

Hon. Mr. Ballance.

LAND AND INCOME ASSESSMENT ACT AMENDMENT.

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A BILL INTITULED

AN ACT to amend "The Land and Income Assessment Act, 1891." Title.

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

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1. The Short Title of this Act is "The Land and Income Assessment Act Amendment Act, 1892." Short Title.

2. In this Act, unless inconsistent with the context, the expression "the said Act" means "The Land and Income Assessment Act, 1891," and includes regulations made thereunder. Interpretation.

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Additional exemp-
tions from liability
to tax.

3. The following exemptions from liability to tax under the said Act are hereby declared:—

- (1.) All land owned and mortgages held by any friendly society within the meaning of the said Act, or by any trustee on behalf of any such society: 5
- (2.) All land and mortgages of any savings-bank constituted under "The Savings-Bank Act, 1858," vested in or held by any vice-president of any such bank, or vested in or held by any trustees or other person for or on behalf of any such bank, and all income derived or received by or on behalf of any such bank: 10
- (3.) All land owned and mortgages held by the Commissioners of Sinking Funds under "The Public Debts Sinking Funds Act, 1868," or by the trustees of any sinking fund of or belonging to any local authority or body the revenues of which are exempt from taxation under the said Act: 15
- (4.) All mortgages held, and all income received or derived, by or on behalf of any public charitable institution, whether formed under "The Hospitals and Charitable Institutions Act, 1885," or any other Act for the time being in force, or howsoever formed, if carried on for any public charitable purpose, and not for any gain or profit: 20

Amendment of law
as to time and
mode of making
assessment and
returns.

4. Paragraph (c) of subsection 1 of section seventeen of the said Act is hereby repealed, and in lieu thereof the following provisions are enacted, and shall be deemed to have formed part of the said Act and to have been in force when the said Act came into operation:— 25

"(c.) The first year for which assessments shall be made in each of the above cases shall commence on the first day of April, one thousand eight hundred and ninety-two, and all subsequent triennial and annual periods shall be reckoned from that date, subject, however, as hereinafter provided, that is to say:— 30

Triennial returns
of land and
mortgages by
persons.

"(1.) Returns of land owned and mortgages held by a person shall be made as at noon on the first day of the month of November immediately preceding the commencement of the triennial period to which such return relates. 35

Annual returns of
land and mortgages
by companies.

"(2.) Returns of land owned and mortgages held by a company shall for the first year of the triennial period commencing on the first day of April, one thousand eight hundred and ninety-two, be made as at noon on the first day of the month of November immediately preceding the commencement of the year to which such return relates, and as at noon on the first day of the month of April in each succeeding year of such period. 40 45

Returns of income.

"(3.) Returns of income to be made by every person and company shall be based upon the amount of income

5 which was derived or received by the person or company
making the return during the year ending on the thirty-
first day of the month of March immediately preceding the
commencement of the year of assessment: Provided that,
where the income of a person or company cannot be con-
veniently returned as of the date hereinbefore provided, it
shall be optional for the Commissioner to accept returns
made up to the date of the annual balance of such person
or company; and the Commissioner may, if he accepts
10 the date of such annual balance for the purpose of the re-
turn to be made by such person or company, accept an
estimated return of income for assessment, such assess-
ment to be adjusted by the Commissioner upon such
annual balance being completed.

15 “(4.) With respect to returns of land and mortgages
by every person and company under this Act to enable
assessments to be made hereunder for the annual or trien-
nial periods commencing on the first day of April, one
thousand eight hundred and ninety-two, the time as at
20 which such returns shall be made shall be twelve o'clock
noon on the first day of November, one thousand eight
hundred and ninety-one :

“With respect to returns of income by every person and
25 company under this Act to enable assessments to be made
hereunder for the annual period commencing on the first
day of April, one thousand eight hundred and ninety-two,
such returns shall be made on such day after the first
day of April, one thousand eight hundred and ninety-two,
as the Commissioner shall prescribe, but such returns
30 shall be based on the income derived or received by any
such person or company for the year ending the thirty-
first day of March, one thousand eight hundred and
ninety-two.”

35 “(d.) Subject to this Act returns may be required from any
person or company at the time and in the manner
required by or under any notice given by the Com-
missioner for that purpose, although the period or
year for which assessments are required to be made
40 has not commenced; and all the provisions of this Act
shall extend and apply to such returns and the person or
company liable to make the same; and assessments may
be made upon or in respect of such returns as if the same
had been required to be made or made within the year or
45 period for which assessments are required to be made;
and all proceedings may be had and taken, and all acts
and things done, for the purpose of giving effect to this
Act accordingly; but nothing herein shall prevent the
Commissioner from requiring from any person or company
50 any further or fuller returns at any time, or as at any
date, in such manner as may be prescribed, or from making

Returns of land
mortgages and
income for year
1892.

