



ANNO OCTAVO

# EDWARDI VII REGIS.

A.D. 1908.

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## No. 969.

An Act to amend the Taxation Acts, and for other purposes.

[*Assented to, December 23rd, 1908.*]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**1.** This Act may be cited as "The Taxation Act Amendment Act, 1908," and shall be read and incorporated with the "Taxation Act, 1884," and the Acts amending the same. Short title and incorporation.

**2.** The following provisions of the "Taxation Act, 1884" are hereby repealed, namely:—Section 70, the definitions of the terms "income derived from personal exertion," "income consisting of the produce of property," "actual value" and "unimproved value" contained in section 2 and subsection x. of section 12 and section 12 and subsection 3 (b) of section 17 of "The Taxation Act Amendment Act, 1904," and also sections 2, 4, and 5 of "The Taxation Act Amendment Act, 1905." Repeal.

**3.** Taxes on income are hereby imposed at the following rates:— Rates of Income Tax.

(a) On all income derived from personal exertion at the rate of Four Pence and One Halfpenny for every Pound sterling of the taxable amount thereof up to and inclusive of the sum of Eight Hundred Pounds, and at the rate of Seven Pence for every Pound sterling of such amount above the sum of Eight Hundred Pounds:

(b) On

*The Taxation Act Amendment Act.—1908.*

Act No. 894 of 1905,  
altered.

(b) On all income consisting of the produce of property at the rate of Nine Pence for every Pound sterling of the taxable amount thereof up to and inclusive of the sum of Eight Hundred Pounds, and at the rate of Thirteen Pence and One Half-penny for every Pound sterling of such amount above the sum of Eight Hundred Pounds.

Persons absent for  
twelve months not  
entitled to exemption

4. No person who shall have been out of South Australia for the twelve consecutive months covered by the period under assessment shall be entitled to any deduction by way of exemption from income tax: Provided that no officer of or person employed by the State of South Australia whilst so employed out of the State shall be deemed to be an absentee under the provisions of this Act or any other Taxation Act.

“Income consisting of  
the produce of  
property.”

5. “Income consisting of the produce of property” shall mean and include all rents, fines and premiums payable on the granting or the renewal of leases, interest, and annuities, with the following exceptions, namely:—Interest derived from any Bonds, Inscribed Stock, Treasury Bills, or other securities of the Government of the State of South Australia, which interest is hereby declared to be exempt from all taxation, and shall, under all circumstances whatsoever, anything to the contrary heretofore enacted notwithstanding, be excluded from the taxable amount of income of every taxpayer.

“Income derived  
from personal  
exertion.”

6. “Income derived from personal exertion” shall include every kind of profit and every kind of gain, whether arising in the course of business or otherwise howsoever, except gifts, legacies, and bequests, and shall also include all salaries, wages, allowances, pensions, or stipends, with the exception of “income consisting of the produce of property.”

Goodwill to be  
included in computing  
income.

7. Any amount payable and the value of any property or shares taken by way of goodwill upon the sale or transfer of any business shall be included in computing income from personal exertion. And if upon a *bona fide* sale of any business a loss shall have been incurred, such loss shall be allowed against any “income from personal exertion” of such taxpayer in the year in which such business shall be sold.

Income from life  
assurance.

8. In actuarially computing profits and surplus from life assurance, under subsection 3 (a) of section 17 of “The Taxation Act Amendment Act, 1904,” all rents, interests, and other profits and earnings, including interest chargeable by any company on overdue premiums, shall be included: Provided always, that interest derived from any Bonds, Inscribed Stock, Treasury Bills, or other securities of the Government of the State of South Australia, which interest is by section 5 of this Act declared to be exempt from all taxation, shall be excluded from the actuarial computation.

*The Taxation Act Amendment Act.—1908.*

**9.** In the case of the income of a taxpayer being a company carrying on business other than life assurance in the said State, and also elsewhere, the taxable amount of income shall be ascertained as follows:—

Companies carrying on business in South Australia and elsewhere.

