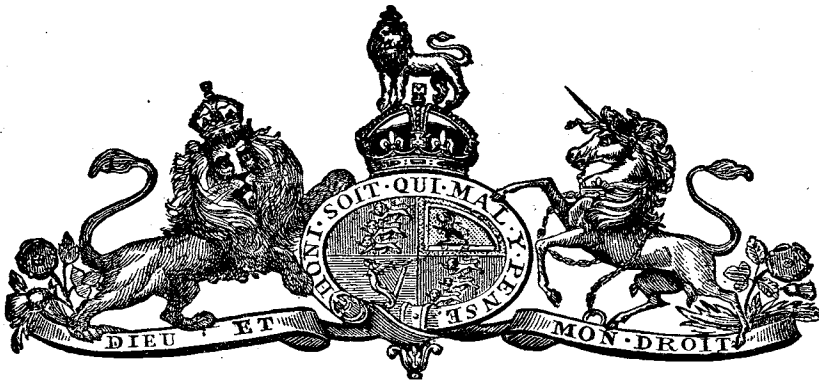


T A S M A N I A.



1904

ANNO QUARTO

EDWARDI VII. REGIS,

No. 17.

\*\*\*\*\*

AN ACT to levy a Tax upon Persons in A.D. 1904.  
proportion to their Means or Ability.

[1 November, 1904.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PART I.

INTRODUCTORY.

1 This Act may be cited as "The Taxation Act, 1904."

Short title.

2 This Act shall come into operation and take effect on the First day of *November*, One thousand nine hundred and four, but the Tax for any year shall not be demanded before the First day of *January* in the year in respect of which the Tax is payable.

Commencement of Act.

1s. 8d.]

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Interpretation.

**3** In this Act, unless the context otherwise determines—

“Board and lodging value” means the sum paid, or that could be reasonably demanded, for the board and lodging received by any person who is boarded and lodged in the house of any occupier or sub-occupier :

“Business” means all pastoral, agricultural, farming, and horticultural pursuits, and all professions, trades, employments, and occupations whatsoever :

“The Commissioner of Taxes” means the Commissioner of Taxes for the time being appointed under the provisions of “The Land Tax Act, 1888” :

“Commissioner of a Court of Requests” means a Commissioner appointed to hold a Court of Requests under “The Local Courts Act, 1896” :

“District” means a district for the purposes of the “Assessment Act, 1900” :

“Lodger” means any person of the age of Twenty-one years or upwards who resides with any occupier or sub-occupier as paying lodger, or as employee receiving board and lodging as part payment for his services, or as a member of the family who earns and enjoys an income in his own right, but shall not include female domestic servants :

“Occupier” means any person who is in occupation as owner, tenant, or lessee of property in *Tasmania*, and shall include a person occupying property as emolument from His Majesty or from any public body or from any person :

Person” includes Company :

“Prescribed” means prescribed by this Act, or by the Regulations to be made thereunder ; and where under this Act anything is required to be done in the “prescribed form,” it shall be sufficient if the same is substantially in the form so prescribed, or to the like effect :

“Property” includes lands and buildings, and includes a portion of a building when let or occupied as a separate tenement or holding :

“Residence” means the “Property” upon which an “Occupier” or “Sub-occupier” resides, and where the “Business” he chiefly or mainly follows is not chiefly carried on :

“Return” includes all returns, declarations, statements, and particular information which shall be prescribed to be furnished :

“Sub-occupier” means any person residing in any separate building or any portion of a building upon any property of an “Occupier.”

“Taxpayer” includes every person who is liable to pay any Tax pursuant to this Act, and for the purposes of any provision relating to any return, includes every person required by any regulation to furnish such return.

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4 This Act is divided into Parts, as follows:—

- Part I.—Introductory.
- Part II.—Tax and Taxpayer.
- Part III.—Collection of Tax
- Part IV.—Assessment of Annual Value
- Part V.—Objections.
- Part VI.—Review of Assessments.
- Part VII.—Supplementary.

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Division of Act.

## PART II.

### TAX AND TAXPAYER.

5 For the financial year ending the Thirtieth day of *June*, One thousand nine hundred and five, and in every succeeding financial year, there shall be raised and levied—

Tax may be levied on occupiers and sub-occupiers,

- i. A Tax to be paid by occupiers and sub-occupiers of property throughout *Tasmania*, who occupy property—
  - (a) For purposes of residence; or
  - (b) Partly for purposes of residence, and partly for purposes of business :

- ii. A Tax to be paid throughout *Tasmania* by Lodgers not liable to be taxed as occupiers or sub-occupiers under this Section.

and on lodgers.

6—(1.) The Tax shall be paid upon or in respect of an amount hereinafter termed the "Taxable Amount."

(2.) The taxable amount shall be based and calculated upon the amount of the annual value of

The taxable amount to be based and calculated upon annual value.

- 1. The property occupied by him, in the case of an occupier or sub-occupier ;
- ii. His board and lodging, in the case of a lodger.

(3.) The Annual Value for the purposes of such calculation shall be understood to be—

- i. In relation to property—

- (a) The assessed Annual Value of the property as shown by the Assessment Rolls in force for the time being for the Districts under "The Assessment Act, 1900"; or
- (b) Where the assessed Annual Value is not so shown, the Annual Value as computed and assessed by the Commissioner of Taxes ;

- ii. In relation to board and lodging, the Annual Value thereof as computed and assessed by the Commissioner of Taxes.

