, the council or the Western Lands Commissioner, as the case may be, in making the valuation, has not complied with the provisions of that paragraph.

(8) A determination—

(a) of an unimproved rating factor pursuant to paragraph (a) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 160E of the Local Government Act, 1919;

(b) of a rating and taxing basis under subparagraph (i) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section 61A of the Valuation of Land Act, 1916;

(c) of an allowance under subparagraph (ii) of paragraph (b) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section fifty-eight or 58A of the Valuation of Land Act, 1916, as the case may be; and

(d) of a deduction under paragraph (c) of subsection two of this section shall be subject to objection in the same manner as if it had been determined in accordance with section two or 2A of Schedule Three to the Local Government Act, 1919.

(9) The fact that an objection under the Valuation of Land Act, 1916, the Local Government Act, 1919, the Land Tax Management Act, 1956, or this Part of this Act, has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section shall not affect the valuation which is objected to and aggregation tax may be assessed, levied and recovered as if no objection were pending.

(10) Where—

(a) an objection has been lodged against any such valuation as is referred to in paragraph (a), (b), (c), (d) or (e) of subsection one of this section and such valuation has been altered upon the determination of such objection; or

(b)

(b) an alteration of any such valuation has been made in any valuation list, supplementary list, valuation book or valuation roll for the purposes of correcting any clerical error or misdescription,

the valuation as so altered shall be the unimproved value of such land for the purposes of this Act in substitution for the valuation so objected to or altered.

(11) Where any valuation has been altered as aforesaid a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

DIVISION 2.—*Valuations by Western Lands Commissioner.*

Application of Division. (cf. Act No. 26, 1956, s. 55.)

55. This Division of this Part of this Act shall apply to lands within the Western Division not being lands within an area within the meaning of the Local Government Act, 1919.

Unimproved value of land. (cf. Act No. 26, 1956, s. 56.)

56. The unimproved value of land is 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 the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made.

Valuations. (cf. Act No. 26, 1956, s. 57.)

57. (1) The Western Lands Commissioner may for the purposes of this Act make valuations of the unimproved value of such lands to which this Division of this Part of this Act applies as he may deem necessary.

Any such valuation shall be made—

(a) once at least in every six years; and

(b) for a valuation period, that is to say, for a period not exceeding six years.

Where

Where portion of a parcel of land which has been valued is sold, conveyed or resumed fresh valuations shall be made of the portion sold, conveyed or resumed and of the portion remaining.

(2) For the purpose of making any valuation the Western Lands Commissioner may require the owner or occupier of any land or interest in land to furnish such information as may be necessary to enable a correct valuation to be made, and may also make use of any information in his possession.

(3) The Western Lands Commissioner or any person authorised by him in that behalf may at all reasonable times enter on any land for the purposes of this Part of this Act.

(4) The Western Lands Commissioner shall enter on a valuation roll kept for the purpose a record of all valuations made under this Part of this Act.

A valuation shall, subject to paragraphs (d) and (e) of subsection one of section fifty-four of this Act, be deemed to be made as at the date on which the Western Lands Commissioner enters on such roll the record of such valuation.

Each entry in such valuation roll shall be signed or initialled by the Western Lands Commissioner or an officer approved in that behalf by the Western Lands Commissioner. The valuation roll so signed or initialled shall be conclusive proof of the making of the valuation on the date shown therein.

Such valuation roll may be kept in card, folder, or book form, or as the Western Lands Commissioner may direct.

Notice of valuations to be given. (cf. Act No. 26, 1956, s. 58.)

58. (1) The Western Lands Commissioner shall give to each person whose estate or interest in land he has valued under this Part of this Act notice of such valuation stating a time within which such person may lodge with the Western Lands Commissioner a written objection to such valuation.

(2) Any such person may in or to the effect of the form prescribed object to any valuation under this Part of this Act within such time as is stated in such notice.

(3) No valuation under this Part of this Act shall be invalid because of any failure to give notice of valuation.

Alteration of valuation or reference of objection to Land and Valuation Court. (cf. Act No. 26, 1956, s. 59.)

59. (1) On objection being made to any valuation, the Western Lands Commissioner may, if he sees fit, alter such valuation. Notice of the Western Lands Commissioner's decision shall be given to the objector.

An objector who is dissatisfied with the decision of the Western Lands Commissioner not being a decision altering the valuation to the extent claimed in the objection, or to such extent as may be agreed upon, may within sixty days after service of such notice, request in writing the Western Lands Commissioner to treat his objection as an appeal and to forward it to the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

(2) The Western Lands Commissioner shall forward such objections together with a list thereof to the registrar of the Land and Valuation Court for hearing and determination by that Court.

Powers of Court. (cf. Act No. 26, 1956, s. 60.)

60. The Land and Valuation Court shall hear and determine all such objections brought before it, and, if it decides that any valuation is erroneous, shall order the valuation to be altered accordingly.

Consequential alterations. (cf. Act No. 26, 1956, s. 61.)

61. If on the hearing of any objection the Land and Valuation Court orders any valuation to be altered, the Western Lands Commissioner shall make all such consequential alterations as are necessary to give effect to the decision of the Court.

PART

PART VIII.

MISCELLANEOUS.

Public officer of company. (cf. Act No. 26, 1956, s. 63.)

62. (1) Every company which is a taxpayer shall, unless exempted by the Commissioner, 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 :—

(a) The person so appointed shall for the purposes of this Act be called the public officer of the company.

(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 an address for service, has been given to the Commissioner.

(c) 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, 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.

(d) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties.

(e) 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.

(f) 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 : One hundred dollars for every day during which the failure or neglect continues.

(2)

(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 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.

Agents and trustees. (cf. Act No. 26, 1956, s. 64.)

63. 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 aggregation 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.

(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.

(d) Where as agent or trustee he pays aggregation 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.

(e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the aggregation tax which is or will become due in respect of the land.

(f) He is hereby made personally liable for the aggregation tax payable in respect of the land if, while the aggregation tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is controlled or held by him

him in his representative capacity but he shall not be otherwise personally liable for the aggregation tax.

(g) If he is a trustee he may raise whatever moneys are necessary in order to pay the aggregation tax by mortgage or charge with or without power of 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 aggregation tax.

(h) He is hereby indemnified for all payments which he makes in pursuance of this Act, or by requirements of the Commissioner.

(i) For the purpose of ensuring the payment of aggregation tax, the Commissioner shall have the same remedies against all land or other property of any kind 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 aggregation tax, and in as full and ample a manner.

Contracts to evade aggregation tax void. (cf. Act No. 26, 1956, s. 65.)

64. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the appointed day, shall so far as it has or purports to have the purpose or effect of in any way directly or indirectly—

(a) altering the incidence of any aggregation tax;

(b) relieving any person from liability to pay any aggregation tax or make any return;

(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, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

65.

Access to lands, buildings, etc. (cf. Act No. 26, 1956, s. 67.)

65. The Commissioner or any officer authorised by him in that behalf shall at all times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or documents of title, for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers.

Furnishing of valuation lists, etc., to Commissioner. (cf. Act No. 26, 1956, s. 68.)

66. The Valuer-General, the Western Lands Commissioner and the council of any area within the meaning of the Local Government Act, 1919, shall when so requested by the Commissioner furnish to the Commissioner a copy of any valuation list, supplementary list or valuation roll kept or prepared by them and of any alterations and additions thereto.

Where any such roll or alterations or additions are so furnished by any such council the Commissioner shall pay to such council the prescribed fee.

Power to obtain evidence. (cf. Act No. 26, 1956, s. 69.)

67. (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 assessment 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, or other papers whatever in his custody or under his control relating thereto.

(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.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

Obstructing officers. (cf. Act No. 26, 1956, s. 70.)

68. Any person who obstructs or hinders any other person acting in the exercise or discharge of any powers, authorities, duties or functions conferred or imposed by or under this Act shall be guilty of an offence.

Penalty : One hundred dollars.

69.

Offences. (cf. Act No. 26, 1956, s. 71.)

69. (1) Any person who—

(a) fails or neglects duly to furnish any return or information as and when required by this Act or to comply with any requirement of the Commissioner made in pursuance of this Act;

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner, or any officer duly authorised by him, or to answer truly and fully 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 information which is false in any particular or makes any false answer, whether verbal or in writing, in relation to any matter arising under this Act,

shall be guilty of an offence.

Penalty : Two hundred dollars.

(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 Commissioner or authorised officer, in respect of which he was convicted, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars and treble the amount of any aggregation 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.

70. (1) Notwithstanding anything contained in section sixty-nine of this Act, any person who— Failure to furnish returns. (cf. Act No. 26, 1956, s. 72.)

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

(b) fails to include in any return any land used for primary production owned by him,

shall, if a taxpayer to whom paragraph (a) of this subsection applies, be liable to pay additional aggregation tax at the rate of ten per centum per annum upon the amount of aggregation 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 twenty dollars, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this subsection applies, be liable to pay by way of additional aggregation tax the amount of twenty dollars or double the amount of the difference between the aggregation tax properly payable and the aggregation tax which would be payable if the assessment were based upon the return lodged, whichever is the greater, in addition to any additional aggregation tax by way of penalty which may become payable by him in accordance with section forty of this Act :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional aggregation 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 sections sixty-nine and seventy-one of this Act, such action may be taken by the Commissioner, and in that case the additional aggregation tax payable under this section shall not be charged.

Evading taxation. (cf. Act No. 26, 1956, s. 73.)

71. 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 offence.

Penalty : One thousand dollars and treble the amount of the aggregation tax payment which he has evaded or attempted to evade.

Penalties not to relieve from aggregation tax. (cf. Act No. 26, 1956, s. 74.)

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

Aiding or abetting offences. (cf. Act No. 26, 1956, s. 75.)

73. 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.

PART IX.

GENERAL.

Service of notices. (cf. Act No. 26, 1956, s. 76.)

74. Any notice or document required or authorised by this Act to be served or given shall be in writing and shall be sufficiently served or given—

(a) if delivered personally;

(b) if left at the last known place of abode or business in or out of New South Wales of the person on or to whom such notice or document is to be served or given; or

(c)

(c) if sent by prepaid letter post addressed to the person on or to whom such notice or document is to be served or given at his address for service or last known place of abode or business in or out of New South Wales.

In the case of paragraph (c) of this section the service or giving of a notice or document shall be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

General penalty. (cf. Act No. 26, 1956, s. 78.)

75. Any person guilty of a breach of this Act for which no penalty is otherwise provided shall be liable to a penalty not exceeding two hundred dollars.

Recovery of penalties. (cf. Act No. 26, 1956, s. 79.)

76. All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions holden before a stipendiary magistrate.

Report to Parliament. (cf. Act No. 26, 1956, s. 80.)

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

Amendment of certain Acts.

78. Each of the Acts specified in the first column of the Schedule to this Act is amended in the manner specified opposite that Act in the second column of that Schedule.

Regulations.

79. (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.

(2) The regulations may impose penalties not exceeding one hundred dollars for any breach thereof.

SCHEDULE.

Sec. 78.

SCHEDULE.

PART I.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1956.	Land Tax Management Act, 1956.	Insert in subsection (2A) of section six after the words "under this Act to" the words "the Commissioner of Land Aggregation Tax or to".

PART II.

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 26, 1970.	Closer Settlement and Public Reserves Fund Act, 1970.	Insert in paragraph (d) of section five after the words "paragraph (k) of" the words "subsection one of". Omit from the same paragraph the word "six" and insert in lieu thereof the symbols, figure and letter "(6A)".
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970.	Omit from paragraph (b) of subsection one of section two the word "commencement" where lastly occurring and insert in lieu thereof the following word and new paragraph:— commencement. Upon the issue of any certificate under subparagraph (iii) of this paragraph, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	Omit from paragraph (d) of the same subsection the word "six" where firstly occurring and insert in lieu thereof the symbols, figure and letter "(6A)". Insert in subparagraph (i) of paragraph (e) of the same subsection after the words "The provisions of this section" where firstly occurring the words ", other than subsection (6A),". Insert in the same subparagraph after the words "The provisions of this section" where secondly occurring the words ", other than subsection six,". Insert in the same subparagraph after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in subparagraph (iii) of paragraph (b) of subsection two of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900,

SCHEDULE—*continued.*

PART II—*continued.*

First Column.		Second Column.
Act.		Amendment.
Number.	Short title.	
No. 28, 1970.	Crown Lands and Other Acts (Amendment) Act, 1970—*continued.*	such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars. Insert in paragraph (b) of subsection four of the same section after the words "after such commencement." the following new paragraph:— Upon the issue of any certificate under this subsection, the Minister shall cause a notification in a form approved by the Registrar-General to be delivered to the Registrar-General who shall record in the Register kept under the Real Property Act, 1900, such particulars relating to the notification as may be prescribed and shall, unless he dispenses with the production of the relevant certificate of title or Crown grant, record thereon the like particulars.

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

K. W. STREET,
By Deputation from
His Excellency the Governor.

Government House,
Sydney, 25th May, 1971.

LAND AGGREGATION TAX MANAGEMENT BILL.

Schedule of the Amendment referred to in Legislative Council's Message of 29 April, 1971.

Page 11, clause 8, line 16. *Omit* the words "and fifty".