- (a) Where the amount of income arising or accruing in or derived from South Australia is capable of being kept separate and apart from income arising or accruing in or derived from elsewhere, the amount of income arising or accruing in or derived from South Australia shall be the taxable amount:
- (b) Where such first-mentioned income is income not capable of being kept separate and apart, the public officer of the company shall furnish a return to the Commissioner with a statement of account in a prescribed form showing a true estimate of the amount of income which shall have arisen or accrued in or been derived from South Australia and the method by which such estimate has been ascertained. The Commissioner may accept such estimate or make an assessment against the company for such amount as he shall deem fit, which assessment shall be open to appeal.

**10.** In the case of every party being a carrier by sea who shall not reside in South Australia, or being a company, shall not be registered in South Australia, and who or which shall carry passengers or goods to or from South Australia, the net taxable income of such carrier in the business of a carrier by sea, shall be calculated and assessed at the rate of Five Pounds upon every Hundred Pounds of the gross moneys paid or payable to or receivable by such carrier, whether in South Australia or elsewhere, for the carriage of passengers, mails, or goods out of any port in South Australia, whether to some other port in South Australia or to some other place.

Income from foreign shipping.

**11.** If the account shall be the account of a taxpayer in his sole individual right, Two Hundred Pounds shall be deducted from the net amount of income the produce of property, but if such income shall not amount to Two Hundred Pounds the difference shall be deducted from the income derived from personal exertion, and any net loss in the production of either income shall be deducted from the net amount of the other income.

Increase of exemption to £200.

**12.** In lieu of section 11 of Act No. 604 of 1894, it is hereby enacted that if any taxpayer shall prove to the satisfaction of the Commissioner that an overpayment of any tax has been made the sum overpaid shall be refunded by the Treasurer: Provided that application for refund shall be made within twelve calendar months after the overpayment.

Refund of overpaid taxes.

**13.** "Unimproved value" of any land shall be deemed to be the capital amount for which the fee simple of such land might be expected to sell if free from encumbrances, assuming the actual improvements

Definition of "unimproved value."

*The Taxation Act Amendment Act.—1908.*

improvements (if any) thereon had not been made: Provided that "improvements" shall be deemed to be houses and buildings, fixtures, or other building improvements of any kind whatsoever, fences, bridges, roads, tanks, wells, dams, fruit trees, bushes, shrubs, or other plants, whether planted or sown for trade or other purposes, draining of land, ringbarking, clearing from timber or scrub, and any other visible improvements the benefit of which is unexhausted at the time of valuation.

Muniments of title to land transferred to Commissioner.

Cf. Act 909, 1906, sec. 14.

**14.** Notwithstanding anything contained in "The Real Property Act, 1886," it shall be lawful for the Commissioner of Taxes, as regards all lands heretofore transferred or conveyed, or which shall hereafter be transferred or conveyed to him under the provisions of section 8 of "The Taxation Act Amendment Act, 1902," from time to time to forward the grant, certificate, or other muniment or muniments of title to all or any of such lands to the Registrar-General for the said State, or other proper officer, and to request the said Registrar-General or such other officer, in writing, to forthwith cancel such grant, certificate, or other muniment or muniments of title.

Muniments to be cancelled.

Cf. *ibid*, sec. 15.

**15.** The said Registrar-General, or such other officer as aforesaid, shall thereupon cancel such grant, certificate, or other muniment or muniments of title by indorsing thereon and in the register book the words "Cancelled, the within land having been acquired by the Crown," and shall sign such indorsement; and thereafter all such lands shall, for the purposes of "The Real Property Act, 1886," be dealt with and regarded in all respects as if they had never been theretofore alienated from the Crown.

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

GEORGE R. LE HUNTE, Governor.

# THE LICENSING ACT, 1908

(No. 970 of 1908).

## ARRANGEMENT OF SECTIONS.

SECTION.

