



ANNO VICESIMO PRIMO

**ELIZABETHAE II REGINAE**

A.D. 1972

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**No. 78 of 1972**

An Act to amend the Land Tax Act, 1936-1971.

*[Assented to 5th October, 1972]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**Short titles.**

1. (1) This Act may be cited as the "Land Tax Act Amendment Act, 1972".

(2) The Land Tax Act, 1936-1971, as amended by this Act, may be cited as the "Land Tax Act, 1936-1972".

(3) The Land Tax Act, 1936-1971, is hereinafter referred to as "the principal Act".

**Commence-  
ment.**

2. This Act shall be deemed to have come into operation at midnight on the thirtieth day of June, 1972.

**Amendment of  
principal Act,  
s. 4—  
Interpretation.**

3. Section 4 of the principal Act is amended—

(a) by inserting in subsection (1) after the definition of "liquidator" the following definition:—

"improvements" in relation to land means houses and buildings, fixtures and other building improvements of any kind whatsoever, fences, bridges, roads, tanks, wells, dams, fruit trees, bushes, shrubs and other plants planted or sown (whether for trade or other purposes) draining of land, ringbarking, clearing of timber or scrub and any other actual improvements;:

and

(b) by inserting in subsection (1) after the definition of "returns" the following definition:—

"site improvements" in relation to land means reclamation of land by draining or filling, and any retaining walls or other structures or works appertaining thereto, the excavation, grading or levelling of land, the removal of rocks, stone, sand or soil, and the clearing of timber, scrub or other vegetation:.

4. Section 10 of the principal Act is amended by inserting after paragraph (f) of subsection (1) the following paragraph:—

Amendment of  
principal Act,  
s. 10—  
Exempt land.

(fa) Land that—

(i) is owned by an association whose object is, or whose objects include, the conservation of native fauna and flora;

and

(ii) is in the opinion of the Commissioner used, without profit to the association or any other person, solely or mainly as a reserve for the purpose of conserving native fauna or flora.

5. Section 12c of the principal Act is amended—

Amendment of  
principal Act,  
s. 12c—  
Special  
provision for  
rural land.

(a) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) If—

(a) the Commissioner is satisfied that any declared rural land, or any part thereof, has ceased to be land used for primary production;

or

(b) the taxpayer in respect of any declared rural land applies for the revocation of the declaration in respect of that land, or any part thereof,

the Commissioner may, by notice in writing given personally or by post to the taxpayer, revoke the declaration in respect of the land or revoke the declaration in so far as it relates to a part of the land, as the case may require.;

and

(b) by striking out subsection (6) and inserting in lieu thereof the following subsections:—

(6) If the Commissioner revokes a declaration under subsection (4) of this section, the prescribed amount of differential land tax shall forthwith become due and payable.

(7) If any estate or interest of a taxpayer in declared rural land, or any part thereof, is transferred to, or vests in, any other person (whether or not that other person is also a taxpayer in respect of the land prior to the transfer or vesting of the estate or interest) the prescribed amount of differential land tax shall forthwith become due and payable.

(8) Subsection (7) of this section does not apply to—

(a) the transfer or vesting of an estate or interest in declared rural land, in pursuance of a gift or devise, to or in the spouse, a parent, grandparent or descendant of the taxpayer or a person in whose ownership the land is wholly or partially exempt from land tax under the provisions of this Act;

or

(b) the vesting of an estate or interest in declared rural land in the Official Receiver or a trustee in pursuance of the laws for the time being in force relating to bankruptcy.

(9) For the purposes of subsection (6) of this section, the prescribed amount of differential land tax—

(a) where the declaration is wholly revoked, is the whole of the differential land tax;

and

(b) where the declaration is revoked in so far as it relates to a part of the declared rural land, is the proportion of the differential land tax that the value of that part of the land bears to the value of the whole of the land that was subject to the declaration immediately before the revocation.

(10) For the purposes of subsection (7) of this section, the prescribed amount of differential land tax—

(a) where the whole of the estate or interest, upon which liability for land tax arises under section 31 of this Act, in the whole of the declared rural land is the subject of the transfer or vesting—is the whole of the differential land tax;

or

(b) in any other case—is the proportion of differential land tax that the value of the estate or interest, the subject of the transfer or vesting, bears to the value of an estate of fee simple in the whole of the declared rural land.

(11) Where it is necessary to determine the values referred to in subsection (9) or (10) of this section, they shall be determined by the Commissioner upon the assumption that any improvements (not being site improvements) to the land had not been made.

