

Inspectors.

3. Section fifty A of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “in accordance with the *Commonwealth Public Service Act 1922-1924*”; and
- (b) by omitting from sub-section (2.) all the words after the word “shall” and inserting in their stead the words “not be subject to the *Commonwealth Public Service Act 1922-1934* but shall be appointed upon such terms and conditions as are prescribed”.

FLOUR TAX ASSESSMENT (No. 2).

No. 55 of 1934.

An Act relating to the Imposition, Assessment and Collection of a Tax upon Flour and certain Imported Goods in the manufacture of which Flour has been used.

[Assented to 17th December, 1934.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Flour Tax Assessment Act (No. 2)* 1934.

Parts.

2. This Act is divided into Parts, as follows :—

Part I.—Preliminary.

Part II.—Administration.

Part III.—Liability to Taxation.

Part IV.—Returns.

Part V.—Collection and Recovery of Tax.

Part VI.—Application of *Sales Tax Assessment Act (No. 1)* 1930-1934.

Part VII.—Miscellaneous.

Definitions.

3.—(1.) In this Act, unless the contrary intention appears—

“Agent” includes every person who in Australia, for and on behalf of any person out of Australia (in this section called “the principal”), holds or has the management or control of the business of his principal, and every person declared by the Commissioner to be an agent or the sole agent of any person for the purposes of this Act;

- “ Board of Review ” means a Board of Review constituted under the *Income Tax Assessment Act 1922-1934* ;
- “ Company ” includes all bodies or associations, corporate or unincorporate, but does not include partnerships ;
- “ Deputy Commissioner ” means a Deputy Commissioner of Taxation ;
- “ Flour ” means any substance produced—
- (a) by gristing, crushing, grinding, milling, cutting, or otherwise processing wheat or, except as prescribed, by any one or more of those processes applied to wheat combined with any other commodity ; or
 - (b) by the sifting or screening of, or any mechanical operation applied to, substances so produced ; or
 - (c) by the combination of any of the operations specified in the last two preceding paragraphs,
- and includes—
- (d) any mixture of any such substances ; and
 - (e) self-raising flour ;
- “ Liquidator ” means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company ;
- “ Officer ” means an officer of the Commonwealth Public Service ;
- “ Person ” includes a company ;
- “ Public charitable institution ” means a public hospital, a public benevolent institution or a religious organization, and includes any public organization which the Commissioner is satisfied is established and maintained for the relief of unemployed persons ;
- “ Tax ” means flour tax imposed by the *Flour Tax Act (No. 1) 1934*, by the *Flour Tax Act (No. 2) 1934*, or by the *Flour Tax Act (No. 3) 1934* ;
- “ Taxpayer ” means any person liable, under section thirteen of this Act, to pay tax ;
- “ the Commissioner ” means the Commissioner of Taxation ;
- “ the Second Commissioner ” means the Second Commissioner of Taxation ;
- “ Ton ” means two thousand pounds weight ;
- “ Trustee ”, in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, includes—
- (a) an executor or administrator, guardian, committee, receiver or liquidator ; and
 - (b) every person having or taking upon himself the administration or control of goods affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control or management of the goods of a person under any legal or other disability.

(2.) For the purposes of this Act, flour in transit to any person on the seventh day of January, One thousand nine hundred and thirty-five and received by him after that date in pursuance of a sale or an agreement for sale of that flour to that person, shall be deemed to be flour held in stock by that person on that date.

(3.) For the purposes of this Act, flour shall be deemed to be held in stock by any person if held by him or by any other person on his behalf, irrespective of the purpose for which the flour is so held.

(4.) Where flour is manufactured for any person from wheat supplied by that person, the flour shall, for the purposes of this Act, be deemed to be sold by the manufacturer thereof at the time it is delivered to that person.

(5.) For the purposes of this Act, a manufacturer of flour shall be deemed to have sold flour if, in the performance of any contract (not being a contract for the sale of flour) under which he has received, or is entitled to receive, valuable consideration, he supplies flour the property in which, under the terms of the contract, passes to some other person.

PART II.—ADMINISTRATION.

Commissioner.