### PART I.—PRELIMINARY.

1. Short title.
2. Division of Act.
3. Repeal.
4. Interpretation.

### PART II.—LICENSING DISTRICTS AND BENCHES AND MEETINGS.

5. Licensing districts may be proclaimed, benches appointed, and meetings fixed.
6. Date of meeting may be altered in certain cases.
7. Adjournment of bench when no quorum.
8. Bench to appoint chairman.
9. Disqualification of certain Justices.
10. Dates of annual and quarterly meetings; special meetings for forfeiture of licences.

### PART III.—CLASSES OF LICENCES, AND HOW GRANTED, RENEWED, TRANSFERRED, TRANSMITTED, REMOVED, AND FORFEITED.

#### DIVISION I.—LICENCE REQUIRED FOR SALE OF LIQUOR.

11. No liquor to be sold in quantities of less than 5galls., or billiard or bagatelle table to be kept, without a licence.
12. Who disqualified from holding licences.
13. Exceptions to application of Act; limitation of application of Act.
14. Modification of Railway Refreshment-rooms Act.

#### DIVISION II.—CLASSES OF LICENCES AND FEES.

15. Nature of licences.
16. Publican's licence and annual fee.
17. Storekeeper's licence and annual fee.
18. Wine licence and annual fee.
19. Storekeeper's Australian wine licence and annual fee.
20. Licensee under storekeeper's or storekeeper's Australian wine licence not to hold wine licence.
21. Packet licence and annual fee.
22. Registration of club.
23. Brewer's colonial ale licence and annual fee.  
Holder of such licence not to hold wine licence or storekeeper's licence.  
Provisions applicable to brewer's colonial ale licences.
24. Distiller's storekeeper's licence and annual fee.  
Holder of distiller's licence not to hold storekeeper's or wine licence.  
Provisions applicable to distiller's storekeeper's licences.
25. Billiard-table licence and annual fee.
26. Increase of fees consequent upon local option reduction.
27. Fees to be paid to Treasurer.

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28. Licences to take effect from date of issue.
29. Licences for part of the year.

#### DIVISION III.—APPLICATIONS FOR LICENCES, MEMORIALS, AND OBJECTIONS.

30. Application for licences, other than packet licences, to be made to bench.
31. Packet licence to be granted by Treasurer.
32. Application for publican's or wine licence for new premises to be commenced by deposit of plans and notice.
33. Bench to grant or refuse licence, or to decide whether licence will be granted to premises erected in accordance with plans.
34. Application for other licences.
35. Memorial against new licence.
36. Memorial and copy for service to be lodged.
37. Certified list of electors to be evidence.
38. Where licence refused by reason of memorial no licence to be subsequently issued except on memorial by majority of electors.
39. Manner of application by new applicant for licence in respect of previously licensed premises.
40. Untrue certificate.
41. Manner of application for renewal of any licence.
42. Notice of application to Commissioner of Police and inspector.
43. Notice to be given of time for making objections.
44. Proceedings on consideration of application to be public.
45. Personal attendance for renewal or transfer of licence not requisite unless notice of objection given.
46. Notice of objection to be served.
47. Objections to licences and renewals.
48. Clerk of bench to sign licences. Treasurer or officer appointed by him to issue same.
49. Until fee paid person entitled to licence deemed unlicensed. If not paid within two months, licence void.
50. List of licences issued and notice of non-payment of fees to be published in *Gazette*.

#### DIVISION IV.—TRANSFER OF LICENCES.

51. Transfer of licences.
52. Nature of objections to transfers.
53. Bench may transfer licence.

#### DIVISION V.—TRANSMISSION OF LICENCES.

54. Transmission of licences in certain events by certificate of Special Magistrate or two Justices.

#### DIVISION VI.—REMOVAL OF LICENCES.

55. Removal of licence to other premises.
56. Nature of objections to removal of licence.
57. Mode of removal of licence from one house to another.