Further provisions
as to assessments.

any assessment upon any such return in such manner as may be necessary to give effect to this Act.

“Nothing contained in this section shall be deemed to interfere with or control any special powers of assessment conferred by this Act.”

Provision as to assessment of land and mortgages held by or belonging to tenants in common, joint tenants, or partners.

5. (1.) Where land or mortgages are owned or held by persons or companies in tenancy in common, joint tenancy, partnership, or on a joint account, then every tenant in common, joint tenant, partner, or person or company owning or holding on a joint account shall be assessed and liable for the whole tax payable in respect of such land or mortgages, without regard to the shares or interests of the tenants in common, joint tenants, partners, or persons or companies entitled upon a joint account in such land or mortgages. 10

And such land or mortgages shall, for the purposes of the said Act and this Act, be assessed as if owned or held by one person or company; and one deduction only in respect of improvements, and one exemption only in respect of all such land and mortgages, shall be allowed in cases where such deduction and exemption are sanctioned by law. 15

Provision for contribution between parties entitled.

(2.) Where tax shall be paid under this provision by any tenant in common, joint tenant, partner, or person or company owning or holding on a joint account, then the person or company so paying shall be entitled to contribution from every co-owner, partner, coholder, or person or company owning or holding on a joint account in proportion to the relative shares to which such co-owners, partners, or coholders, or persons or companies owning or holding on a joint account are entitled in the land or mortgage in respect of which the tax has been paid. 25

Regulations may be prescribed for the purpose of adjusting and settling how returns and assessments shall be made and contribution fixed and recovered under this section, and for any other purpose necessary to give effect thereto. 30

Power to Commissioner to amend and alter assessment rolls or registers.

6. Section twenty-two of the said Act shall be read as if the following subsections formed part thereof:—

“(4.) The Commissioner may from time to time, in respect of any assessment roll or register,— 35

“(a.) Place thereon the name of any person or company of whose liability to taxation he is satisfied, and remove therefrom the name of any person or company not so liable;

“(b.) Add to any roll or register the value of any land, or the value of any mortgages, or the amount of any income omitted to be assessed or returned by any person or company at the time and in the manner required by law; 40

“(c.) Place thereon the value of any land, or the value of any mortgages, or the amount of any income owned, held, or received, or receivable by any person or company which he is satisfied is liable to be assessed for taxation, and remove therefrom the value of any land, or the value of any mortgage, or the amount of any income which he is satisfied ought not to be assessed for taxation. 45

“(5.) The Commissioner shall not (unless with the consent of the person or company affected) add any name to, or place the value of any land, or the value of any mortgages, or the amount of any income upon any assessment roll or register, under the power hereinbefore 50

conferred upon him, until the expiration of one month after he has given notice thereof to the person or company affected thereby; and every such person or company shall be entitled to object, and to have the objection heard before any Resident Magistrate, as provided in the twenty-third section of this Act."

7. After the passing of this Act objections to assessment of income received or derived by any person or company shall be heard and determined by a Resident Magistrate and not by a Board of Review, and all the provisions of the said Act as to the powers, duties, and functions of a Board of Review in such cases shall, *mutatis mutandis*, be exercised and performed by such Resident Magistrate, with such necessary modifications or additions as may from time to time be prescribed.

Objections to assessments of income to be heard before Resident Magistrate.

8. No member of any Board of Review and no Resident Magistrate shall, solely on account of his liability to be assessed under the said Act or this Act, or of his liability to tax under any Act for the time being in force, be deemed to be interested in any matter upon which he may be called upon to adjudicate or determine as such member or Magistrate.

Members of Boards of Review and Resident Magistrates not disqualified by reason of liability to be assessed for tax.

9. Any person or company, being the owner of any land or the mortgagee of any land liable to tax under the said Act, who in any manner ceases to be the owner of such land, or ceases to be a mortgagee of any such land, may, at any time before the first day of April next ensuing after such cesser, give notice in writing of the facts to the Commissioner, who, after such inquiry therein as he thinks fit, and subject to the provisions of the said Act as amended by this Act, shall adjust the liability occasioned by the altered state of facts so that taxation may be imposed on the person or company liable thereto; and the Commissioner may, subject as aforesaid, make such alterations in any assessment-roll or other record, and may do such other acts and things as may be necessary to give effect to this provision, in such manner and upon such terms and conditions as may be prescribed from time to time.