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(4.) The Commissioner of Taxes shall assess and compute the amount of—

Where annual value not on Roll, Commissioner to assess same.

i. The annual value of property, whenever the assessed Annual Value of the property is not shown by the Assessment Rolls:

ii. The annual value of the board and lodging of each lodger : and upon making any such assessment shall give notice thereof to the occupier, sub-occupier, or lodger, as the case may be, affected thereby, who may in the prescribed manner appeal against the Assessment under the provisions of this Act : Provided there shall be no right of appeal against any assessment where the tax to be levied upon the taxable amount based and calculated upon the assessment, does not exceed the sum of Two Shillings and Sixpence.

Taxable amount for occupiers, &c., of residences and for occupiers, &c., of property for residence and business purposes who practise professions, except schoolmasters.

7 The taxable amount upon which the Tax is to be paid by—

- i. Occupiers or sub-occupiers of property who occupy for purposes of residence :
- ii. Occupiers or sub-occupiers of property who occupy partly for purposes of residence and partly for purposes of business, and who practise a profession other than that of a schoolmaster,

shall be calculated upon and ascertained from the assessed Annual Value of the property, or aggregate assessed Annual Value of the properties occupied, in each case, in accordance with the following scale :—

Where the Assessed Annual Value, or Aggregate Assessed Annual Value of the Property or Properties is—

Taxable Amount.

Under £30 .. .. .	Five times the assessed annual value or aggregate assessed annual value.
£30, and under £40 .. .. .	Six times the assessed annual value or aggregate assessed annual value.
£40, and under £60 .. .. .	Seven times the assessed annual value or aggregate assessed annual value.
£60, and under £80 .. .. .	Eight times the assessed annual value or aggregate assessed annual value.
£80, and under £100 .. .. .	Nine times the assessed annual value or aggregate assessed annual value.
£100, and over .. .. .	Ten times the assessed annual value or aggregate assessed annual value.

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8—(1.) The taxable amount upon which the tax is to be paid by Occupiers or Sub-occupiers of Property who occupy partly for purposes of residence and partly for purposes of business, and who do not practise a profession, other than that of a schoolmaster, shall be calculated upon and ascertained from the Assessed Annual Value of the property, or Aggregate Assessed Annual Value of the properties, occupied in each case in accordance with the following scale :—

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Taxable amounts for occupiers, &c., for residence and business purposes who do not practise professions, except schoolmasters.

Assessed Annual or Aggregate Annual Value of Property.	Taxable Amount.
For the first £50 of such value or fractional part of such £50.....	Two and a half times the first £50 or fractional part thereof.
For the second £50 of such value or fractional part of such £50...	One and a half times the second £50 or fractional part thereof.
For the remainder of such value...	Three-fourths of such remainder.

(2.) In every case where a person carries on by himself or his Agent, any agricultural, pastoral, or horticultural pursuit, all lands upon which he so carries on any such pursuit, or upon which he resides, shall be deemed to be property occupied by him partly for purposes of residence and partly for purposes of business ; and the taxable amount upon which the Tax is to be paid shall be calculated in accordance with the immediately preceding scale upon the Aggregate Assessed Annual Value of all the lands upon which he so carries on any such pursuit or resides, and the amount of the Tax shall be recoverable at the election of the Commissioner of Taxes from the person so carrying on any such pursuit, or from his Agent or Manager, and the Agent or Manager shall if he pays the Tax be entitled to recover the amount so paid from his principal, or to deduct the same from any money of the principal in his hands.

9 The taxable amount upon which the Tax is to be paid by lodgers shall be calculated upon and ascertained from the assessed annual value of their board and lodging in accordance with the following scale :—

Taxable amount for lodgers.

Where the Assessed Annual Value of the Board and Lodging is—	Taxable Amount.
Under £36, in the case of female lodgers .....	Nil.
Under £36, in the case of male lodgers . . . . .	Twice the amount of the assessed annual value.
£36, and under £65, in the case of male or female lodgers .. .. .	Twice the amount of the assessed annual value.

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£65, and under £78, in the case of male or female lodgers . . . . .	Two and a half times the amount of the assessed annual value.
£78, and under £104, in the case of male or female lodgers . . . . .	Three times the amount of the assessed annual value.
£104, and over, in the case of male or female lodgers . . . .	Four times the amount of the assessed annual value.

Fractions of  
Pounds not  
included.Rate of Tax  
payable by occu-  
piers for residence  
purposes, &c.

**10** The taxable amount shall in every case be stated in Pounds, and shall not include additional Shillings or Pence, or fractions thereof.