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## DIVISION VII.—PROCEDURE ON HEARING OF APPLICATION.

58. Proceedings on application for transfer or removal same as on application for licence.
59. Discretion of bench as to all applications. Need not state grounds for decision. No compensation on non-renewal of licence.
60. Witnesses may be summoned.
61. Applicant may be required to give evidence.
62. Costs may be given against unsuccessful objector.
63. Special permits to carry on licensed premises.

## DIVISION VIII.—SPECIAL AUTHORITIES TO SELL LIQUOR.

64. Five days' certificates may be granted in cases of fairs and certain other occasions.
65. Packet certificates.
66. Certificates to be gazetted.
67. Provision for carrying on business during absence of licensed person.
68. Certificates to sell liquor on goldfields, and renewals thereof.

## DIVISION IX.—FORFEITURE OF LICENCES.

69. Licences, how absolutely forfeited.
70. Licence may be forfeited if holder twice, and shall be if thrice, convicted within two or three years.
71. Offence of transferor who transfers to wife, and *vice versa*, to be deemed offence of transferee as regards liability to forfeiture.
72. Forfeiture not a waiver of penalty.
73. Forfeiture for not depositing fresh plan of premises.
74. Landlord in case of forfeiture of licence may be authorised to carry on business.

## DIVISION X.—GENERAL.

75. Incorporated company may hold publican's licence. Manager of licensed premises to be approved by the bench. Manager deemed to be licensee. Company liable for fines and penalties.
76. No publican's or wine licence to be held by a woman, except in certain cases.
77. Costs may be ordered.
78. Clerk of Court in which forfeiture ordered to forward particulars to Clerk of Adelaide Bench.
79. Clerks of benches to publish particulars of applications and of forfeitures and certificates. Clerk of Adelaide Bench to keep record of applications.
80. Provision for issuing duplicate of lost licence.
81. Power of benches to make rules and regulations.

## DIVISION XI.—CLUBS.

82. Existing licences.
83. No liquor to be sold or supplied in club unless registered, nor except to a member.
84. No club registered unless Act complied with.
85. Provisions required in rules of club.
86. Manner of application for registration.
87. Application for renewal.
88. Notice of application to Commissioner of Police and inspector.
89. Inspection of club premises when application made.
90. Notice to be given of time for making objections.
91. Personal attendance of applicant required in certain cases.
92. Proceedings on consideration of application. Bench need not state grounds for decision. No compensation for non-renewal.
93. Objections to grant or renewal of registration.
94. Who may take objections.
95. Notice of objection.
96. Bench may grant certificate of registration.

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97. Annual fee for club.
98. Club unregistered until certificate actually issued.
99. Notice to be given of change of steward or manager and certified copy of amendments or alteration of rules to be forwarded within fourteen days.
100. Upon complaint, certificate of registration may be cancelled.
101. Certificate to be produced for indorsement of convictions, and upon hearing of complaint for forfeiture thereof.
102. Steward or manager to produce certificate, register, and rules of club on demand of Inspector.
103. Certificate of removal. Application, how dealt with. What objections may be taken.
104. Exemption of residential and athletic clubs.
105. Punishment for false statement in notice or declaration.
106. Application of other provisions of Act.

## DIVISION XII.—LICENCES AT RENMARK.

107. Licences for previously unlicensed premises at Renmark.—Variation of purposes—Renewals.

## PART IV.—RIGHTS, DUTIES, AND LIABILITIES OF LICENSEES AND OTHERS, AND OFFENCES.

108. Penalty on Justices interested adjudicating.
109. Names to be kept up, and also lighted lamps. Governor may make regulations respecting lamps, on recommendation of Marine Board or similar authority.
110. Only one bar-room, except by permission of bench. Additional bar not part of accommodation. Subletting bar.
111. Corpses not to be refused under a penalty.
112. Stranger's goods not to be liable to the rent of licensed houses.
113. Tippling clause.
114. Penalty on licensed persons taking pledges, or payment in anything except coin or bank notes.
115. Penalty for allowing unlawful games, betting, &c., or presence of disorderly persons. Presumption of knowledge.
116. Power to exclude or expel certain persons from licensed premises.
117. Permitting drunkenness or riotous conduct on premises.
118. Licensee drunk on premises liable to penalty.
119. Theatrical performances, music, or dancing not to take place without permission.
120. Clauses to be set up in bar-room.
121. Retail stores not to be kept together with public-houses and wine-houses in towns.
122. No communication for supply of liquor to be kept open between public-houses or wine-houses and stores or eating-houses.
123. Persons who have forfeited or been refused licences not to be employed as managers.
124. Licensed persons not to share profits with nor entrust management of house to unlicensed or unauthorised person.
125. Penalty on master of vessel not forwarding certificate or fee.
126. Liquors to be sold according to standard measures.
127. Penalty on holder of wine licence selling liquids containing over 35 per cent. of spirit.
128. Adulterated liquor not to be sold.
129. Closing of houses against riot.
130. Penalty for evasion of provisions disallowing consumption of liquor on premises under certain classes of licences.
131. Persons drinking in the house or store of persons holding certain licences, or of vigneron, liable to penalty, and may be apprehended.
132. Penalty for selling liquor otherwise than as authorised by licence.

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133. Penalty on master or commander of vessel for retailing without licence.
134. Penalty for retailing less than five imperial gallons without a licence.
135. Attempt to evade last section.
136. Justices may determine what is retailing.
137. Mead, wine, cider, or perry not to be carried about for sale, except by vigneron or orchardist.
138. Liquor carried about or exposed for sale may be seized.
139. Penalty for keeping billiard-tables, except under the authority of a licence.
140. Spirituous or fermented liquors not to be brought on board His Majesty's ships without the commander's consent.

*Persons not to be Supplied.*

141. Liquor not to be supplied to aborigines.
142. Liquor not to be supplied to be drunk by person under 18 nor to be supplied to person under 16 years of age.  
Presumption in case of supply.  
Defence of apparent age.
143. Penalty on sending child for liquor.
144. Person under 16 not allowed in bar-room.
145. Liquor not to be supplied to person in a state of intoxication.
146. Penalty for supplying liquor to police on duty.
147. Order may be obtained forbidding supply of liquor to drunkards.
148. Warning against supplying liquor.

*Employment of Barmaids.*

149. Females not to be employed in sale of liquor unless registered barmaids.
150. Register of barmaids.
151. Register to be kept by clerk of bench.
152. Fraud, &c., in connection with registration.
153. Unregistered person acting as barmaid.
154. Female not to be employed in bar-room after 11 p.m.

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155. Times when premises may not be open nor liquor sold.  
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Bar to be kept shut and locked during prohibited times.  
Evidence of supply during prohibited times.
156. Closed on Sundays.
157. As to *bona fide* travellers.
158. Definition of *bona fide* traveller.
159. Definition of *bona fide* lodger.
160. Evasion of exemption in favor of travellers.
161. Evasion of law as to sale of liquor on premises.
162. Penalty on refusal to receive travellers.  
Definition of *bona fide* traveller within this section.
163. Penalty for false representation.
164. Penalty for persons purchasing or found drinking liquor on premises during prohibited time.  
Penalty for persons present on premises during prohibited time.
165. Persons present on premises presumed not to be excepted persons.
166. Penalty for carrying liquor from licensed premises during prohibited time.  
No child under 16 to be convicted if ordered to convey liquor.
167. Liquor presumed to be liquor.  
Every sale a separate offence.
168. Powers of police with respect to persons on licensed premises at prohibited time.  
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*Inspection and Search of Licensed Premises.*

169. Appointment of inspectors.
170. Duties of inspectors.

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171. Powers of inspectors to search for and seize suspected liquor.
172. Licensed premises to be kept in repair and clean. Notice by inspector.
173. Penalty on obstructing inspectors.
174. Authority of inspectors and proof of appointment.
175. Justices and other authorised persons may enter licensed premises.
176. Unlicensed houses, wherein liquors are suspected to be retailed, may be searched.

