

## URBAN FARMING LAND TAXATION.

### No. 70 of 1970.

AN ACT to relieve certain persons from land tax  
inflated by development potential.

[23 December 1970.]

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:—

Short title.

**1** This Act may be cited as the *Urban Farming Land Taxation Act 1970*.

Interpre-  
tation.

**2**—(1) In this Act, unless the contrary intention appears—  
“developing” means—

- (a) developing by subdivision and building;
- (b) opening mines and quarries; and
- (c) changing the use to one for an industrial purpose,

and includes—

- (d) acquiring for the purpose of profit-making by sale; and
- (e) carrying on or carrying out any profit-making undertaking or scheme other than farming;

“family” has the meaning given it in section five;

“farming” means using land principally for a purpose by reason of which it is rural land;

“rural land” means rural land for the purposes of subsection (2) of section ten of the *Land and Income Taxation Act 1910*.

(2) This Act shall be read and construed subject to the *Land and Income Taxation Act 1910*.

(3) Subject to subsection (2) of this section expressions defined or having a special meaning in the *Land Valuation Act 1950* have the same meaning in this Act.

**3**—(1) An owner of rural land who is not disqualified by section four may, if he supposes the unimproved value of that land to be materially increased by the possibility of developing it, apply to the Commissioner for a rebate or refund of land tax as provided in section seven.

Land taxpayers may seek benefits of Act.

(2) An application under this section shall be in writing in a form approved or supplied by the Commissioner and shall—

- (a) identify the land;
- (b) refer to the relevant entry on the valuation roll; and
- (c) give such other information as the form indicates to be required.

(3) The Commissioner may—

- (a) ask the applicant to give him more information; and
- (b) require the applicant to present his case orally to him or an officer whom he may designate and the applicant may do so in person or by an agent.

**4** An owner is disqualified for the purposes of section three if—

Disqualification.

- (a) it is a company registered under the *Companies Act* 1962 and not a proprietary company;
- (b) being a proprietary company—
  - (i) its principal business is other than farming;
  - (ii) it has a principal business other than farming;
  - (iii) it acquired the relevant land for the purpose of developing it; or
  - (iv) its members are not all of one family;
- (c) being an executor, administrator, or trustee—
  - (i) he does not hold, subject or not to payment of debts or expenses or both, for the benefit principally of persons all of one family of which a member was his testator, intestate, settlor, donor, bankrupt, or other person who had the last beneficial interest in the relevant land before it came to be vested in the present owner or his predecessor, or first predecessor, if more than one, as executor, administrator, or trustee;
  - (ii) the relevant land before it became subject to the will, administration, or trust was held by a person who if he were still alive would himself be disqualified for the purposes of section three; or
  - (iii) the relevant land is not being farmed for the benefit principally of persons mentioned in sub-paragraph (i) of this paragraph; or
- (d) being any other person—
  - (i) the relevant land is not being farmed for his benefit or of that of persons, including or excluding himself, who are all of one family with him; or

- (ii) where it is being so farmed he acquired the land after 1960 for the purpose of developing it.

Definition of family.

**5**—(1) The following persons are a family for the purposes of this Act:—

- (a) An ancestor (in this section called “the common ancestor”) and his descendants to the fourth degree (in this section called the “near kin”);
- (b) A spouse of the common ancestor or one of the near kin; and
- (c) Persons included by reason of subsection (2) of this section.

(2) For the purposes of paragraph (c) of subsection (1) of this section—

- (a) *de facto* spouses shall be deemed to be *de jure*, but only if there has been no separation between them that was voluntary on the part of one of them;
- (b) illegitimate children shall be deemed to be legitimate if accepted and brought up as the children of one of their parents in the parent’s household;
- (c) children taken into the household of the common ancestor or one of the near kin and brought up therein like children by blood shall be deemed to be legitimate children of that ancestor or one of the near kin; and
- (d) strangers taken into the household of the common ancestor or one of the near kin who have for twenty years resided therein and been wholly or partly dependent on the household for the needs of life shall be deemed to be children of the head of the household.

(3) For the purposes of this section—

- (a) the executor or administrator of the estate of a member of a family shall be deemed to be a member of that family; and
- (b) the members of a permanent household consisting of a man, his *de facto* wife, and a foster child brought up as their own child may constitute a family of which the man shall be deemed to be the ancestor.

(4) The principle of paragraph (b) of subsection (3) of this section shall be applied to other cases to which it is applicable.

Proof of qualification.

**6** An applicant under section three has the burden of showing that he is not disqualified under section four.

Rebates and refunds.

**7**—(1) A rebate or refund of land tax for the purposes of this Act is of the amount payable apart from this Act less the amount, if any, that would be payable if the unimproved value of the land for the purposes of section eleven of the *Land and Income Taxation Act 1910* were the value as urban farming land made as provided in section eight.

(2) To obtain such a rebate or refund for any financial year the taxpayer shall apply during that financial year as provided in section three.

(3) If the application is successful and a valuation as urban farming land is made—

- (a) before payment of land tax on the relevant land for the year of the application, a rebate shall be allowed in payment of the tax; or
- (b) after payment of land tax on that land for that year, a refund shall be made.