(12) For the purpose of determining values under this section, the Commissioner may, by instrument in writing served personally or by post, require any person to furnish him with a written statement of any facts of which that person has knowledge relevant to the determination of those values.

(13) A person who fails to comply with a requirement under subsection (12) of this section shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(14) Differential land tax is payable under subsection (7) of this section jointly and severally by the person from whom the estate or interest referred to in that subsection was transferred or divested and the person to whom the estate or interest was transferred or in whom it was vested notwithstanding that, by reason of the transfer or vesting of the estate or interest, a person may have been entirely divested of the estate or interest by virtue of which he was a taxpayer in respect of the land.

(15) Differential land tax is not payable under this section in respect of land by any person in whose ownership the land is wholly or partially exempt from land tax under the provisions of this Act.

(16) For the purposes of this section—

“differential land tax” in respect of land means an amount of land tax being the difference between the amount of land tax that would, but for the provisions of subsection (5) of this section, have been payable in respect of the land and the amount of land tax actually paid in respect of the land for—

(a) the financial year in which the relevant date occurs and the preceding financial years in respect of which the taxpayer was liable for the payment of land tax upon the land after the date of the declaration under this section and before the relevant date;

or

(b) the financial year in which the relevant date occurs and the preceding four financial years,

whichever is the lesser:

“the relevant date” means—

(a) the date of the revocation of a declaration under subsection (4) of this section;

or

(b) the date of the transfer or vesting of an estate or interest in land that attracts the operation of subsection (7) of this section,

whichever is applicable to the circumstances of the particular case.

(17) The Commissioner may by notice in writing given to the person who is for the time being the taxpayer in respect of declared rural land, or a part thereof, wholly revoke the declaration, or revoke the declaration in so far as it relates to that part of the land—

(a) where the declared rural land, or the part thereof, has ceased to be within a defined rural area;

or

(b) where—

(i) the person who was the taxpayer in respect of declared rural land at the time of the declaration, or all of the persons who were the taxpayers in respect of the declared rural land, has or have ceased to be the taxpayer or taxpayers in respect of the land or the part thereof;

and

(ii) no person (being the spouse, a parent, grandparent, or descendant of any such taxpayer) is in consequence of a gift or devise the holder of an estate or interest in the land or part thereof by virtue of which he is a taxpayer in respect of the land or that part of the land.

(18) All the provisions of this Act applicable to the recovery of land tax shall apply to the recovery of differential land tax payable under this section.

6. Section 58a of the principal Act is amended—

(a) by striking out from subsection (1) the passage “and in addition, he may entirely remit any proportion of the total land tax payable by the taxpayer that is referable to the operation of subsection (5) of section 12 of this Act but the amount of any such remission shall not exceed two dollars in respect of any financial year”;

and

(b) by inserting after subsection (4) the following subsections:—

(5) If the Commissioner is satisfied that a taxpayer is a member of a class, determined by the Commissioner as being a class of persons to whom the payment of the metropolitan levy is likely to cause hardship, he may, subject to subsection (9) of this section, remit payment of the metropolitan levy.

(6) The Commissioner may, by instrument in writing, make, vary or revoke a determination for the purposes of subsection (5) of this section.

Amendment of  
principal Act,  
s. 58a—  
Postponement  
and remission  
of tax.

(7) A remission granted under subsection (5) of this section shall continue in operation for so long as the Commissioner is satisfied that the taxpayer remains a member of the class under which he became entitled to the remission.

(8) Where a taxpayer ceases to be a member of a class by virtue of which he has obtained remission of the metropolitan levy, he shall forthwith inform the Commissioner in writing of that fact.

Penalty: Two hundred dollars.

(9) The amount of a remission granted under this section shall not exceed two dollars in respect of any financial year, and where the metropolitan levy that would be payable by a taxpayer but for a remission under this section exceeds two dollars in respect of a financial year, the remission shall not operate in respect of the excess.

(10) In this section—

“metropolitan levy” means a component of land tax referable to the operation of subsection (5) of section 12 of this Act.

Amendment of  
principal Act,  
s. 65—  
Transfer to the  
Crown, and  
cancellation of  
title.

7. Section 65 of the principal Act is amended—

(a) by striking out from subsection (3) the passage “Registration of Deeds Act, 1936” and inserting in lieu thereof the passage “Registration of Deeds Act, 1935, as amended”;

and

(b) by striking out from subsection (4) the passage “Land Tax Amendment Act, 1942” wherever it occurs and inserting in lieu thereof in each case the passage “Land Tax Act Amendment Act, 1942”.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor