

New Zealand.



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1882, No. 40.

Title.

AN ACT for regulating the Making and Levying of Rates.

[15th September, 1882.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

SHORT TITLE AND INTERPRETATION.

Short Title.

1. The Short Title of this Act is "The Rating Act, 1882."

Interpretation.

2. In this Act, if not inconsistent with the context,—

District.

"District" means the district over which the jurisdiction of a local body to levy rates extends:

Local body.

"Local body" means any Council, Board, Trustees, Commissioners, company, body, or persons empowered to make and levy rates, and includes a Receiver appointed under section forty-seven hereof:

Owner.

"Owner" of any rateable property means the person entitled for the time being to receive the rack-rent thereof:

Occupier.

"Occupier" means the person by whom or on whose behalf any rateable property is actually occupied, if such person is in occupation by virtue of a tenancy which was for not less than six months certain; and as to rateable property occupied by virtue of a tenancy not coming within the above description, and also in the case of unoccupied rateable property, means the owner of the same; and also any person, not being a Native, who is in actual or beneficial occupation, or in receipt of the rents and profits of any land over which the Native title has not been extinguished, and as to pastoral lands of the Crown, whatever may be the term of the tenancy thereof, means the lessee or licensee thereof:

What to be deemed rateable property.

"Rateable property" means all lands, tenements, or hereditaments in the colony, with the buildings and improvements thereon, with the following exceptions:—

Exceptions.

(1.) Lands vested in Her Majesty, of which there is not an owner or occupier, as herein defined, other than Her Majesty ;

Crown lands, unoccupied.

(2.) Lands, including buildings and improvements, held under lease, license, or other authority from the Crown for gold-mining purposes, but this shall not be deemed to exempt any portion of the surface of property so held which may be used or occupied for residence or business sites, or for other than such gold-mining purposes ;

Crown lands, occupied.

(3.) Lands occupied by churches and chapels, or cemeteries other than cemeteries owned and conducted by private persons for pecuniary gain or profit ;

Churches, chapels, and cemeteries.

(4.) All lands and buildings used for the purposes of a public school, as defined by "The Education Act, 1877," or of any other school which is not carried on for pecuniary gain or profit ;

Public schools.

(5.) Lands, not exceeding in each case one hundred acres in extent, and buildings used for a public asylum, a hospital, or lighthouse purposes, and lands used for purposes of public plantations ;

Asylums, hospitals, lighthouses.

(6.) Lands over which the Native title has not been extinguished, of which there is not an occupier as herein defined, and all lands belonging to Natives of which there is not an owner or occupier other than a Native ;

Native lands and lands occupied by Natives.

Provided that nothing in this Act contained shall be deemed to prejudice or affect the provisions of any Act now or hereafter passed relating to the rating of Crown lands and Native lands ;

"Rateable value" means the sum at which the fee-simple of any rateable property, if held in possession free from incumbrances, is hereafter assessed under the said Acts as appearing by the assessment roll made under the said Acts and this Act ;

Rateable value to be estimated on fee-simple.

Provided that in all cases where it is necessary to fix the rateable value of any portion of a building, the same shall be determined as follows, that is to say, the rateable value and also the annual letting value of the whole building, with the land occupied thereby, shall be first determined, next the annual letting value of each portion of the building rated to a separate occupier shall be determined, and then the rateable value of each such portion shall be the sum which shall bear the same proportion to the rateable value of the whole building and land as the annual letting value of such portion bears to the annual letting value of the whole building and land ;

Proportionate value of parts of a building.

Provided further that the rateable value of all pastoral lands of the Crown held under lease or license shall be the sum which, invested at six pounds per centum per annum, would produce a yearly income equal to the rent paid therefor by the tenant or licensee thereof to the Crown, Waste Lands Board, or other public officer or body :

Valuation of pastoral Crown lands now occupied.

Valuation of pastoral
Crown lands not yet
in occupancy.

Provided further that as regards all pastoral lands of the Crown now or hereafter to be let, but the term of which tenancy may not commence until after the delivery of the valuation rolls hereunder, then, for the purpose of determining their rateable value in accordance with the last preceding proviso, the calculation referred to therein shall have reference to the rent to be paid under the new lease or license, and not to that the term of which shall not then have expired :

Said Acts.

“The said Acts ” means “The Property Assessment Act, 1879,” and all Acts now or hereafter to be passed amending the same :

Commissioner.

“The Commissioner ” means the Property-Tax Commissioner appointed under the said Acts :

Public notice.

“Publicly notify ” means to publish in some newspaper circulating in the district, or where there is no such paper in general circulation to publish by placards in writing affixed to public places in the district :

Writing.

“Writing ” includes printing, and any matter partly written and partly printed :

Clerk.

“Clerk ” means the clerk or other principal officer of a local body ; and, if there be none such, means the Chairman or Mayor of such local body :

Native.

“Native ” means an aboriginal native of the colony.

OF THE VALUATION ROLL.

Commissioner to
forward statement of
values to local bodies.

3. Not later than fourteen days before the sittings of the Board of Reviewers under the said Acts in any district, the Commissioner shall, notwithstanding the provisions of the said Act as to secrecy, forward to the clerk of each local body in the colony a statement of the values proposed by him for each rateable property in the district of such local body, which statement shall be open to public inspection during business hours at the office of such local body.

Commissioner to
make out valuation
roll every three years.