Provision for adjustment in cases where land or mortgages sold or disposed of before commencement of new year of taxation.

Every such adjustment or alteration shall take effect as from the first day of April next succeeding the date or time when the transaction necessitating such adjustment or alteration has taken place.

These provisions shall extend and apply to any part alienation or disposal of any estate or interest in any land or mortgage, and such provisions shall, *mutatis mutandis*, be construed accordingly.

10. In any case where it shall be shown to the satisfaction of the Commissioner—

Provision for relief.

(1.) That any person liable to the payment of tax has become bankrupt within the meaning of any law for the time being in force relating to bankruptcy; or

(1) In cases of bankruptcy.

(2.) That any person or company liable to tax has suffered loss so that the exaction of the full amount of tax in any case would entail hardship of such a nature as to render it just and equitable that relief from such tax should be given;

(2) Where exaction of tax would entail hardship.

then, and in any of such cases, the Commissioner may release any such person or company wholly or in part from liability to tax, and may make such entries or alterations in any assessment roll or register in force as may be necessary for that purpose.

General amend-
ments in "The
Land and Income
Assessment Act,
1891."
Definition of "com-
pany."

Definition of
"owner."

Amendment in sec-
tion 14.

Repeal of sections 30
to 33 of principal
Act.

Power to require
owner to assent to
assessment of land;
otherwise power to
Governor to acquire
same for Her
Majesty.

Procedure thereon.

11. The following amendments are hereby made in the said Act :—
- (1.) The definition of "company" in the third section of the said Act means, and shall be deemed to have meant and included, from the time the said Act came into operation, any corporate body not being a friendly society, and any association consisting of more than ten persons carrying on or engaged in any business, trade, manufacture, adventure, or concern. 5
 - (2.) The definition of "owner" in the third section of the said Act means, and shall be deemed to have meant and included, from the time the said Act came into operation, any person or company who, whether beneficially or in trust or as mortgagee in possession or otherwise, is— 10
 - (a.) Seised or entitled at law or in equity to an estate of freehold in possession of land or, howsoever entitled, to the rents and profits of land in possession; or 15
 - (b.) Who, if the land was let, would be entitled at law or in equity to receive the rents thereof in possession; 20
 - (c.) Possessed of a leasehold estate in land in possession; 20

And each and every of such persons or companies shall be liable to be assessed upon the actual value as defined by section one of Schedule A to the said Act, and shall be liable for the payment of the whole tax upon all such land. :

Provided that, where any land is subject to any lease or tenancy, then the owner shall be assessed upon such land subject to the lease or tenancy; and the owner of such leasehold or tenancy shall be assessed upon the value of his interest therein. 25
 - (3.) In subsection (6) of section fourteen of the said Act the word "mortgage" is inserted, after the word "land," where it first occurs in the said subsection. 30
12. Sections thirty, thirty-one, thirty-two, and thirty-three of the said Act are hereby repealed.
13. If the Commissioner is of opinion that any land included in any return or assessed upon the Assessment Roll was not returned or assessed at its fair actual value (and notwithstanding that a Board of Review has given its decision upon the assessment)— 35
- (a.) He may, during the period for which such Assessment Roll is in force, give notice to the owner by registered letter that he requires the owner to consent to such land being assessed at such sum as the Commissioner may be of opinion was the fair actual value of such land at the date as at which the return or assessment was made, and which sum shall be specified in the notice, and that, failing such consent being given within thirty days after such notice, the Commissioner will recommend the Governor to acquire such land on behalf of Her Majesty at the sum at which such land was entered in the return of such owner, with ten pounds for every one hundred pounds of such value added. 40 45
 - (b.) The owner may within the said thirty days, but not afterwards, consent to the land being assessed as specified in such notice, or at any other amount agreed to by the 50

5 Commissioner and such owner. If the owner shall within the said thirty days consent to have such value altered in accordance with such notice, or with any agreement made as aforesaid, then the Commissioner may assess the land in accordance with such notice or agreement, and alter the Assessment Roll accordingly.

10 (c.) If the owner does not consent, or make any such agreement as aforesaid, then the Governor may, by Order in Council, declare that such land is vested in Her Majesty, and the effect of such Order in Council shall be to vest the land in Her Majesty for the same estate or interest therein as such owner was entitled to.