**11**—(1.) Subject to the provisions of this Act, the Tax to be paid—

I. By occupiers or Sub-occupiers of property who occupy for purposes of residence :

II. By Occupiers or Sub-occupiers of property who occupy partly for purposes of residence and partly for purposes of business, and who practise a profession other than that of a schoolmaster : and

III. By Lodgers,

shall be raised and levied upon the taxable amount, as ascertained and determined in each case under the provisions of this Act, at the following rates :—

I. Where the taxable amount is under Sixty Pounds sterling, the amount of the Tax to be paid shall be the sum of Two Shillings and Sixpence :

II. Where the taxable amount is—

£60 and under £100 . . .	The Tax shall be at the rate of— One Penny for every Pound sterling of such taxable amount.
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£100 and under £115 . . .	Two Pence for every Pound sterling of such taxable amount.
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£115 and under £150 . . .	Threepence for every Pound sterling of such taxable amount.
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£150 and under £400 . . .	Fourpence for every Pound sterling of such taxable amount.
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£400 and over . . . . .	Fourpence for every Pound sterling of the first Four hundred Pounds of the taxable amount, and Sixpence for every Pound sterling of the taxable amount in excess of the said first Four hundred Pounds.
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(2.) A deduction of the first Thirty Pounds sterling by way of exemption shall be made from the taxable amount, before levying the Tax, in every case where the taxable amount is Sixty Pounds or over, and a further reduction of Ten Pounds for each child under the age of Seventeen years residing with and dependent upon the taxpayer when the taxable amount is under One hundred Pounds. Provided such taxpayer claims such further reduction within Thirty days from the time of Tax being demanded, and also furnishes any particulars in support of such reduction as the Commissioner may require.

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In any case where the taxable amount is Four hundred Pounds or over, the deduction shall be made from and in respect only of the first Four hundred Pounds of that amount on which the Tax is payable at the rate of Fourpence.

**12**—(1.) Subject to the provisions of this Act, the Tax to be paid by Occupiers or Sub-occupiers of property who occupy partly for purposes of residence and partly for purposes of business, and who do not practise a profession, other than that of a schoolmaster, shall be raised and levied upon the taxable amount, as ascertained and determined in each case under the provisions of this Act, at the following rates :—

Rate of Tax payable by occupiers partly for purposes of residence and partly for purposes of business.

- i. Where the taxable amount is under Fifty Pounds sterling, the amount of the Tax to be paid shall be the sum of Two Shillings and Sixpence :
  - ii. Where the taxable amount is — The Tax shall be at the rate of—
- | £             | £    | .. | .. |  |
|---------------|------|----|----|--|
| 50 and under  | 100  | .. | .. | Two Pence for every Pound sterling of such taxable amount              |
| 100 and under | 153  | .. | .. | Threepence for every Pound sterling of such taxable amount.            |
| 153 and under | 185  | .. | .. | Four Pence for every Pound sterling of such taxable amount.            |
| 185 and under | 238  | .. | .. | Four Pence half-penny for every Pound sterling of such taxable amount. |
| 238 and under | 2375 | .. | .. | Five Pence for every Pound sterling of such taxable amount.            |
| 2375 and over |      | .. | .. | Sixpence for every Pound sterling of such taxable amount.              |

(2.) A deduction of the first Thirty Pounds sterling by way of exemption shall be made from the taxable amount, before levying the Tax, in every case where the taxable amount is Fifty Pounds or over.

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Where married woman lives with husband he is to be deemed Occupier.

**13** In every case where a married woman lives with her husband, the latter shall be deemed to be the occupier of the property resided upon for the purposes of this Act, notwithstanding that she is shown by the Assessment Roll to be occupier of the property. The amount of the Tax shall, in the event of the husband being unable to pay the same, be payable by and recoverable from his wife, if possessed of sufficient means, in the same manner as if she were the occupier of the property.

Taxpayer proving his income to be exclusively derived from property to be exempt from tax under this Act.

**14** Any person whose income is exclusively derived from property, being "income from property" within the meaning of "The Income Tax Act, 1902," shall, upon proof to the satisfaction of the Commissioner of Taxes that his income is exclusively derived from property as aforesaid, be exempt from taxation under this Act. Provided that this exemption shall not apply to any person whose income so exclusively derived from property is under One hundred Pounds, and is not exempt from taxation under Section Twenty-one of "The Income Tax Act, 1902" (with the exception of the exemptions set forth in Subsections x. and xi. of the said Section).

Taxable amount may be reduced by Commissioner.

**15** If any Taxpayer object in the prescribed time and manner to the taxable amount in his case under this Act, and prove to the satisfaction of the Commissioner of Taxes that his income derived from—

i. The following sources, namely:—

(a) Business, and

(b) From property in every case where such income from property is under One hundred Pounds and is not exempt from taxation under Section Twenty-one of "The Income Tax Act, 1902" (with the exception of the exemptions set forth in Subsections x. and xi. of the said Section); or

ii. Derived from such one or more of the said sources of income (a) and (b), as his total income comprises;

for the period of Twelve months immediately preceding the calendar year in which the Tax is demanded, was less than his taxable amount under this Act by an amount not less than Ten Pounds per centum calculated upon such taxable amount, the Commissioner of Taxes shall reduce the taxable amount under this Act to the amount so proved to be the actual income so derived as aforesaid of the Taxpayer. Provided that if any person shall declare his income for any one year, he shall also declare his income in each of the two following years, and shall pay the Tax on his assessed income for the first and for each of the two succeeding years.

When the income of any person is assessed on the basis of the actual income so derived as aforesaid of such person, the income assessed shall be that received by such person for the year ending the Thirty-first day of *December* preceding the year of assessment, and such assessment shall be made in accordance with the provisions of "The Income Tax Act, 1902."

For the purpose of this and the next Section, the expression "income from business" shall have the meaning assigned to it by Section Four of "The Income Tax Act, 1902."



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**16** (1.) Every Taxpayer objecting, pursuant to the provisions of A.D. 1904. the preceding Section, shall—

i. State and disclose fully to the Commissioner of Taxes at the time he makes his objection, and in the prescribed manner, his actual income from sources specified in the immediately preceding Section for the said period of Twelve months; and

Taxpayer objecting to taxable amount shall fully disclose income from business and furnish returns.

ii. At the request of the Commissioner of Taxes, and within the prescribed time, furnish him with all such Returns and information as may be prescribed, or as he may require, for the purpose of ascertaining the actual income from the said sources of the Taxpayer for the said period.

(2.) The Taxpayer in stating and disclosing his income from the said sources for the said period, and the Commissioner of Taxes in assessing and ascertaining the same—

Provision of Income Tax Act, 1902, to apply so far as applicable, except those mentioned in Schedule.

i. Shall be guided by and apply the provisions of "The Income Tax, Act, 1902," so far as the same are applicable and not inconsistent with this and the preceding Section; and

ii. Shall (subject as hereinafter mentioned) include in such income all that would be included therein under "The Income Tax Act, 1902," if the Taxpayer's income from the said sources were being ascertained for the purposes of taxation under that Act, including the income of the Taxpayer's Wife, if living with him :

iii. Shall not apply the provisions of "The Income Tax Act, 1902," mentioned in the Schedule to this Act.

(3.)—i. If the Commissioner of Taxes is, after enquiry, satisfied with the correctness of the return made by the Taxpayer of the amount of his actual Income from the said sources for the said period, he shall make such reduction in the taxable amount under this Act as is authorised by the preceding Section, and the tax shall be payable by, and recoverable from, the taxpayer in respect of such reduced amount :

Commissioner to make reduction, if satisfied with Taxpayer's return.

ii. If the Commissioner of Taxes is not satisfied with the correctness of the said return of Income, he shall give notice to the taxpayer to that effect, and specify in such notice the prescribed time within which the taxpayer may, in writing, appeal against the taxable amount in his case under this Act, and no appeal shall be entertained which is not lodged on or before the last day for lodging Appeals :

Commissioner, if not satisfied, is to notify taxpayer who may appeal.

iii. Every such appeal shall be dealt with under Parts V. and VI. of this Act, as if it were an "objection to an assessment," and the provisions of Parts V. and VI. aforesaid shall, *mutatis mutandis*, apply in relation to every such appeal :

Appeal to be dealt with under Parts V. and VI. of Act.

iv. A Commissioner of a Court of Requests shall, under Part VI. aforesaid, have full power of hearing and determining all

Commissioner of Court of Requests

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empowered to  
determine  
appeal.Taxable amount  
to stand if  
taxpayer in  
default in certain  
cases.Commissioner to  
have powers of  
Commissioner of  
Taxes under  
Income Tax Act,  
1902, in certain  
cases.

appeals against taxable amounts, and may alter any taxable amount by increasing or reducing the same to the amount of the actual income from the said sources of the Taxpayer as determined by the Commissioner.

- (4.) If any taxpayer does not —
- i. Comply with the requirements of Sub-section (1.) of this Section ; or
  - ii. Appeal pursuant to paragraph ii. of Sub-section (3.) of this Section,

the taxable amount in his case under this Act shall stand and not be disturbed, and the Tax thereon under this Act shall be payable by and recoverable from him pursuant to this Act.

(5.) For the purpose of verifying and investigating the claim of any taxpayer under this Section to have the taxable amount in his case under this Act reduced, and for the purpose of carrying the provisions of this and the preceding Section into effect, the Commissioner of Taxes shall have, and may, in his discretion, exercise all the powers and authorities vested in or given to the Commissioner of Taxes under or by virtue of "The Income Tax Act, 1902."

**PART III.**

## COLLECTION OF TAX.

When payable.

**17** Every Tax under this Act shall be payable at such times and places as the Governor by Proclamation shall appoint.

Payable by  
Occupier for  
time being.

**18** The Tax in respect of any year shall be payable in the case of an occupier or a sub-occupier, by the occupier or sub-occupier for the time being of the property.

Control of  
collection of Tax.

**19** The Taxes hereby imposed, and the collection and recovery of the same, shall be under the control, direction, and management of the Commissioner of Taxes.

Officers.

**20**—(1.) The Governor may also appoint such Acting and Deputy Commissioners, collectors, officers, and persons as he may think proper for the purpose of carrying this Act into effect, and may suspend from office or remove anyone so appointed, and appoint another person in his place.

Duties and  
powers of officers.

(2.) The Commissioner of Taxes, Acting and Deputy Commissioners of Taxes, Collectors, officers, and other persons shall have such powers and perform such duties as the Governor by Regulations shall confer and impose upon them, including any powers and duties by this Act conferred or imposed upon the Commissioner of Taxes.

*Gazette* evidence  
of appointments.

**21** A notification in the *Gazette* that any person therein named has been appointed an Acting or Deputy Commissioner of Taxes or other

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Officer for the purposes of this Act shall be conclusive evidence of such appointment, without further proof. A.D. 1904.

**22** Every Tax imposed by this Act shall be deemed, when the same becomes due or is payable, to be a debt due to His Majesty, and shall be payable and paid to the Treasurer of *Tasmania*, or the prescribed persons, in the manner and at the places prescribed, and shall form part of the Consolidated Revenue Fund. Tax to be a debt to His Majesty.