4. On some day during the month of March, in every third year, commencing in the year one thousand eight hundred and eighty-three, the Commissioner shall make out and forward through the post to the Clerk of each local body in the colony a valuation roll, signed by himself, and in the form or to the effect set forth in the First Schedule hereto, of all the rateable property in the district of such local body, compiled from the assessment rolls under the said Acts, giving for each rateable property belonging to each separate owner, or occupied by each separate occupier, the rateable value of the same, with the names, occupations, and addresses of the owners or occupiers, but, when the owner is unknown, he may be mentioned in the valuation roll as “the owner ” simply.

If the district of such local body be divided into wards or other subdivisions, the valuation roll shall be divided into as many parts as there are wards or other subdivisions, and each part shall contain the rateable value of all the rateable property in the ward or subdivision to which such part relates.

Valuation roll to be
made separately for
subdivisions or for

5. Whenever, for the purposes of any special rate to be levied upon some portion only of a district or of some subdivision of a dis-

trict, or upon any portion of two or more districts, any local body shall require a separate valuation roll for such portion, then, at any time, upon reasonable notice to the Commissioner of such requirement, and upon receiving from the local body an accurate description by boundaries of such portion, the Commissioner shall in like manner supply the local body with a valuation roll prepared and signed as above of the rateable property in such portion with its rateable value, or, if more convenient, may separate off a part of the valuation roll of the whole district as the valuation roll for the said portion, as if the same were a ward or other subdivision as above mentioned.

portions of a district where there is a special rate.

6. Whenever any new local body is formed, or any alteration is made in the district of any local body at any time intervening after the making up of one valuation roll and before the making-up of another, the Commissioner shall, in like manner, supply to all the bodies affected by the change, as soon as possible, valuation rolls, as above described, for the new or altered districts, which shall remain in force till the making-up of the next valuation roll.

Commissioner to supply new rolls when new body formed or boundaries altered.

7. The valuation roll so signed shall be the valuation roll for the district, or the ward or other subdivision of the district, or for the purposes of the special rate levied upon some portion of a district or subdivision as above mentioned, according as the heading of the same shall purport to be.

Roll signed by Commissioner to be the valuation roll.

The persons named in such roll as the owner and occupier respectively of each rateable property shall be, for all purposes of this Act, deemed to be the owner and occupier respectively of the same.

The value fixed opposite each rateable property on such roll shall be for all purposes the rateable value for the purposes of this Act.

Such valuation roll so signed, subject to the alterations which may be made as hereinafter permitted, shall remain in force until the next valuation roll is made out.

8. The roll purporting to be so signed shall, for all purposes whatsoever, and without proof of the Commissioner's signature, be evidence of the contents thereof, and that the same has been duly made in accordance with the provisions of the said Acts and this Act until the contrary is proved.

Roll so signed to be evidence without proof of signature.

9. If any local body require for any reason a copy of any roll, the Commissioner shall furnish it with the same on payment of such sum as will defray the actual cost of copying the same, which sum shall be paid into the Public Account, and form part of the Consolidated Fund, and such copy shall in all respects whatsoever have the same force and effect as the roll supplied by the Commissioner as aforesaid.

Copy roll to be supplied on payment of cost of copying same.

10. Any local body may, while a valuation roll remains in force, make any alteration in the valuation roll, including therein the placing upon the roll any lands not being rateable property which, while such roll remains in force, may become rateable property; and the local body may determine who is the owner and occupier thereof, and fix the rateable value of the same, but so that, as regards lands purchased from the Crown during such period, the value to be fixed shall be the price paid to the Crown for such lands, and, as regards lands leased from the Crown, shall be the sum ascertained in the same way as prescribed in section two hereof for ascertaining the rateable value of

Local body may make alterations in valuation roll when property is affected by buildings thereon, or is subdivided.

pastoral lands of the Crown: And the same, upon being initialled by the Chairman, shall be deemed thenceforth to form part of such valuation roll, but without releasing any person from liability for any rates due at the time of the making of such alterations:

Provided that nothing herein contained shall authorize the alteration of any rateable value except when such rateable value has been affected by the addition or removal of buildings, and then only to the extent to which the rateable value has been so affected:

Provided further that, if any such alteration be in the nature of a division of any rateable property, the rateable values of each division of a property so divided may be altered, provided that the rateable value of all such divisions equal in the whole the rateable value of the property as on the roll prior to such alteration, unless where buildings have either been added or removed, and then only to the extent of the value of such buildings.

11. If any local body shall be desirous of making its own valuations of the rateable property in its district, and shall testify such desire by passing a special resolution or special order to that effect in the manner fixed in that behalf by the law for the time being regulating the procedure of such local body, and shall forward a copy of such order or resolution to the Commissioner not later than the first day of the month of January immediately preceding the month of March in any year in which the Commissioner has to deliver the triennial valuation rolls as aforesaid, then the provisions contained in the subsections of this section shall have effect until another special resolution or special order be passed revoking the previous one, in which case all valuation rolls required by the local body after the passing of such second resolution or order shall be made by the Commissioner in accordance with the other provisions of this Act, unless and until such local body shall again pass another special order or resolution, such as above firstly referred to:—

- (1.) The valuation roll to be furnished by the Commissioner to such local body shall be furnished to such body not later than the thirty-first day of the month of January above referred to, and in such roll the rateable value of the properties mentioned therein shall not be filled in by the Commissioner, and in the heading of such valuation rolls the Commissioner shall add words showing that such roll is furnished under this section of this Act.
- (2.) A valuer to be appointed from time to time by the local body shall then determine what, in his opinion, is the rateable value as hereinbefore defined of each of the rateable properties mentioned in such roll, and on or before the first day of March shall give notice of the rateable value so determined by him in the form or to the effect set forth in the Third Schedule to each owner or occupier by posting the same to such owner or occupier's last known place of abode in the colony.
- (3.) Any owner or occupier objecting to the rateable value so determined on any rateable property of which he is owner or occupier may, on or before the fourteenth day of March, leave a notice to that effect at or post the same to the valuer

How valuation roll supplied and completed where local body desires to make valuation for itself.