4. The Commissioner of Taxation shall have the general administration of this Act.

Powers of
Second
Commissioner.

5.—(1.) Subject to this section, the Second Commissioner of Taxation shall have and may exercise all the powers and functions of the Commissioner under this Act.

(2.) Where in this Act the exercise of any power or function by the Commissioner or the operation of any provision of this Act is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power or function may be exercised by the Second Commissioner or that provision may operate (as the case may be) upon the opinion, belief or state of mind of the Second Commissioner in relation to that matter.

(3.) Nothing in this section shall be deemed to confer upon the Second Commissioner any power or function of the Commissioner under section four or seven of this Act, or to prevent the exercise of any power or function by the Commissioner under this Act, and the Commissioner shall have, in relation to any act of the Second Commissioner, the same power as if that act were done by himself.

Deputy
Commissioners.

6. The Deputy Commissioners of Taxation shall, subject to the control of the Commissioner, have such powers and functions as are prescribed, or as the Commissioner directs.

Delegation
by the
Commissioner.

7.—(1.) The Commissioner may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand, delegate to a Deputy Commissioner or other person all or any of his powers or functions under this Act (except this power of delegation) so that the

delegated powers or functions may be exercised by the Deputy Commissioner or person with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Commissioner.

(3.) Any delegation under this section may be made subject to a power of review and alteration, within the period specified in the instrument of delegation, by the Commissioner of any act done in pursuance of the delegation and the decision given upon any such review or alteration shall be deemed to be that of the Commissioner.

8. Any reference in this Act to the Commissioner shall be deemed to include—

Reference to
Commissioner.

(a) in respect of matters as to which the Second Commissioner has exercised any power or function conferred upon him by this Act—a reference to the Second Commissioner; and

(b) in respect of matters as to which a Deputy Commissioner has exercised any power or function conferred upon him by delegation under this Act—a reference to that Deputy Commissioner.

9.—(1.) Every person executing any power or duty conferred or imposed on an officer or any other person by or under this Act or the regulations thereunder shall, before entering upon his duties or exercising any power under this Act, make before a Police Magistrate, a Justice of the Peace, a Clerk of Petty Sessions, a Commissioner for taking Affidavits, a Commissioner for Declarations, a school teacher or a minister of religion, a declaration in the form prescribed.

Officers to
observe
secretary.

(2.) Any person who acts in the execution of any duty under this Act or the regulations before he has made the prescribed declaration or who after making the declaration makes a record of or divulges any information relating to the affairs of a person except in the performance of any duty under this Act shall be guilty of an offence.

Penalty : Two hundred and fifty pounds.

(3.) Any person who has been an officer or has performed any duty under this Act, and who communicates any information acquired by him in the performance of any duty under this Act or the regulations thereunder to any person, other than a person to whom he is authorized by the Commissioner, Second Commissioner or a Deputy Commissioner to communicate it, shall be guilty of an offence.

Penalty : Two hundred and fifty pounds.

(4.) Notwithstanding anything contained in this section, the Commissioner, the Second Commissioner or a Deputy Commissioner may communicate any matter, which comes to his knowledge in the performance of his official duties, to a Board of Review appointed under this Act or to the Commissioner of Income Tax for any State, or the officer or authority administering any Act of a State relating to Stamp Duties or Succession Duties (who is authorized by law to afford similar information to the Commissioner, the Second Commissioner or a Deputy Commissioner) or, with the approval of the Minister, to any other authority of a State or to the Comptroller-General of Customs or to the Secretary of the Department of Commerce :

Provided that, where any matter is communicated to a Board of Review in pursuance of this section, and that matter consists of returns, or information derived from returns, of a taxpayer other than the taxpayer whose assessment is under review in the review in the course of which the communication is made, the members of the Board shall be subject to the same obligation as is imposed by sub-section (3.) of this section upon a person who has been an officer under this Act.

(5.) An officer 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 duties under this Act except as may be necessary for the purpose of carrying into effect the provisions of this Act.

PART III.—LIABILITY TO TAXATION.