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179. Proof of validity of petition.
180. Poll to be taken at general election.
181. Who may vote.
182. Licences to be dealt with.
183. Resolutions to be submitted at local option polls.
184. How to vote.
185. Effect of vote.
186. Electoral rolls to be deemed correct.
187. Declaration of determination of electors.
188. Scrutineers may be appointed.
189. Regulations as to mode of conducting local option polls.
190. No poll to be invalid unless substantial injustice done.

DIVISION II.—THE ENFORCING OF THE FIRST RESOLUTION.

191. Special bench for giving effect to resolutions.
192. Bench to meet as soon as convenient.
193. Bench to be court of record.  
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Admittance to licensed premises by bench or authorised person.  
Determination of bench final. No appeal against other proceedings except substantial wrong.
194. How reduction to be effected.
195. Procedure for determining what licences not to be renewed.  
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196. Notice of first sitting to be sent to licensees.  
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197. Where number of licences becomes less after poll taken.
198. Publication and notification of the determination.
199. Licensing bench to give effect to the determination.

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203. Time for which resolutions continue in force.
204. How resolutions adopted before this Act to be given effect to.
205. Number of licences deemed to be current when earlier resolution not given effect to.
206. Relief of tenant if licence not renewed.
207. Fees for members of Special Benches and officers and others.

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209. Form of order by Licensing Bench.
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212. Licences to be produced on hearing of charges against licensees.
213. Proceedings to be heard and determined under Ordinance No. 6 of 1850. Enforcing penalties.
214. Service of process, notices, and documents. Notice of objection may be delivered by post.
215. When information to be laid.
216. Power to amend.
217. Prosecution and punishment of aiders and abettors in the commission of offences.
218. Notices appearing in *Gazette* to be *prima facie* evidence.
219. In proceedings for selling illegally, the defendant to be deemed unlicensed unless satisfactory proof to the contrary.
220. In proceedings person deemed to be licensed unless satisfactory proof to contrary.
221. Unlicensed person exhibiting sign *prima facie* evidence of sale of liquor.
222. Evidence of sale or consumption of liquor.
223. Members of Police Force not accomplices.
224. Magistrates may act on evidence of accomplices without corroboration.
225. Special Magistrate or Justices may require attendance of any person to give evidence.
226. Accomplice not excused from giving evidence if given a certificate of immunity.
227. Application of licence moneys, penalties, fines, forfeitures, and fees.
228. Appeal to Adelaide Local Court of Full Jurisdiction.
229. Local Court, upon hearing of appeal, may state special case.
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## SCHEDULE.

## SCHEDULES.

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- B. Forms of licences.
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- D. Certificate for a packet licence.
- E. Forms of application.
- F. Householder's certificate as to the applicant.
- G. Memorial against licence for new premises.
- H. Notice for objections.
- J. Form of notice of intention to apply for transfer of licence.
- K. Form of certificate of transfer of licence.
- L. Form of certificate authorising person to enter and carry on business in licensed house until next meeting.
- M. Forms of notice of application to remove to other premises.
- N. Form of certificate of a removal to other premises.
- O. Summons to witness.
- P. Certificate to sell liquors in a booth at races, fairs, etc.
- Q. Certificate allowing other than licensed person to carry on business during licensee's temporary absence.
- R. Certificate to sell liquors in a certain place upon goldfields.
- S. Order forfeiting licence.
- T. Regulations for conducting the business of Licensing Benches.
- U. Notice of application for additional bar-room.
- V. Permission to use licensed premises for public entertainment.
- W. Certificate of registration of barmaid.
- X. Regulations as to mode of taking a local option poll and appointing scrutineers.
- Y. Notice of non-renewal of licence.
- Z. Form of order for payment of money by Licensing Bench.