Skeleton form of roll to be furnished by Commissioner to local body.

Valuation to be made by valuer appointed by local body.

Objections by owner or occupier to assessment.

at the office of the local body, stating the grounds of such objection.

- (4.) On the third Monday in March, or on some other later day to be fixed and publicly notified by the Resident Magistrate for the time being having jurisdiction in the Resident Magistrate's district in which the office of the local body is situate, such Resident Magistrate shall sit and hear the objection and all evidence brought forward either by the valuer or the objector, and either sustain or diminish the valuation, and shall enter the amount so decided upon on the valuation roll as aforesaid, and shall place his initials opposite such entry, and such amount so entered shall be the rateable value of such property while such roll remains in force.
- Resident Magistrate to hear objections, fix the assessment, and enter same on roll.
- Provided that, in deciding the amount of the valuation under this section, the Resident Magistrate shall, if the valuation determined on by the valuer of the local body be greater than that assessed under the said Acts, in pursuance of section fifty-four hereof, diminish the valuation to an amount not greater than the amount so assessed under the said Acts.
- (5.) The valuer shall also enter the rateable values determined by him, and which have not been duly objected to as aforesaid, in the valuation roll as soon as the time for lodging objections has expired, and such valuer shall sign a certificate at the foot of such roll to the effect that the values inserted in such roll have been duly determined in accordance with this Act, and such values shall be the rateable values of the properties they are placed opposite to while such roll remains in force.
- Valuer to enter on roll assessments not objected to.
- (6.) Such Resident Magistrate shall hold his sittings under this Act at the courthouse where he usually sits, and shall commence his sittings at ten o'clock in the forenoon, or at such other place or time as he shall publicly notify.
- Place of sittings for hearing objections.
- (7.) Such Resident Magistrate may adjourn from time to time as he may think fit, and, on any day appointed for his sitting, if he shall fail to attend, the sitting shall stand adjourned till the following day, and so from day to day till the Resident Magistrate attends.
- Adjournment of sittings.
- (8.) A Resident Magistrate sitting under this Act may in his discretion order the payment either by the objector or by the local body the valuation of whose valuer is objected to of all reasonable costs and charges as to him may seem fit, and the payment of the amount specified in such order may be enforced in like manner as a sum of money recovered by judgment in a Resident Magistrate's Court.
- Power to order costs of objections.
- (9.) A Resident Magistrate sitting under this Act shall have all the powers to summons witnesses and examine them upon oath, and to compel their attendance, and the answering of questions, and production of papers, and for all other purposes touching the hearing of matters before him which
- Power to summon witnesses, &c.

Rolls made here-
under to be subject
to same law as rolls
made otherwise.

Power to valuer to
enter on property.

Crown lands and
Native lands not to
be assessed by local
valuer.

Valuation roll to be
returned to Com-
missioner when
completed.

Local bodies may
appoint same valuer
to assess property in
the separate districts.
Procedure thereon.

he has, for the time being, when exercising his ordinary jurisdiction.

(10.) All the other provisions of this Act or the said Act, not inconsistent with the provisions of this section, which are applicable to, or in connection with valuation rolls, shall apply to or be construed in connection with such valuation rolls as are dealt with by this section.

(11.) Any valuer appointed by a local body under this section may, at any time during the day, enter upon any rateable property for the purpose of valuing the same, and may put any questions which he thinks fit to the occupier or owner thereof touching any matters which may aid him in determining the value.

Any person obstructing a valuer in the performance of his duty herein, or refusing, or wilfully neglecting to answer any such question shall be liable to a penalty not exceeding ten pounds.

(12.) If in the district of any local body whose valuation roll is furnished under this section there are any Crown lands, or Native lands which are not rateable property under this Act, but which may be made rateable property under this Act by any other Act passed during this session of the General Assembly, then the rateable values of such Crown lands, or Native lands shall not be fixed by the valuer appointed by the local body, but shall be determined by the Commissioner, and the amount thereof inserted in the roll prior to its being delivered by the Commissioner.

(13.) Within fourteen days after the completion of a valuation roll under this section the aforesaid valuer shall forward to the Commissioner a list, in the form or to the effect set forth in the Fourth Schedule, of the rateable values so finally determined as aforesaid on such valuation roll; and thereafter, while such roll remains in force, if the Commissioner shall be required to furnish another roll under the sixth section hereof in which any of the rateable properties on such first-mentioned roll appear, or to furnish a copy of such roll under the ninth section hereof, he shall insert such values therein so determined under this section as aforesaid.

(14.) Any two or more local bodies may, if their valuation rolls are furnished under this section, agree that the rateable values of all rateable properties which are in each of their districts shall be ascertained in manner aforesaid by a valuer to be appointed by one of such local bodies; and thereupon, when such rateable values are finally determined hereunder by the valuer appointed by such one local body, the Clerk of each of the other local bodies so agreeing shall forthwith copy into the rolls of such other bodies the rateable values so ascertained of all rateable properties appearing on the valuation rolls of the bodies of which they are Clerks, which, while such valuation rolls remain in force, shall be the rateable values of such properties.

In such last-mentioned cases the Clerk shall sign the before-mentioned certificate, and forward to the Commissioner the before-mentioned list of rateable values in lieu of the valuer.

OF RATES AND THE RATE-BOOK.

12. It shall not be lawful for any local body, after the thirty-first day of March, one thousand eight hundred and eighty-three, to make any rate except under the provisions of this Act; but any rates or arrears of rates made before the passing of this Act, or made after the passing thereof for any period ending not later than such thirty-first day of March, may be duly collected, sued for, and recovered at any time thereafter, as if this Act had not been passed.

All rates made for any period not later than 31st March, 1883, to be recovered as if this Act not passed.

13. All rates to be made after the said thirty-first day of March, or to be made for any period commencing on and after the said day, shall be made and levied as provided by this Act, and not otherwise.

All rates made for period after 31st March, 1883, to be made under this Act.

14. Whenever by any Act or Ordinance a limit of rating-power has been imposed upon any local body, and in all cases of special and annually-recurring rates, or of any rates the amount of which is fixed for any definite period of time, when such rating-power or rate has reference to the annual value of rateable property, or to the rateable value under the hereby repealed Acts, then, subject in the case of water-rates to the provisions of the next section hereof, a rating-power or a rate of one shilling in the pound shall henceforth be exercised or levied respectively as if it were a rating-power or rate of three-farthings in the pound on the rateable value as fixed by this Act, and so on a greater or smaller sum in the like proportion for a greater or smaller rating-power or rate than one shilling in the pound on the annual value:

Rates of 1s. in the pound on annual value to be equal to $\frac{3}{4}$ d. in the pound as rateable value under this Act.

Provided always that in the case of any fixed rate which forms the whole or any portion of the security for any loan, if the Controller and Auditor-General shall at any time be satisfied that the change above mentioned in the mode of levying rates will have the effect of diminishing the security for such loan, then he may, by order published in the *Gazette*, fix a rate in accordance with this section, which shall as nearly as may be produce the same amount as the rate as levied before the passing of this Act, and thereafter such rate shall for all purposes whatsoever be the rate which shall be levied in lieu of the rate which would otherwise be leviable under the first portion of this section.

Proviso as to fixed rates in security of any loan.

Whenever by any Act or Ordinance heretofore passed a reference is made to the rateable value of property, or to its value on a valuation roll, then, unless such reference has been expressly made to refer to the rateable value under this Act, such reference shall be so read and construed that every five pounds of rateable value so referred to shall be deemed to be equal to one hundred pounds of rateable value under this Act for the purposes of voting.

References to rateable value of property, how construed for voting purposes.

Wherever, for the purpose of any water-rate or other rate fixed by Act or Ordinance, it is imperative, notwithstanding the provisions of this Act, to fix an annual value for any rateable property, then such annual value shall be the sum which is equal to six pounds per centum on the rateable value.

How annual value of property to be estimated where required for water and other fixed rates.

Conditions on which local bodies may make rates.

15. Every rate made by a local body shall be made subject to the following conditions :—

- (1.) That the rate be for a year or some period less than a year, without prejudice to the provisions of subsection four hereof ;
- (2.) That it be payable in one sum or in equal instalments on a day or days to be fixed at the time of making the rate ;
And in the case of a special rate made for providing for the annual charge on a loan, that it be payable half-yearly in each year ;
- (3.) That it be of a stated amount in the pound upon the rateable values of the rateable property as appearing in the valuation roll for the time being in force ;
Except as otherwise provided in the case of a water rate or other rate fixed by any Act or Ordinance.
- (4.) Where the local body is authorized to make a special rate for providing for the annual charges on a loan, such special rate shall be made a continuing rate for a period of years equal to the currency of the loan :

Particulars to be entered in rate-book.

16. The particulars of every rate shall be transcribed in a rate-book, which shall be in the form or to the effect set forth in the Second Schedule hereto, and columns may be added to such form so as to allow of more than one rate being dealt with in the same rate-book, or to show what rates are at any time in arrear if the local body so desires it.

The names and other particulars as to occupiers or owners and property, and the rateable values, and otherwise as the nature of the rate may require, shall be taken from the valuation roll.

All alterations lawfully made in the valuation roll shall be transcribed into the rate-book, and initialled by the Chairman or Mayor, and by the Clerk of the local body.

Local body to give fourteen days' notice of making rate.

17. Not less than fourteen days before making any rate the local body shall publicly notify their intention to make such rate, the period for which it is to be made, the days on which it is to become payable, and that the rate-book is open for inspection as herein provided.

Rate-book to be signed by two members, and to be open for inspection by ratepayers.

18. The rate-book shall be signed by two members of the local body, and shall be kept in some place, to be publicly notified, for inspection, without fee, by all ratepayers, at such times and hours as the local body shall fix.

Appeal against rate-book.

19. Any ratepayer may appeal to the local body against the rate-book on any of the following grounds :—

- (1.) That any person is rated in the rate-book on property not appearing in the valuation roll for the time being in force, or for a different value than that stated in such roll ;
- (2.) That any person or property, appearing by the valuation roll to be liable to be rated, is omitted in the rate-book ;
- (3.) That the description of any person or property is erroneously copied from the valuation roll ;
- (4.) That the rate on any rateable property is incorrectly computed ;
- (5.) That any alteration lawfully made in the valuation roll has not been made in the rate-book.

20. The local body may correct any such errors in the rate-book, and every such correction shall be initialled by two members thereof; but, except as above provided, no appeal shall be allowed against any part of the rate.

Local body to correct errors in rate-book.

21. The rate-book so signed, with corrections, if any, so initialled, shall, unless the contrary be proved, be evidence in all Courts of the correctness of the contents thereof without proof of such signatures, and that the same has been made according to the provisions of this Act.

Rate-book to be evidence without proof of signatures.

OF THE RECOVERY OF RATES.

22. Where in any Act or Ordinance it is provided that any proceedings may be taken for the recovery of rates under any other Act or Ordinance, such provision shall be taken to mean that such proceedings shall be taken under this Act.

Where any Act provides that proceedings may be taken for recovery of rates, such provision shall mean being taken under this Act.

23. A demand for any rate due must be made in writing in the form or to the effect set forth in the Fifth Schedule hereto, purporting either in writing or in print to be signed by any person duly appointed by the local body to collect rates, and delivered to the person liable, either personally, or by leaving the same at his last known abode or place of business, or on the premises in respect of which such rate is due, or by sending the same through the post addressed to the person liable at his last known place of abode or place of business.

How demand for rates made.

24. Any two or more local bodies may agree to appoint one collector to collect the rates levied by each of them, and such collector may include all such rates due from one person in one demand as hereinafter mentioned.

Two or more bodies may agree upon one collector, and may make one demand.

25. All rates shall be payable at the office of the local body, or at some place publicly notified for the payment thereof.

Where rates payable.

26. If any person fails to pay any rate for which he is liable for fourteen days after demand thereof, the local body may recover the same as a debt in any Court of competent jurisdiction.

How and when rates can be sued for.

Any person authorized by a resolution or under the seal of the local body to collect rates may sue for the same in the name of the local body, and for that purpose may make all affidavits or declarations, and do all such other acts, deeds, matters, and things, which the plaintiff is required to do in the Court in which he is suing.

27. The invalidity of any rate as a whole shall not avail to prevent the recovery of the rate appearing on the rate-book to be payable by any person, unless such invalidity be on the ground that such rate is a rate at a greater amount in the pound than the local body levying the same is empowered to levy.

Invalidity of rate as a whole no defence to action against person liable in rate-book.

28. The occupier shall be primarily liable for all rates becoming due while his name appears on the rate-book as such.

Occupier primarily liable for rates while he is on valuation roll and rate-book as such.

Where a rate is payable by instalments, if the occupier ceases to actually occupy the premises in respect of which the rate is payable, he may recover from the incoming tenant, if any, and, if not, from the owner, all instalments coming due after he has ceased so to occupy as aforesaid and which he shall have paid, notwithstanding that the alteration of the name of the occupier shall not have been made in the rate-book.

Who can be sued besides occupier.

29. Any rate or part thereof due by an occupier may, also at the option of the local body, or of any person authorized to collect rates as aforesaid, be recovered from the owner, or from any person owning any interest, including an interest as first mortgagee, in the rateable property in respect of which such rate is payable, or from any person actually in occupation of the premises in respect of which such rate is payable.

Remedy of owner paying rates against occupier.

30. If an owner, or any such person as mentioned in the preceding section, has paid any rates due by an occupier, then, unless such owner or such other person has agreed with the occupier to pay the rates, the amount of such rates so paid shall be deemed to be a debt due and owing from and after the time of paying the same by the occupier to the owner or other person paying the same :

Remedy of mortgagee in such case.

Provided always that, where a mortgagee is compelled to pay any rates under this section in respect of any rateable property under mortgage to him, the amount of such rates so paid by him shall, as from the date of paying the same, be deemed to form part of the principal moneys secured by the mortgage, and shall be chargeable with interest accordingly ; though, at the option of the mortgagee, such amount shall be recoverable by him, either from the mortgagor or the occupier immediately after payment thereof by the mortgagee :

Remedy of person other than the owner in such case.

Provided further that when any person other than the owner has been compelled to pay any rates under this section, then, unless such person has agreed with the owner to pay the same, or has already recovered such rates from the occupier, the amount of such rates so paid shall be deemed to be a debt due or owing from and after the time of paying the same by the owner to such, and any such payment by an owner under this proviso, shall be deemed to be a payment by him under the first paragraph of this section :

Limit of amounts recoverable.

Provided further that no rates shall be recoverable from any tenant of rateable property, not being an occupier within the meaning of this Act, to a greater extent than the rent payable or to be payable by him for such property at the time of making the demand for the same upon him, and any such rates so paid by him may be deducted from his rent.

Rates overdue for two years cannot be recovered.

31. In respect of all rates made after the coming into operation of this Act, no judgment for the same shall be given or signed after two years from the time when such rates first became due.

Contracts between persons as to payment of rates not affected.

32. Nothing herein contained shall be construed to affect any contract now or hereafter made between any persons as to the liability for the payment of rates as between the parties to such contract ; and in any case where, as between themselves, the owner has contracted to pay the rates, the occupier or any tenant of the rateable property may pay the same if the owner has not, and deduct the same from any rent payable by him to the owner.

When person liable for rates absent, service on agent will do.

33. If any person liable for any rate is absent from the colony, a service of summons upon his agent or attorney shall be a sufficient service.

If person liable for rates unknown, &c., summons may be posted on property, &c.

34. If any person liable for rates has no known agent in the colony, or is unknown, or cannot after due inquiry be found, a public notification of the summons, with or without posting such summons upon a conspicuous part of the property in respect of which such

rates are payable, or on some public road near thereto, shall be a sufficient service, and the cost of such notification shall be recoverable from such person in addition to the rates.

35. Judgment for the amount of rates due may be given in any Court of competent jurisdiction against such owner by name, or, if he is unknown, under the designation of "the owner" of such property, on the Court being satisfied that such owner is absent or unknown, or cannot after due inquiry be found, and upon proof of service of summons as above provided.

Where owner unknown, judgment may be given against "the owner."

36. Upon the petition of any person praying for a remission of rates on the ground of extreme poverty arising from accident or continued illness, or other cause beyond the control of such person, the local body may, if it thinks fit upon being satisfied after full inquiry that the allegations in such petition are true, remit the payment of any rates by the petitioner, either wholly or in part, or for such time as the local body thinks fit.

Power to remit rates in certain cases.

37. If any judgment for rates is not satisfied, with costs of suit, within six months thereafter, the local body may forward to the Public Trustee a certificate in the form in the Sixth Schedule hereto.

If judgment not satisfied local body may forward certificate to Public Trustee.

38. Upon the receipt of such certificate the Public Trustee shall immediately give notice to all persons whom he believes to have any interest in the property in respect of which the rates for which judgment has been obtained are payable, in the form given in the Seventh Schedule hereto, that such property will be sold or leased after six months from the date of such notice, unless the amount of such judgment and costs, including a fee of twenty shillings to the Public Trustee, to be credited to the Public Trust Office Expenses Account, are paid in the meanwhile.

Public Trustee to give notice to persons interested.

39. Such notice may be served personally, or it may be left at or posted to the last known place of abode or business of any such person as aforesaid, or it may be posted upon some conspicuous part of the property, or it may be posted upon some public road adjoining thereto, or it may be publicly notified, if the whereabouts of any such person is then unknown to the Public Trustee.

Notice, how served.

40. After the said six months the Public Trustee may cause the said rateable property, or such part thereof as may be necessary, to be sold or leased by public auction, unless the amount of such judgment and costs, and all expenses incurred in recovering the same, including the cost of a notification as provided by the preceding section, together with interest at the rate of ten pounds per centum per annum upon the amount of such rate from the day on which judgment was obtained for the same, and all rates due in respect of the said property up to the date of payment, and any charges which the Public Trustee is entitled to make upon the sale or leasing of property, are paid prior to such sale.

After six months Public Trustee may sell or lease property.

41. The proceeds of such sale or letting shall be appropriated, first, to the payment of such judgment, interest, costs, and expenses; next, to the payment of any other rate due to the same local body for which judgment has been obtained, including, in the case of a letting, all rates which may become due on such property from the person on whose behalf he has let during the time that the Public Trustee is in receipt of the rents of the same; next, to the payment of any incum-

Proceeds of sale, how applied.

brance on the said property; and the balance, if any, shall be paid into the Public Trust Office, and shall be paid by the Public Trustee, upon the order of a Judge of the Supreme Court, which order may be made upon a summons in Chambers to such persons as may become entitled thereto, together with reasonable interest thereon, not exceeding four pounds per centum per annum.

Provisions as to sale or letting.

42. With respect to any such sale or letting the following provisions shall apply:—

- (1.) The sale or letting shall be by public auction, and the Public Trustee shall have a right to bid for or buy in the property, or place a reserve upon the same, and he may put it up for sale as often as may be required until it be sold.
- (2.) The consideration to be given by the purchaser or lessee shall be a sum of money to be paid forthwith or by instalments, as may be fixed by the Public Trustee.
- (3.) The highest bidder at the auction, subject to the rights reserved to the Public Trustee by subsection one hereof, if his bid shall equal or exceed the sum required to pay the arrears of rates and the costs incurred, and if he shall comply with the conditions precedent, if any, fixed by the Public Trustee, shall be the purchaser or lessee.
- (4.) The term of years of any such letting shall be fixed by the Public Trustee, but shall not exceed fourteen years, and the Public Trustee may fix two or more terms in the alternative, and in that case the property shall be offered for letting in the first place for the shortest term, and if necessary for such other terms in succession until the highest bidding for the term offered shall equal or exceed the sum required as aforesaid.
- (5.) The lease shall contain such covenants and conditions as the Public Trustee shall think fair and equitable.
- (6.) In the case of a letting, when and so soon as all rates, costs, and expenses due up to date have been paid out of the rents or other moneys receivable from the lessee, the Public Trustee shall, if there be some person in the colony entitled to receive the rents, cease to receive or collect the rents; and the same shall, upon notice to that effect by the Public Trustee to the lessee, be payable only to such person entitled as aforesaid.
- (7.) The purchaser or lessee, upon having the transfer, conveyance, or lease executed, shall be entitled to and may recover possession of the property so sold or leased to him as against or from all persons whomsoever.

On conditions being complied with Public Trustee may execute transfer, &c.

43. In the case of a sale, on the purchase-money being fully paid, and, in the case of a lease, on all the conditions prescribed at the sale in that behalf being complied with, the Public Trustee may execute a transfer, conveyance, or lease, as the case may require, on behalf of the owner whose interest has been sold, adding after his signature and seal of office the words “under ‘The Rating Act, 1882.’”

Purchaser not affected by impropriety, &c., in sale.

44. No purchaser or lessee under any such instrument shall be bound to inquire whether the sale or letting has been properly made

under this Act, or be affected by notice either express or implied that there has been any impropriety or irregularity in connection therewith, and notwithstanding any such impropriety or irregularity such sale or letting shall be good, valid, and effectual at law or in equity for all purposes whatsoever.

45. Any instrument under "The Land Transfer Act, 1870," or under any Act passed in place thereof, executed for the purpose of carrying into effect any such sale or letting, shall be registered by the District Land Registrar of the district in which the land dealt with thereby is situate, without the production of the duplicate certificate or other document of title relating to the land, or interests in land, dealt with by such instrument, if the Public Trustee is unable to produce the same.

Instruments under Transfer Act to be registered without production of duplicate certificate.

46. If the Public Trustee shall think fit, he may, at any time after giving the notice referred to in section thirty-eight hereof, out of the moneys for the time being standing to the credit of the Public Trust Office Expenses Account, pay, without the necessity for any appropriation by Parliament, to the local body the amount of the judgment, costs, and interest then due to such local body hereunder; and such payment by him shall in no way prejudice his right to sell or let the property in respect of which the rates are due, in accordance with the powers hereby conferred upon him, unless the amount of such judgment, with interest, costs, and all other charges and expenses as aforesaid, are repaid to him before such sale or letting.

Public Trustee may pay rates himself.

If the Public Trustee pays over the rates due and costs recovered by the local body with interest as aforesaid to date of payment before such sale or letting, he shall be entitled to retain and credit to the Public Trust Office Expenses Account the sums so paid by him to the local body as aforesaid, and all future interest recovered from the defaulting ratepayer, or by virtue of the sale and letting as aforesaid.

AS TO COLLECTION OF RATES BY CREDITORS OF LOCAL BODY.

47. When and so often as any local body fails to pay at the proper time and place for so paying any sum either of principal or interest which it ought to pay, and the payment of which is secured upon any rate levied by it, then immediately or at any time thereafter any person to whom such sum is owing may apply *ex parte* by petition in a summary way to a Judge of the Supreme Court for relief under this Act, and the Judge may, if satisfied of the truth of the matters alleged in such petition, appoint, upon such terms as to security and remuneration as he shall think fit, a Receiver of the rate liable for the payment of such sum.

Creditor of local body secured on rate may apply to Supreme Court for appointment of Receiver.

48. Such rate shall, from the date of the said order, and upon its being publicly notified by the Receiver, vest in the Receiver, and shall cease to be vested in the local body.

On appointment of Receiver rate shall vest in him.

49. All powers for the recovery of such rate shall, after the appointment of the Receiver, and upon its being publicly notified, cease to be exercised by the local body, and shall be exercised by the Receiver.

Powers of local body exercisable by Receiver.

50. All moneys received by the Receiver shall be applied—

(1.) In payment of the expenses of the application and order;

Moneys collected by Receiver, how applied.

- (2.) In payment of the Receiver's remuneration fixed as aforesaid, and his reasonable and necessary expenses ;
- (3.) In payment *pro rata* of the sums then overdue by the local body which are secured by such rate ; and
- (4.) The residue, after payment of the above, to the local body :

And the Receiver shall account for all such moneys in such manner as the Judge directs.

When Receiver's powers cease.

51. When all the sums then overdue are paid, or at any time by an order of a Judge of the Supreme Court, on the application of the local body, if such Judge shall think fit to make such order, the powers of the Receiver shall cease, and he shall forthwith pay any moneys in his hands to the local body, who shall again be capable of exercising the powers of which the appointment of the Receiver had deprived them.

MISCELLANEOUS.

Judge not interested merely by being a ratepayer.

52. No Judge or Justice shall, solely on account of his liability to pay rates, be deemed to be interested in any case in which he is judicially concerned.

On misadventure, or accident, or on failure by Commissioner, Governor in Council may extend time or validate act.

53. If the local body fails through misadventure or accident, or if the Commissioner fails from any reason whatever to do anything which by this Act is required to be done within a fixed time, the Governor may, by an Order in Council published in the *Gazette* and publicly notified, extend the time for doing such thing ; and may, by any such order, validate anything which may have been irregularly done in matter of form, so that the intent and purpose of this Act may have effect.

Where property owned by several persons with different degrees of interest, value of same, as if owned by one person, may be assessed under Acts.

54. Notwithstanding any of the provisions of the said Acts, where rateable property is owned by more than one person, with different degrees of interest therein, the value of the same as if free from all incumbrances and as if owned by one person shall be assessed under the said Acts, as well as the value of the interest of each owner therein as defined by the said Acts.

In such cases the notices of assessment under the said Acts shall specify the value at which the same is assessed, and shall also be served upon all the persons who are the owners or occupiers of the same within the meaning of this Act.

The value of the same, after being assessed, shall be, with the names of the owner and occupier thereof under this Act, entered in the assessment roll, notwithstanding that the said rateable property, or such owner or occupier, may not be liable to taxation under the said Acts.

Statements to be made under said Acts to include particulars required for this Act.

55. Notwithstanding any of the provisions of the said Acts, the statements to be made by persons or companies (including in the word "companies" all societies, associations, joint-stock or other incorporated companies whatsoever under the said Acts), may be so prescribed as to require any person or company to give full particulars of any rateable property of which they are owner or occupier within the meaning of this Act, including all such particulars as it may be necessary or desirable to state in or for the purpose of making the valuation roll under this Act, notwithstanding that they may not be liable to taxation under the said Acts in respect of the same or any other property.

56. Notwithstanding the provisions of section thirty-seven of "The Property Assessment Act, 1879," and of section nine of "The Property Assessment Act Amendment Act, 1881," the triennial assessment under the said Act for the year one thousand eight hundred and eighty-three may be made, and the statements required from persons or companies under the said Acts for the year one thousand eight hundred and eighty-three may respectively be made or required to be furnished at any time after the first day of October, one thousand eight hundred and eighty-two.

When assessments may be made or statements called for under said Act for year 1883.

57. Each owner as defined by the said Acts, and also the owner and occupier under this Act, and also the local body by which each property is rateable, shall have the same right of appeal and other remedies under the said Acts against such assessment as he or they would have against the assessment of his or their own interest, or any other property of his or theirs, under the said Acts.

Owner and occupier under this Act and local body to have right of appeal against assessments.

58. "The Rating Act, 1876," "The Rating Act Amendment Act, 1878," "The Rating Act 1876 Amendment Act, 1879," are hereby repealed, and, whenever in any Act reference is made to any of the hereby wholly repealed Acts, such reference shall be deemed to have been made to this Act, but without prejudice nevertheless to the provisions of the twelfth section hereof.

Repeal.

Provided, nevertheless, that,—

Saving proviso.

As regards all boroughs established under any Act relating to Municipal Corporations the said Acts shall not be deemed to be repealed, but shall be in full force and effect, and the valuation rolls of the rateable property in boroughs shall be compiled, and the rates levied in boroughs shall be made, levied, and recovered, in accordance therewith, and not in accordance with this Act ;

Boroughs may be excepted from operation of Act.

And this Act shall not be deemed to be in force in such boroughs, or with reference to their valuation rolls, or the making, levying, or recovering of their rates :

Provided further that,—

If the Council of any such borough shall pass a resolution to the effect that it desires to adopt this Act, and shall forward a copy of such resolution to the Commissioner not later than the first day of December in any year, which resolution shall be gazetted by the Commissioner thereupon on the thirty-first day of March next ensuing the passing of such last-mentioned resolution, the Acts hereby repealed shall be deemed to be repealed as regards such Council or borough, and this Act shall thereafter be in full force and effect in such borough ;

Or hereafter be brought thereunder.

And the valuation roll of the rateable property in such borough shall, as soon as conveniently may be after the passing of such resolution, be prepared by the Commissioner and delivered to the Council, and the rates of such borough shall be made, levied, and recovered in accordance with this Act.

But this proviso shall not apply to section fifty-six hereof.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

Sec. 4.

VALUATION ROLL for [*Name the local body and its district*] for the three years commencing the 1st April, 18 .

No. on Roll.	Occupier.			Owner.			Description and Situation of Property.	Rateable Value.	Remarks.
	Full Name.	Address.	Trade or Occupation.	Full Name.	Address.	Trade or Occupation.			

Property-Tax Commissioner.

SECOND SCHEDULE.

Secs. 16, 21.

FORM OF RATE-BOOK.

A RATE of in the pound, made under the provisions of "The Rating Act, 1882," by the [*local body*], on the day of , 18 , for the period commencing on the day of , 18 , and ending on the day of , 18 , payable in equal instalments on the [*Name the day for payment*].

1. No. on Roll.	2. Occupier.	3. Owner.	4. Description and Situation of Property.	5. Rateable Value.	6. Rate at in the pound.	7. By Whom Rate Paid.	8. Date of Payment.
	Full Name.	Full Name.					

Signed by us with the corrections initialled, this day of , 18 .
A.B.,
C.D., } Members of the [*local body*].

N.B.—The two last columns will appear in blank when the rate-book is signed, and will be filled in from time to time as the rates are paid.

THIRD SCHEDULE.

Sec. 11.

To owner [*or occupier*]
 TAKE notice that, I, the valuer appointed under the eleventh section of "The Rating Act, 1882," by the [*Name local body or its district*], have fixed the rateable value of [*Describe property*] of which you are the owner *or* occupier] at £ .
 I call your attention to the provisions of subsections 3 and 4 of section 11 of "The Rating Act, 1882," printed on the back hereof.

Valuer.

FOURTH SCHEDULE.

To the Property-Tax Commissioner.
 THE following is a statement of the rateable values finally determined as the rateable property on the valuation roll of the [Name local body or district.] Valuer.

Sec. 11.

Number of Entry on Roll.	Rateable Value.
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FIFTH SCHEDULE.

To
 I HEREBY demand from you within [Here state period allowed for payment] the sum of £ , for rates due by you as [Here state how person is liable] to the [Name local body] as per particulars at foot. Payment is to be made at [Here state place of payment].

Sec. 23.

A.B.,
 [Clerk or other officer.]

No. on Valuation Roll.	Period for which Rate Payable.	Description of Property.	Description of Rates.	Amount.

SIXTH SCHEDULE.

THIS is to certify that under the provisions of "The Rating Act, 1882," judgment was given in the Resident Magistrate's Court [or Supreme Court or District Court] sitting at [Name the place] for the sum of pounds shillings and pence against [full name, occupation, and address], as the owner of [Describe property], [or against "the owner" of], being arrears of rates and costs due in respect of such property.

Sec. 37.

, Chairman or Mayor.

SEVENTH SCHEDULE.

WHEREAS under the provisions of "The Rating Act, 1882," judgment was given, upon the day of , 18 , in the Resident Magistrate's Court [or Supreme Court or District Court] sitting at [Name the place], for the sum of pounds shillings and pence, being arrears of rates due by A.B., as the owner of [or due by "the owner" of [Give the description of the property in the valuation roll]: This is to give notice that the said property will be sold or leased by public auction, under the provisions of the said Act, after six months from the date of this notice, unless the amount of the said judgment, together with interest thereon at the rate of ten pounds per centum per annum from the date of the said judgment to the date of payment, and all costs and expenses incurred in recovering the same, and all other rates due on such property up to the date of payment, are paid prior to such sale.

Sec. 38.

Dated this day of , 18 .

, Public Trustee.