10. Subject to and in accordance with the provisions of this Act, the flour tax imposed by the *Flour Tax Act (No. 1) 1934* shall be levied and paid upon all flour manufactured in Australia by any person, not being flour chargeable with tax under section eleven of this Act, and—

- (a) sold by him on or after the seventh day of January, One thousand nine hundred and thirty-five, and prior to the seventh day of January, One thousand nine hundred and thirty-six ;
- (b) sold by him before the seventh day of January, One thousand nine hundred and thirty-five, and delivered by him on or after that date, and prior to the seventh day of January, One thousand nine hundred and thirty-six ; or
- (c) used by him on or after the seventh day of January, One thousand nine hundred and thirty-five, and prior to the seventh day of January, One thousand nine hundred and thirty-six, in the manufacture of goods.

11. Subject to and in accordance with the provisions of this Act, the flour tax imposed by the *Flour Tax Act (No. 2) 1934* shall be levied and paid upon all flour, to the extent that it exceeds one thousand pounds in weight, held in stock on the seventh day of January, One thousand nine hundred and thirty-five by any person, not being the manufacturer of that flour.

Tax on flour
sold, delivered
or used by
manufacturers.

Tax on flour
held in stock
on 7th January,
1935.

12. Subject to and in accordance with the provisions of this Act the flour tax imposed by the *Flour Tax Act (No. 3) 1934* shall be levied and paid upon flour, and upon the goods specified in the Schedule to that Act, imported into Australia, and, on or after the seventh day of January, One thousand nine hundred and thirty-five and prior to the seventh day of January, One thousand nine hundred and thirty-six entered for home consumption under the law relating to the Customs.

Tax on imported flour and flour content of imported goods.

13.—(1.) The flour tax imposed by the *Flour Tax Act (No. 1) 1934* shall be paid by the manufacturer of flour to which section ten of this Act applies.

Persons chargeable with tax.

(2.) The flour tax imposed by the *Flour Tax Act (No. 2) 1934* shall be paid by the person holding flour in stock as specified in section eleven of this Act.

(3.) The flour tax imposed by the *Flour Tax Act (No. 3) 1934* shall be paid by the importer of the flour or the goods to which section twelve of this Act applies.

14.—(1.) Notwithstanding anything contained in this Part, the flour tax imposed by the *Flour Tax Act (No. 1) 1934*, or the *Flour Tax Act (No. 2) 1934*, shall not be payable by any person in respect of—

Exemptions.

- (a) bran or pollard held or sold by him if the Commissioner is satisfied that it is unsuitable for use as food for human consumption ;
- (b) self-raising flour manufactured and sold by him if he has purchased the flour used in the manufacture of the self-raising flour at a price which includes the tax paid or payable in respect of the flour so used or if he has paid, or is liable to pay, tax on the flour so used ;
- (c) flour which is held by or sold to a person who manufactures cornflour and in respect of which the Commissioner is satisfied that the flour will be used in the manufacture of cornflour ;
- (d) semolina (in the granular form in which it is ordinarily used as a breakfast food) which is—
 - (i) sold ;
 - (ii) held ; or
 - (iii) held for sale,

for use as, or in the manufacture of, a breakfast food, and with which sharps or the ordinary white flour of commerce has not been mixed and in respect of which the Commissioner is satisfied that the semolina will be so used ;

- (e) meal which is made from wheat and with which sharps or the ordinary white flour of commerce has not been mixed and which is—
 - (i) sold ;
 - (ii) held ; or
 - (iii) held for sale,

for use as, or in the manufacture of, a breakfast food or a food for animals, poultry or birds, and being meal in respect of which the Commissioner is satisfied that it will be so used ;

- (f) flour sold by him for export by the purchaser from him or exported by him for sale after export, or held by him for export or for sale for export ;
- (g) flour sold or delivered by him to any person in the Northern Territory for consumption therein ;
- (h) flour held in stock by him in the Northern Territory for consumption therein ;
- (i) flour which is held or sold by him for use in the manufacture of goods (including meat products but not including other foods for human or animal consumption), or which is held by him for sale for such use and in respect of which the Commissioner is satisfied that the flour will be so used ;
- (j) flour held by a public charitable institution for its own use ; or
- (k) flour which is—
 - (i) sold ;
 - (ii) held ; or
 - (iii) held for sale,

for use as, or in the manufacture of, any food for infants or invalids (being a food specified in the Third Schedule of the Sales Tax Regulations as in force from time to time), and in respect of which the Commissioner is satisfied that the flour will be so used.

(2.) Where, pursuant to paragraph (c), (d), (e), (f), (i) or (k) of the last preceding sub-section, tax is not payable in respect of any flour sold or delivered to, or held by, any person the Commissioner may require that person, or the person who sold or delivered the flour, to give security, to the satisfaction of the Commissioner, that the flour will be used or exported as specified in that paragraph and the security may be in relation to any particular date or period, or transaction or series of transactions.

PART IV.—RETURNS.

15. Every person by whom flour is manufactured in Australia and who during any month makes any of the sales or deliveries specified in section ten of this Act, or uses any flour as specified in that section, shall, within twenty-one days after the close of that month, furnish to the Commissioner in the prescribed form a return of those sales or deliveries or of the flour so used setting forth such information as is prescribed or as is required for the due completion of that form.

16. Every person by whom flour is held in stock, as specified in section eleven of this Act, on the seventh day of January, One thousand nine hundred and thirty-five, shall, on or before the tenth day of January, One thousand nine hundred and thirty-five, furnish to the Commissioner, in a form authorized by him, a return of all flour so held by that person, and setting forth such information as is prescribed or as is required for the due completion of that form or as is otherwise required by the Commissioner.

Returns by
flour
manufacturers.

Returns of
flour held in
stock on 7th
January, 1935.

17. Every person who imports goods upon which tax is chargeable under section twelve of this Act shall at the time of the entry of the goods for home consumption under the law relating to the Customs lodge, for the purposes of this Act, with the Collector of Customs at the port of importation, a return in the prescribed form stating the nature and quantity of those goods and such other information as is prescribed or as is required for the due completion of the return.

Returns by
importers.

18. In addition to any return that may have been required under any of the preceding sections of this Part the Commissioner may, by notice in writing, call upon any person to furnish to him, within the time specified in the notice, such return, or such further or fuller return, as the Commissioner requires, whether on that person's own behalf or as an agent or a trustee.

Further
returns.

19.—(1.) The Commissioner may, by notice in writing, require any person, whether a taxpayer or not—

Commissioner
to obtain
information
and evidence.

(a) to furnish him with such information as he requires ; or

(b) to attend and give evidence before him or before any officer authorized by him in that behalf,

for the purpose of inquiring into or ascertaining his or any other person's liability under any of the provisions of this Act, and may require him to produce all books, documents and other papers whatsoever in his custody or under his control relating thereto.

(2.) The Commissioner may require the information or evidence to be given on oath, and either verbally or in writing, and for that purpose he or the officer so authorized 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.

PART V.—COLLECTION AND RECOVERY OF TAX.

20.—(1.) Subject to this Act, every person liable to pay tax under the provisions of this Act shall pay the tax within the time within which he is required by this Act to lodge the return in respect of the flour upon which the tax is payable.

Time for
payment of
tax.

(2.) Where the amount of tax payable by any person under section eleven of this Act upon flour held in stock by him on the seventh day of January, One thousand nine hundred and thirty-five, exceeds Five pounds, the amount of tax may be paid—

(a) where twenty per centum of the amount of tax exceeds Five pounds—by equal monthly instalments of twenty per centum of the amount of tax ; and

(b) in any other case—by equal monthly instalments of Five pounds (except where the unpaid balance of the tax is less than Five pounds, in which case the instalment shall be the amount of that balance),

the first of such instalments being payable on or before the tenth day of January, One thousand nine hundred and thirty-five, and an instalment being payable on or before the twenty-first day of each succeeding month until the amount of tax is paid in full.

Time for
payment of tax
upon imports.

21. Subject to this Act, every person liable under section twelve of this Act to pay tax upon flour or other goods imported by him shall, in respect of flour, and in respect of other goods as to which he states in the return lodged in pursuance of section seventeen of this Act the quantity of flour used in the manufacture of the goods, pay the tax at the time of the entry of the flour or the goods for home consumption under the law relating to the Customs.