(4) Nothing in this section affects the time for payment of land tax.

**8**—(1) Where an application is made as provided in sections three and seven and the Commissioner decides that the applicant is— Valuation as urban farming land.

- (a) not disqualified for applying, he shall request the Chief Valuer to value the relevant land as urban farming land; or
- (b) disqualified for applying, he shall so notify him in writing.

(2) On receiving a request under subsection (1) of this section, the Chief Valuer shall, in accordance with section forty-seven of the *Land Valuation Act* 1950, make a valuation of the relevant land as urban farming land as provided in subsection (3) of this section.

(3) A valuation of land as urban farming land shall be of the unimproved value of that land valued on the assumption that the land may not at any time be used otherwise than as rural land.

(4) If the Chief Valuer is of opinion that the unimproved value of land is not materially increased as mentioned in subsection (1) of section three he may give the Commissioner and the applicant a certificate to that effect and proceed no further.

**9**—(1) Except as otherwise provided in this section, the allowance of a rebate or the making of a refund under section seven does not affect the obligation to pay the whole land tax due apart from this Act and so much of any financial year's land tax as has not been paid because of allowing a rebate or, having been paid, has been refunded— Loss of rebate or refund.

- (a) remains due; and
- (b) is payable as provided in subsection (2) of this section.

(2) If a taxpayer who has had such a rebate or refund—

- (a) sells and completes the sale of the relevant land; or
- (b) ceases to be qualified to apply in respect of the relevant land under section three,

whichever first happens, any land tax remaining due from him under subsection (1) of this section becomes payable forthwith, except as provided in subsections (3), (4), and (5) of this section.

(3) For the purposes of subsection (2) of this section, if the ownership of the relevant land passes from the taxpayer to the executor of his last will, the administrator of his estate, or a trustee as defined in the *Bankruptcy Act* 1966 of the Parliament of the Commonwealth or any Act in substitution therefor, in either case as from time to time amended, the passage has no effect of itself and the executor, administrator, or trustee shall be deemed to continue and sustain the person of the taxpayer, unless he is disqualified from applying under section three by sub-paragraph (i) or sub-paragraph (iii) of paragraph (c) of section four.

(4) For the purposes of subsection (2) of this section, if the ownership of the relevant land passes from the taxpayer, directly or through an executor, administrator, or trustee to whom it has passed as mentioned in subsection (3) of this section, to the taxpayer's spouse or child or spouse and child, the passage has no effect of itself and the spouse or child or spouse and child shall be deemed to continue and sustain the person of the taxpayer.

(5) The obligation mentioned in subsection (1) of this section ceases five years after the end of the financial year in which it arose and the amount remaining due but not payable as provided in that subsection immediately before the end of the period ceases to be due.

(6) Land tax does not become payable under subsection (2) of this section on the death of a joint tenant of the relevant land or on the partition of the land between joint tenants or tenants in common, but if one of the events mentioned in that subsection happens and the amount remaining due under subsection (1) of this section becomes payable—

(a) in the case where a joint tenant has died, with respect to a financial year for the whole of which the joint tenancy subsisted, the obligation to pay is a joint and several obligation of the survivor and the estate of the dead joint tenant, and with respect to any subsequent financial year it is an obligation of the survivor only; and

(b) in the case of a partition, with respect to one of the former joint tenants or tenants in common, the obligation is only of that one and with respect to a financial year which expired before the partition, only to the extent to which he would have been liable if the partition had been made before that year began.

Objections,  
review, and  
appeal.

**10**—(1) Part VII of the *Land and Income Taxation Act* 1910 applies to a notification under subsection (1) of section eight as if it were an assessment under that Act.

(2) For the purposes of Parts V, VI, and VIA of the *Land Valuation Act* 1950 a certificate under subsection (4) of section eight shall be deemed to be a valuation.

Incorporation  
of enact-  
ments.

**11** The sections of the *Land and Income Taxation Act* 1910 referred to in the schedule apply to and in respect of the provisions of this Act as if this Act were incorporated in that Act.

## THE SCHEDULE.

(Section 11.)

*Sections of the Land and Income Taxation Act 1910.*

8, 9, 193, 195, 200 to 204, 206 to 210, 212 to 215, 222, 227, 228, 230.

**RENISON LIMITED (ZEEHAN LANDS).****No. 71 of 1970.**

AN ACT to make provision with respect to the vesting of certain lands in, and the sale of certain lands of the Crown to, Renison Limited, and for other purposes. [23 December 1970.]

**B**E 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:—

**1** This Act may be cited as the *Renison Limited (Zeehan Lands) Act 1970*. Short title.

**2** In this Act, unless the contrary intention appears—

“board” means the valuation board established by this Act;

“company” means Renison Limited, a company incorporated in the State of Victoria, the registered office of which in this State is situated at Number 54 Brisbane Street, in the city of Launceston;

“Plan 1” means the plan that is set forth in the second schedule;

“Plan 2” means the plan that is set forth in the third schedule;

“Plan 3” means the plan that is set forth in the fourth schedule;

Interpre-  
tation.