**23** Before legal proceedings are taken for the recovery of any Tax under this Act, the Commissioner of Taxes, or a Collector, shall forward a demand in writing by the post, addressed to the usual or last known place of abode of the person liable to pay the same, setting forth in such demand the amount of Tax due, the place where the same is to be paid, the hours of the day between which such payment is to be made, and the place where and date when such demand is posted, and thereupon such Tax shall be payable at the place named in the demand. Demand of Tax may be sent by post.

Whenever any such demand is sent by the post, a duplicate of the demand shall be retained, and the production by the Commissioner of Taxes, or Collector, of such duplicate shall be evidence of the demand having been delivered to the person to whom it is addressed on the day on which such demand would, in ordinary course of post, have been received at the Post Office where letters addressed as aforesaid would be finally received for delivery.

**24** All persons liable to pay any Tax demanded as aforesaid are hereby required to pay the same at the place and between the hours of the day mentioned in such demand; and in case the amount of Tax mentioned in such demand is not paid within Twenty-eight days after the day on which such demand would in the ordinary course of post have been received at such last-mentioned Post Office, such proceedings may be had for the recovery of such amount of Tax as are hereinafter mentioned. If Tax so demanded not paid within Twenty-eight days after demand proceedings may be taken.

**25** If any person liable to pay any Tax under this Act shall neglect to pay the same before the expiration of the said period of Twenty-eight days, the Commissioner of Taxes, without prejudice to his right to recover such Tax in any other way, may give a certificate to the Crown Solicitor of *Tasmania* certifying that such Tax remains unpaid, and stating the amount due and the name and place of abode or business of the person liable to pay the same; and upon receipt of such certificate the Crown Solicitor shall cause a final judgment to be signed in the Supreme Court for the amount of such Tax and Five Shillings for costs where the amount of such Tax does not exceed Five Pounds, and where the amount of such Tax exceeds Five Pounds the sum of Ten Shillings shall be added for costs; and every such judgment may be in the form following; that is to say:— Unpaid Tax may be recovered by judgment in Supreme Court.

Tasmania, to wit: In the Supreme Court of Tasmania:

Be it remembered that

General of our Lord the King, for our said Lord the King,

Attorney-

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—

gives the Court here to understand and be informed that  
 is indebted to our said  
 Lord the King in the sum of  
 by virtue of "The Taxation Act, 1904": Therefore on the  
 day of  
 it is considered by the Court here that our said Lord the  
 King do recover against the said the  
 said sum, and also the sum of for costs,  
 making altogether the sum of

Or may be levied  
by distress.

**26** If any Tax payable under this Act shall be in arrear after the expiration of the said period of Twenty-eight days, any person authorised by the Commissioner of Taxes may thereupon, without any warrant, enter upon any land or into any building or room occupied by any person liable to the same Tax, and on whom a demand to pay the same has been served in accordance with the provisions of this Act, and demand from such person liable as aforesaid immediate payment of the amount of the Tax in arrear together with such reasonable costs of the person so entering as the Commissioner of Taxes may authorise, and in default of payment thereof forthwith, such person may distrain all goods and chattels found in or upon any premises so entered by him as aforesaid; and if the sums for which the distress is taken, together with all reasonable costs thereof, or in relation thereto, be not paid within Five days after the distress has been made, then the said distress, or so much as shall be sufficient to pay such Tax and costs, may be sold; and any overplus shall be returned to the owner of the goods, together with an account of such sale. Provided that, where distress is taken under this Section, in the case of Tax in arrear by a lodger, only the goods and chattels belonging to such lodger shall be subject to such distress.

Police to render  
assistance.

**27**—(1.) Upon being required so to do by the Commissioner of Taxes or any person acting under his authority, all police officers and constables shall—

- I. Obtain and furnish such information as may be required :
- II. Serve any notices or documents :
- III. Aid in collecting and recovering any Tax and in making distresses or sales :
- IV. Assist in carrying out the provisions of this Act.

(2.) Any police officer or constable refusing to comply with any of the provisions of this Section shall forfeit and pay a penalty not exceeding Five Pounds.

Recovery by  
ordinary process.

**28** If any Tax payable under this Act shall be in arrear after the expiration of the said period of Twenty-eight days, the Commissioner of Taxes, without prejudice to any right to recover such Tax in any other way, may sue for and recover the same in any Court of competent jurisdiction, and any action therefor may be maintained in the name of the Commissioner of Taxes without specifying the name of the person

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holding the office, and shall not be liable to be abated by any vacancy or change occurring in the office of Commissioner of Taxes or otherwise. A.D. 1904.

**29** If within Twelve months after any Tax has been paid under this Act it is discovered that too little in amount has been paid, the person liable for the Tax shall forthwith pay such additional amount, and the amount so payable shall be recoverable in any Court of competent jurisdiction by the Commissioner of Taxes on behalf of the Crown, without specifying the name of the person holding the office, and any action shall not be liable to be abated by any vacancy or change occurring in the office of Commissioner of Taxes or otherwise. Provision if too little Tax is paid.

**30** If after any Tax has been paid under this Act it is discovered that too much in amount has been paid, whether by duplicate taxation or otherwise, the Commissioner of Taxes upon being satisfied shall, with the approval of the Governor in Council, give a certificate to that effect, on production whereof the Treasurer of *Tasmania* shall refund the proper amount in each case to the taxpayer or person entitled to receive the same: Provided that no certificate for any refund under this Section shall be given unless the claim is made within Six calendar months of the date when the overpayment was made. Provision if too much Tax is paid.

**31** The Treasurer of *Tasmania* may remit the payment of the whole or any portion of the tax payable under this Act by any occupier, sub-occupier, or lodger, in any case where the Commissioner of Taxes recommends that the circumstances of such occupier, sub-occupier, or lodger, through distress, misfortune, or otherwise, justify the remission. Power to remit Tax wholly or in part.

**32** The tax to be imposed upon a "lodger" under this Act shall not be payable by a *bonâ fide* tourist; it shall be incumbent upon any person claiming to be exempt from the tax, on the ground that he is a *bonâ fide* tourist, to satisfy the Commissioner of Taxes that such is the case, otherwise such person shall be liable to pay the tax. No Tax on *bonâ fide* tourists.

## PART IV.

## ASSESSMENT OF ANNUAL VALUE BY COMMISSIONER OF TAXES.

**33** The Commissioner of Taxes shall annually, in the prescribed manner, give, or cause to be given, not less than Thirty clear days' notice in every District of the time and place at which all Taxpayers residing or having their usual place of business in such District shall furnish the required Returns; such notice shall state what Taxpayers are required to furnish Returns, and the place or places at which the forms of Return Persons to provide themselves with form of Return.

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may be applied for and obtained ; and it shall be the duty of all Taxpayers to apply for the forms of Return ; and any person failing to furnish any such Return shall not be relieved from any penalty by reason only of his having received no notice to furnish the same, or of the form of Return not having been delivered to him.

Persons to furnish Returns and declare to truth thereof within specified time.

**34** Every such Taxpayer shall, upon the publication of such notice, procure a form of Return, and shall therein enter the particulars of information required, and shall declare the truth of same, and shall forward the Return, duly completed and signed by him, within the period to be mentioned in the said notice to the Commissioner of Taxes or other person appointed to receive the same :—

Return of Taxpayers generally.

I. The Returns to be furnished shall be in such form and contain such particulars as may from time to time be prescribed.

Commissioner may require further Returns.

II. The Commissioner of Taxes may, when and so often as he thinks necessary, require any person to make further or fuller Returns respecting any matter of which a Return is authorised or prescribed by this Act or by Regulation :

Parties making default to be assessed by Commissioner.

III. If any Taxpayer makes default in furnishing any Returns, or if the Commissioner of Taxes is not satisfied with the Return furnished by any Taxpayer, he may make an assessment of the amount which in his judgment is the fair annual value, whether in respect of the property or of the board and lodging of any Taxpayer, and thereupon shall give notice thereof to such Taxpayer ; and the amount so assessed shall be the amount on which the taxable amount shall be calculated and determined ; Provided that such assessment shall be subject to appeal, unless the Tax payable on the Taxable Amount does not exceed the sum of Two Shillings and Sixpence.

Commissioner, if dissatisfied, may make enquiry and summon witnesses.

IV. If the Commissioner of Taxes is not satisfied with any Return furnished by any Taxpayer he may make further inquiry by writing ; and if the Commissioner of Taxes does not, within Fourteen days, receive any answer, or receives an unsatisfactory answer, it shall be lawful for him, by summons in a form to be prescribed, to require such persons as he may think fit to attend before him at his office, or at such place as he thinks fit, then and there to be examined by the Commissioner of Taxes with regard to the Return ; every person so summoned, on being tendered the prescribed sum for his expenses, shall be bound to obey the summons, and to answer truthfully all questions on such examination, and in default thereof the person so failing, without lawful excuse, shall upon conviction incur a penalty not exceeding Ten Pounds.

Party summoned to attend.

Assessment Book, when to be made.

**35** The Commissioner of Taxes shall, on or before a day to be prescribed in every year, cause such Assessment Books to be prepared for each District, and in such form and manner as may be prescribed ; and

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any alteration or correction in any Assessment Book authorised to be made on appeal from assessment as hereinafter provided shall be made forthwith, and all other necessary alterations, corrections, and additions shall be made, as the occasion arises, in the Assessment Book to which the same shall relate. Upon the completion of every Assessment Book the same, or a true copy thereof, shall be deposited in the office of the Commissioner of Taxes.

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## PART V.

## OBJECTIONS.

**36** Any person feeling aggrieved by reason of any assessment made by the Commissioner of Taxes, and affected thereby, may object thereto as herein provided.

Any person may object to assessment.

**37** If any person entitled to lodge an objection to any assessment fails to do so, or fails to prove his objection, the assessment that may be shown by the Assessment Book shall be upheld.

All assessments deemed good if not objected to.

**38** Every objection shall be in writing, under the hand of the objector or his agent, and shall be made in the prescribed form, and shall be delivered or posted to the Commissioner of Taxes on or before the last day appointed for receiving objections.

Form of objections.

**39** The Commissioner of Taxes shall consider the objections, and may make such inquiries thereon or relating thereto as he thinks fit, and if he thinks that any objection should be allowed, or that any person has a well-founded ground of complaint, he may alter or amend the assessment accordingly; but if not, then such objections shall be heard and determined as hereinafter provided.

Commissioner of Taxes may allow objections.

**40** Where objections made to any assessment are disallowed by the Commissioner of Taxes, he shall, on or before the day appointed for the review of the assessments, deliver or transmit the original objections to the Commissioner of a Court of Requests who is to hear and determine the same.

Objections to be sent to Commissioner of Court of Requests.

**41** Where no objections are made to any assessment, or where objections have been allowed or withdrawn, the Assessment Book, signed by the Commissioner of Taxes, shall be the Assessment Book for the District to which it relates.

Assessment Book final unless objection made.

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## PART VI.

## REVIEW OF ASSESSMENTS.

Commissioner of Court of Requests may be appointed to hear objections

**42** The Governor may from time to time appoint any Commissioner of a Court of Requests to hear and determine objections against assessments made by the Commissioner of Taxes under this Act.

Objections to assessment heard by Commissioner of Court of Requests.

**43** All objections against any assessment made by the Commissioner of Taxes under this Act which have not been allowed by the Commissioner of Taxes, or which have not been withdrawn, shall be heard and determined in the manner hereinafter mentioned by any Commissioner of a Court of Requests appointed in that behalf by the Governor, and every such appeal shall be heard with closed doors.

Governor to appoint sittings of Court.

**44** Every Commissioner of a Court of Requests so appointed by the Governor shall sit for the purpose of hearing and determining objections under this Act at such times and places as the Governor may from time to time appoint.

Notice of Court to be held.

**45** The Commissioner of Taxes shall give not less than Fourteen days' notice by letter addressed to the taxpayer affected, and also by public advertisement in a newspaper circulating in the district where such objections are to be heard, of the time and place appointed by the Governor for the hearing of objections.

Commissioner may examine on oath, and call for persons and papers.  
60 Vict. No. 48.

**46** Every Commissioner of a Court of Requests, so appointed, shall, in respect of the examination of witnesses, their expenses, and the production of papers and documents, have all the powers and authorities conferred by "The Local Courts Act, 1896," upon a Judge of the Supreme Court, and may make such Order as to costs as he thinks proper, and every such Order shall be final.

Commissioner to settle objections; may award costs.

**47** Every Commissioner of a Court of Requests, so appointed, shall have full power of hearing and determining all objections to the assessments made by a Commissioner of Taxes under this Act, and may alter the Assessment Book accordingly; and may award costs to be paid by the objector in any case where he shall deem the objection to be of a frivolous or vexatious nature.

Commissioner of Taxes, &c., to appear in support of assessments.

**48** The Commissioner of Taxes, or any officer authorised by him, may appear in support of the assessment, and any person objecting thereto may appear in person or by his solicitor or agent.

Commissioner of Taxes may be represented at hearing of appeal and call witnesses.

**49** At the hearing of any objection against any assessment made by the Commissioner of Taxes under this Act, the Commissioner of Taxes shall be entitled to be represented by any Officer or Officers appointed under this Act or by counsel, and shall be entitled to call experts and other witnesses to support such assessment.



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**50** The Commissioner of a Court of Requests, so appointed, shall initial all the alterations, insertions, and erasures, if any, made by him in any Assessment Book, and shall sign the Assessment Book and deliver or transmit it to the Commissioner of Taxes; and the Assessment Book so signed, or so corrected and signed, shall be the Assessment Book for the District to which it relates.

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Commissioner of  
Court of Requests  
to sign amended  
Assessment Book.

**51** The decision of a Commissioner of Court of Requests on all objections coming before him, and on all other matters coming within his cognizance relating to the assessments, shall be final and conclusive.

Decision of  
Commissioner of  
Court of Requests  
to be final.

**52** Subject to the provisions herein contained, and to the Regulations, all proceedings in connection with the hearing and determining of objections to assessments shall be in conformity with the provisions of "The Local Courts Act, 1896," and the Rules of Practice under that Act, so far as they are applicable, but no notice of defence or answer of any kind to any notice of objection shall be required to be entered.

Practice and  
procedure.

**PART VII.**

## SUPPLEMENTARY.

**53** The Governor may from time to time make Regulations prescribing—

Governor may  
make Regula-  
tions.

- i. The duties of all persons engaged or employed under or in the administration of this Act :
- ii. The security to be given by any such person, the limits of districts and places within which any such persons are to Act :
- iii. The Returns to be furnished to the Commissioner of Taxes, and the form and contents thereof, and the time and mode of furnishing the same :
- iv. The mode to be adopted in ascertaining, determining, and assessing the annual value of the board and lodging of lodgers :
- v. The mode of payment of any tax, and the procedure and remedies which may be adopted to facilitate and ensure the collection and recovery of any tax :
- vi. The practice and procedure in relation to objections to assessments, and to the hearing and determining thereof :
- vii. The mode of carrying out the objects of this Act, in respect of all matters in this Act in connection with which the word "prescribed" occurs in any Section thereof, and generally for carrying out all matters of detail in connection with this Act :
- viii. Where there is no provision in this Act, or no sufficient provision in respect of any matter or thing necessary to give effect to this Act, in what manner and form the want of provision or insufficient provision shall be supplied.

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- A.D. 1904. — And may by such Regulations appoint such penalties as he deems necessary for enforcing compliance with such Regulations; but no such penalty shall exceed the sum of Ten Pounds.
- Further power as to Regulations. **54** The Governor may make all such other Regulations, either applicable generally or to meet particular cases, as may be necessary or desirable to carry out the objects and purposes of this Act, or as may be convenient for the administration thereof.
- Publication of Regulations. **55** All such Regulations shall be published in the *Gazette*, and shall be laid before both Houses of Parliament within Fourteen days from the publication thereof, if Parliament be then sitting, and if Parliament be not then sitting, then within Fourteen days after the beginning of the next Session, and upon publication in the *Gazette* all such Regulations shall have the force of law until revoked by Resolution of Parliament
- Service of notices. **56** All notices by this Act required to be given by the Commissioner of Taxes or any officer under this Act to any person may, except as otherwise provided, be served personally upon such person, or left with some inmate of his place of abode, or by forwarding the same by post addressed to the usual or last known place of abode of such person.
- Notice to produce documents in Court. **57**—(1.) A notice to produce any document or documents in any proceeding in any Court of Justice under this Act may be served upon any person in manner provided by Section Fifty-six of this Act.  
(2.) An affidavit of the service of any notice required to be given by the Commissioner of Taxes or any officer under this Act, or of the service of any notice to produce, and of the time when such notice or notice to produce was served, purporting to be made by the person serving the same, shall be sufficient evidence in all proceedings in any Court of Justice of the service of the original of such notice or of such notice to produce, and of the time when such notice or notice to produce was served.  
A copy of such notice or notice to produce, as the case may be, shall be annexed to, and verified by such affidavit.
- Notices may be in writing or print. **58** Every notice, demand, or like document given by or on behalf of the Commissioner of Taxes under this Act may be in writing or in print, or partly in writing and partly in print, and shall be sufficiently authenticated if the name of the Commissioner of Taxes or officer by whom the same is given shall be printed thereon.
- Evidence. **59** The production of any Assessment Book, or of any document under the hand of the Commissioner of Taxes purporting to be a copy of or extract from any Assessment Book, shall be conclusive evidence of the making of the assessment, and, except in the case of proceedings in appeal against the assessment, when the same shall be *prima facie* evidence only, shall be conclusive evidence that the amount and all the

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particulars of such assessment appearing in such Book or document A.D. 1904 are absolutely correct.

**60** If any person—

- i. Knowingly and wilfully makes any false Return, or false statement in any Return, or makes any false answer for the purpose of evading or enabling any other person to evade assessment or taxation : or
- ii. By any falsehood, wilful neglect, fraud, art, or contrivance whatsoever, evades or attempts to evade assessment or taxation :

Penalty for making false Returns, &c.

he shall be liable to pay for each offence a penalty of not less than One Pound nor more than One hundred Pounds; and in any case where the offence was an evasion of assessment or taxation, or an attempt to evade assessment or taxation, the person offending shall be liable to be assessed and taxed at treble the amount to which such person would otherwise be liable.

**61** If any person fails or neglects to furnish to the Commissioner of Taxes any Returns within the prescribed time, he shall be liable to pay a penalty of not more than Five Pounds.

Penalty for failure to furnish Return.

**62** Any person who in any declaration authorised or prescribed by this Act knowingly and wilfully states any matter or thing which is untrue, shall be guilty of Perjury, and shall be dealt with accordingly.

Persons making false declaration, &c., guilty of Perjury.

**63** If any person shall obstruct any officer acting in the discharge of his duties under this Act, or shall refuse to answer any lawful question put by any such officer for the purposes of this Act, or shall give any false or evasive answer, he shall be liable to a penalty not exceeding Fifty Pounds.

Penalty for obstructing officers, &c.

**64** All offences against this Act, or any Regulations, and all penalties and sums of money imposed or made payable by this Act, or by any Regulation, shall, where no other mode of proceeding is provided, be heard, determined, and recovered in a summary way by and before a Police Magistrate or any Two Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*, but may be taken at any time, anything to the contrary notwithstanding in Section Eleven of the said Act.

Recovery of penalties.

**65** All penalties imposed under this Act, or any Regulation, and all costs (except those under this Act expressly made payable to any person acting under this Act) recovered from any person in any proceeding under this Act, shall be paid to the Treasurer and shall form part of the Consolidated Revenue Fund.

Appropriation of penalties, &c.

**66** Unless otherwise expressly provided, no action shall lie against any officer or any other person for anything done in pursuance of this

Action against officers, &c.

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Act unless notice in writing of such action is given to the defendant at least One month before the commencement of the action, and such action is commenced within Three months after the cause of action has accrued ; and in any action against any officer or person for anything done in pursuance of this Act or in the execution of the powers or authorities conferred thereby or by the Regulations, the defendant in such action may plead the general issue and give this Act and the special matter in evidence at the trial.

Time extended for  
doing certain acts.

**67** Should the Commissioner of Taxes fail to make any assessment, or to do any other act in the execution of this Act within the time prescribed, he shall, as soon as may be after the time at which such act should have been done, perform or cause the same to be performed ; and the performance of any such act as aforesaid at any other than the prescribed time shall, notwithstanding such failure, be valid and effectual.

Affidavits may be  
sworn before a  
Commissioner  
or Justice.

**68** Any affidavit of the service of any notice required to be given by the Commissioner of Taxes or any officer under this Act, or of the service of any notice to produce, may be sworn before a Commissioner of the Supreme Court or any Justice of the Peace.

**SCHEDULE.**

Sub-sections x. and xi. of Section 21.  
Sub-section vii. of Section 32.