Ascertainment
of flour used in
manufacture of
imported goods.

22.—(1.) Where the importer of any goods specified in the Schedule to the *Flour Tax Act (No. 3) 1934*—

- (a) does not state in the return in respect of those goods lodged in pursuance of section seventeen of this Act, the quantity of flour used in the manufacture of those goods ; or
- (b) states in the return so lodged a quantity of flour which in the opinion of the Commissioner is not true and correct,

the Commissioner may determine the quantity of flour which in his opinion has been used in the manufacture of those goods and the quantity so determined shall for the purposes of this Act be deemed to be the quantity of flour so used and the Commissioner shall, as soon as conveniently may be, notify the taxpayer of the quantity so determined and of the amount of tax, or, as the case may be, the amount of further tax, chargeable under this Act upon those goods.

(2.) Any amount of tax or further tax specified in any notice under this section together with any other amount which may be payable in accordance with any other provision of this Act, shall be payable on or before the date specified in the notice.

Assessment of
tax or further
tax.

23.—(1.) Where the Commissioner finds in any case (not being a case to which the last preceding section applies) that tax or further tax is payable by any person, the Commissioner may assess the amount of tax which should be or should have been paid.

(2.) Where—

- (a) any person makes default in furnishing any return ; or
- (b) the Commissioner is not satisfied with the return made by any person ; or
- (c) the Commissioner has reason to believe or suspect that any person (though he may not have furnished any return) is liable to pay tax,

the Commissioner may cause an assessment to be made of the amount of tax which, in his judgment, ought to be levied, and the person shall be liable to tax accordingly, excepting so far as he establishes on objection that the assessment is excessive.

(3.) As soon as conveniently may be after an assessment is made under this section, the Commissioner shall cause notice in writing of the assessment and of the tax or further tax payable in accordance with the assessment to be given to the person liable to pay the tax or further tax.

(4.) The amount of tax or further tax specified in the notice shall be payable on or before the date specified in the notice, together with any other amount which may be payable in accordance with any other provision of this Act.

(5.) The omission to give any such notice shall not invalidate the assessment made by the Commissioner.

24.—(1.) Where the Commissioner finds in any case that tax has been overpaid and is satisfied that the tax has not been passed on by the taxpayer to some other person, or, if passed on to some other person, has been refunded to that person by the taxpayer, the Commissioner may refund the amount of tax found to be overpaid : Refunds of tax.

Provided that no refund of tax shall be made under this sub-section after the seventh day of July, One thousand nine hundred and thirty-six unless the Commissioner so finds or is satisfied—

(a) before that date ; or

(b) after that date upon consideration of a claim made before that date.

(2.) Where any person who has paid tax upon any flour or goods, or has purchased any flour or goods at a price which includes the tax paid or payable on that flour or those goods, and that person—

(i) sells that flour or those goods, or goods manufactured from that flour, at a price which does not include that tax, for export by the purchaser from him ; or

(ii) exports that flour or those goods, or goods so manufactured from that flour,

the Commissioner may refund or pay to that person the amount of tax paid or payable.

(3.) A refund, under the last preceding sub-section, of tax in respect of goods, manufactured from flour upon which tax has been paid or is payable under this Act, and exported or sold for export, shall not be made to a taxpayer unless he furnishes to the Commissioner such returns and other information, certified in such manner as the Commissioner requires, as will enable the Commissioner to determine the quantity and identity of stocks of goods in the manufacture of which flour has been used, and which—

(a) are of a class or kind exported by that taxpayer or sold by him for export by the purchaser from him ; and

(b) were held by the taxpayer at midnight on the sixth day of January, One thousand nine hundred and thirty-five.

(4.) All sales and exports of goods in the manufacture of which flour has been used and which are of the class or kind specified in the last preceding sub-section, made on or after the seventh day of January, One thousand nine hundred and thirty-five, by a taxpayer to whom sub-section (2.) of this section applies, shall for the purposes of sub-section (2.) of this section be deemed to have been made first out of the stocks (if any) which the Commissioner determines were held by the taxpayer at the time specified in the last preceding sub-section.

(5.) Where a vendor has paid tax under this Act in respect of the sale, or of the delivery in pursuance of a contract of sale, of any flour, and the whole or any part of the amount for which the flour was sold has actually been written off by the vendor as a bad debt, the Commissioner may, to the extent to which it is proved to his satisfaction that the debt is a bad debt, refund so much of the tax as bears to the tax the same proportion as the amount so proved to be a bad debt bears to the total amount (including tax) for which the flour was sold :

Provided that, if the whole or any part of any amount in respect of which tax has been so refunded is at any time recovered by the taxpayer, he shall, within seven days from that time, notify the Commissioner accordingly and repay to the Commissioner so much of the tax refunded as bears to the total amount of that tax the proportion which the amount so recovered bears to the amount in respect of which tax was so refunded.

(6.) Where any flour in respect of which tax has been paid under this Act, or any goods manufactured from flour in respect of which tax has been so paid, is or are sold to a public charitable institution at a price which in the opinion of the Commissioner includes an amount in respect of the tax so paid, and the Commissioner is satisfied that the institution has made full payment for those goods, the Commissioner may refund to the institution the amount in respect of the tax so paid which, in his opinion, was included in the price of the flour or of those goods.

(7.) Subject to this section, the Commissioner shall pay to any person who, at the close of business on the sixth day of January, One thousand nine hundred and thirty-six, holds stocks of flour which is chargeable with tax under this Act, an amount which represents the tax so chargeable upon the quantity of that flour in excess of one thousand pounds in weight.

(8.) A payment shall not be made to any person under the last preceding sub-section unless the Commissioner is satisfied that that person has paid the tax chargeable under this Act in respect of the flour held in stock by him, or has purchased it at a price which includes the tax so chargeable and, in the latter case, has wholly or partly paid the purchase price of the flour :

Provided that where the flour held in stock by that person has been purchased at a price which includes the tax so chargeable and the purchase price of the flour has not been wholly paid to the vendor, the Commissioner shall pay to the purchaser only the amount which represents so much of the tax chargeable as bears to that tax the same proportion as the amount paid by him bears to the purchase price.

For the purposes of sub-section (7.) of this section and of this sub-section—

- (i) the tax chargeable under this Act upon flour used in the manufacture of self-raising flour shall be deemed to be tax chargeable on that self-raising flour; and
- (ii) flour sold to any person and delivered to him after the close of business, on the sixth day of January, One thousand nine hundred and thirty-six, shall be deemed to be flour held by that person at the close of business on that day.

(9.) Where the Commissioner is satisfied that flour has been purchased for consumption in the Northern Territory at a price which includes tax paid or payable in respect of the flour, and that the flour so purchased has been, or will be, consumed in the Northern Territory, he may pay to the purchaser an amount equal to the tax so paid or payable.

(10.) Where any person has paid tax on flour held in stock by him and the Commissioner is satisfied that the flour has been consumed in the Northern Territory, the Commissioner may refund to that person the amount of tax so paid by him.

(11.) Where any person has paid tax under this Act upon any flour in respect of which the Commissioner is satisfied that tax has previously been paid under this Act, the Commissioner may refund to that person the amount of tax so paid by him.

(12.) Where any person is liable to pay any pecuniary penalty incurred by him under this Act, the Commissioner may appropriate to the payment of that penalty, out of any sum payable under this section to that person, an amount equivalent to the amount of the penalty, or, where that sum is less than the amount of that penalty, the whole of that sum, and that appropriation shall be deemed to be payment, in whole or part, as the case may be, of the penalty.

PART VI.—APPLICATION OF SALES TAX ASSESSMENT ACT (No. 1) 1930-1934.

25.—(1.) The following sections and Parts of the *Sales Tax Assessment Act (No. 1) 1930-1934* (as in force at the date of the commencement of this Act, and in this section referred to as "the applied Act"), viz., sections twenty-seven to thirty-nine inclusive, and Parts VII. (except section forty-four), VIII. and IX., and sections sixty-eight, sixty-nine, seventy, seventy-one and seventy-two and the Second Schedule, shall *mutatis mutandis* apply in relation to the imposition, assessment and collection of the tax chargeable under

Application of
provisions of
Sales Tax
Assessment Act
(No. 1) 1930-
1934.

this Act in like manner as they apply in relation to the imposition, assessment and collection of the tax chargeable under that Act, but for the purposes of this Act—

- (a) Section twenty-nine of the applied Act shall be read as if the references to the time specified in section twenty-four or twenty-five of that Act were references to the time specified in section twenty, twenty-two or twenty-three of this Act ;
- (b) Section thirty-five of the applied Act shall be read—
- (i) as if the reference therein to Part V. of that Act were a reference to Part IV. of this Act ; and
 - (ii) as if the words “ tax which in his judgment ought to be charged ” were substituted for the words “ sale value on which, in his judgment, tax ought to be charged ” ;
- (c) Section thirty-seven of the applied Act shall be read as if the words “ in respect of any flour ” were substituted for the words “ in respect of the sale value of any goods ” and as if the words “ the flour ” were substituted for the words “ those goods ” ;
- (d) Section forty-one of the applied Act shall be read as if the following sub-section were substituted for sub-section (1.) :—
- “ (1.) A taxpayer who is dissatisfied with any assessment, determination or decision made by the Commissioner under this Act whereby the taxpayer is required to pay tax or further tax, may, within forty-two days after the first day upon which he is so required to pay the tax or further tax, post to or lodge with the Commissioner an objection in writing against that assessment, determination or decision stating fully and in detail the grounds on which he relies.” ;
- (e) Section forty-two of the applied Act shall be read as if the following sub-sections were substituted for sub-sections (3.) and (4.) thereof :—
- “ (3.) If the tax has been reduced by the Commissioner after considering the objection, the reduced tax shall be that to be dealt with by the Board under the next succeeding sub-section.
- “ (4.) The Board, on review, shall give a decision and may either confirm, reduce or increase the amount of tax.” ;
- (f) Section forty-three of the applied Act shall be read as if the words “ of tax ” were substituted for the words “ or sale value ”, and as if the words “ or value ” were omitted ;

- (g) Section forty-six of the applied Act shall be read—
- (i) as if the words “flour in respect of which tax is chargeable under this Act in any return, or includes those particulars in a column of the return provided for particulars of flour in respect of which tax is not payable,” were substituted for the words “goods the sale value of which is subject to tax under this Act in any return, or includes those particulars in a column of the return provided for particulars of goods in respect of which sales tax is not payable”; and
 - (ii) as if the words “for which he is otherwise liable under this Act” were substituted for the words “assessable to him”;
- (h) Section forty-eight of the applied Act shall be read as if the words “quantity of flour in respect of which tax is payable or the quantity of flour used in the manufacture of goods in respect of which tax is payable” were substituted for the words “amount of the sale value of any goods”;
- (i) Section fifty of the applied Act shall be read as if the words “section twelve, fifteen or” were omitted;
- (j) Section sixty-nine of the applied Act shall be read as if—
- (i) the words “flour or of any” were inserted before the word “transaction” and the words “flour in respect of which tax is payable” were substituted for the words “goods the sale value of which is subject to tax”, in paragraph (a) of sub-section (1.) of that section;
 - (ii) the words “flour or of any such” were inserted before the word “transaction” and the words “in respect of that flour” were substituted for the words “on such sale value”, in paragraph (b) of that sub-section;
 - (iii) the words “that flour” were substituted for the words “such sale value” in paragraph (e) of that sub-section;
 - (iv) the words “that flour” were substituted for the words “such sale value” in paragraph (f) of that sub-section; and
 - (v) sub-section (2.) were omitted;
- (k) Section seventy of the applied Act shall be read as if the words “flour in respect of which tax is payable” were substituted for the words “goods the sale value of which is subject to tax”;
- (l) Section seventy-one of the applied Act shall be read as if there were added at the end thereof the words “and may inspect stocks of flour held by any person”; and

- (m) Any reference in any section or Part applied by this section in relation to the imposition, assessment and collection of the tax chargeable under this Act, to regulations under the applied Act shall be read as a reference to regulations under this Act.

(2.) In this section, unless the contrary intention appears, "flour" includes goods specified in the Schedule to the *Flour Tax Act (No. 3) 1934*.

PART VII.—MISCELLANEOUS.

Alteration of contracts or agreements in consequence of imposition of tax.

26. Where before the seventh day of January, One thousand nine hundred and thirty-five, a sale or an agreement for the sale of flour or of goods in the manufacture of which flour is used, has been made and tax is payable under this Act in respect of that flour or of the flour so used, then, unless the contract of sale or agreement for sale contains express written provision that the price at which the flour or goods shall be sold shall not be altered on account of any tax which might be imposed by or under any law of the Commonwealth upon or in respect of the flour so sold or used or it is clear from the terms of the contract or agreement that such tax has been taken into account in the agreed price of the flour or goods, the vendor may add to the agreed price an amount equivalent to the tax in respect of the flour so sold or used, and the contract or agreement shall be deemed to be altered accordingly.

Tax to be specified in invoice.

27.—(1.) In the case of any sale or delivery of flour by a vendor by reason whereof he becomes liable to pay tax he shall state upon the invoice or other account delivered by him to the purchaser in respect of the flour the amount of tax payable in respect of that flour.

Penalty : One hundred pounds.

(2.) The vendor shall have the same right to recover from the purchaser the amount of tax payable by him and stated upon the invoice or other account as he has to recover the price or other payment for or in respect of the flour.

False pretence as to tax an offence.

28.—(1.) Any person not liable to pay tax under this Act in respect of any flour shall not, upon the sale or offer for sale of that flour, demand or receive or seek to receive sums of money (whether included in larger sums or not) upon the pretence that those sums are chargeable to, and payable by, him as tax under this Act.

Penalty : One hundred pounds.

(2.) Any person who—

- (a) has paid or is liable to pay an amount of tax in respect of any flour ; or
- (b) has purchased flour at a price which includes an amount in respect of the tax payable by the vendor,

shall not, upon the sale or offer for sale of that flour demand or receive or seek to receive any sum of money (whether included in a larger sum or not) in excess of that amount upon the pretence that that sum has been paid or is payable by him as tax, or has been included in respect of tax in the price paid by him for the flour.

Penalty : One hundred pounds.

(3.) For the purposes of this section, "flour" includes goods specified in the Schedule to the *Flour Tax Act (No. 3) 1934*.

29. Any person who purchases flour at such a price or on such terms or under such conditions as would reasonably lead to the belief that the vendor of the flour had not paid or does not intend to pay the tax chargeable under this Act on the flour, shall be guilty of an offence.

Purchase of flour in which tax is evaded.

Penalty : Five hundred pounds or imprisonment for six months or both.

30.—(1.) Every taxpayer shall, for the purposes of this Act, keep proper books or accounts, including all copies of invoices, and all vouchers, relating to his business, and shall preserve those books or accounts for a period of not less than three years after the completion of the transactions, acts or operations to which they relate.

Books, accounts, &c., to be preserved.

Penalty : One hundred pounds.

(2.) This section shall not apply so as to require the preservation of any books, accounts or documents—

- (a) in respect of which the Commissioner has notified the taxpayer that such preservation is not required ; or
- (b) of a company which has gone into liquidation and which has been finally dissolved.

31. The Commissioner may make such arrangements as are in his opinion necessary to obtain the services of Commonwealth Officers and other persons in connexion with the administration of this Act.

Arrangement for services of officers.

32. Where by virtue of section eleven of this Act, tax is not payable upon a quantity of one thousand pounds in weight or a smaller quantity of flour, that quantity shall be deemed to be used, sold or disposed of by the person who held that quantity on the seventh day of January, One thousand nine hundred and thirty-five, before he used, sold or disposed of any other flour.

Exempt flour deemed first disposed of.

33. The Governor-General 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 carrying out or giving effect to this Act, and in particular, for prescribing penalties not less than One pound nor more than Twenty pounds for any breach of the regulations.

Regulations.