15 (d.) If the Governor in Council exercises the power aforesaid, then any money payable to the owner may be paid to such owner, or, if he refuses or neglects to receive the same, or is absent from the colony, or is under any legal disability, or if the Commissioner is in doubt as to who is entitled to such money, then such money shall be paid into the Public Trust Office in trust for such owner, and if so paid the owner or person entitled thereto may, upon petition to the Supreme Court, or a Judge thereof, and upon establishing his title thereto, obtain payment of such money.

25 14. The owner of any land (other than the owner of a leasehold interest therein), not subject to any outstanding estate or interest or any mortgage, who is not satisfied with the value of such land as assessed upon the Assessment Roll (whether such value shall have been determined by a Board of Review or not) may, within fourteen days after the Board of Review for the district where such land is situate has closed its sittings, give notice to the Commissioner that such owner requires the Commissioner to reduce the assessment of such land to the amount specified in the return made by such owner, or, if the Commissioner will not make such reduction, then requiring the Commissioner to acquire such land at the sum mentioned in the owner's return of such land:

Power of owner of land to require assessment to be reduced, otherwise may require Governor to acquire land for Her Majesty.

35 Provided always that no owner of land who has failed to make the return of such land within the time prescribed shall be entitled to take advantage of this section.

40 The Commissioner shall, upon receiving such notice—

Procedure thereon.

(a.) Either make the reduction required, or

(b.) With the approval of the Governor in Council, acquire such land at the value specified in the return made by the owner.

45 (c.) If the Governor in Council does not approve of the acquisition of such land, then the Commissioner shall reduce the assessment to the amount specified in the return made by the owner, and shall alter the assessment roll accordingly.

50 (d.) If the Governor in Council approves of the acquisition of the land, then the owner shall convey the land to Her Majesty, and thereafter shall be entitled to receive from the Commissioner the purchase-money aforesaid. If the owner refuses or fails to convey the land to Her Majesty,

then the Governor may by Order in Council declare such land to be vested in Her Majesty, and the effect of such Order in Council shall be to vest the land in Her Majesty for the same estate or interest therein as such owner was entitled to.

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If the owner refuses or neglects to accept the purchase-money, or is absent from the colony, or under any legal disability, or if the Commissioner is in doubt as to who is entitled to the purchase-money, then such money shall be paid into the Public Trust Office in trust for such owner, and if so paid the owner, or person entitled thereto may, upon petition to the Supreme Court or a Judge thereof, and upon establishing his title thereto, obtain payment of such money.

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Colonial Treasurer
to pay purchase-
money.

15. The Colonial Treasurer shall, upon the Governor's warrant, pay out of the Consolidated Fund, without specific appropriations, all moneys required to be expended under section *thirteen* or section *fourteen* of this Act.

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How land acquired
may be disposed of.

16. Whenever land shall become vested in Her Majesty under the powers conferred by this Act, then the possession of such land shall be deemed to be in Her Majesty, and every person on such land shall be deemed to be an intruder thereon, unless such person proves a title to such possession as against Her Majesty. Any land acquired under this Act may be sold and disposed of in such manner as the Governor in Council may direct, and the Governor may, in the name of Her Majesty, convey, transfer, or otherwise assure such land in pursuance of any such sale or disposition.

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Amendments in
Schedules to above
Act :
Schedule A.
Amendments in
sections 2 and 6.

17. The following amendments are hereby made in the Schedules to the said Act :—

(1.) In the first part of Schedule A,—

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In section two of the said Schedule the words "the mortgages and" shall be inserted after the words "value of" in the first line of such section.

The words "one hundred and twenty," in the last proviso of section two of the said Schedule, are hereby repealed, and in lieu thereof the words "two hundred" are inserted :

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Section six of the said Schedule is hereby repealed, and in lieu thereof the following new section is inserted :

"Every person or company, being the holder or occupier of any Crown lands for 'mining purposes' within the meaning of any Act under which such lands are held or occupied, shall be liable to tax as upon income from business, and not upon the assessed value of the interest in such land."

45

The following additional section is added to the said Schedule :—

"7. Where land is sold on time or deferred payment by any owner other than the Crown, and money is owing to the vendor in respect of such land, the amount so owing shall, for the purposes of this Act, be deemed to be a registered mortgage and shall be stated by the vendor accordingly in any return made by him under this Act, and the amount so owing may be deducted by the purchaser as if it were secured to the vendor upon a registered mortgage.

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Additional pro-
visions to Schedule.

(2.) In the second part of Schedule A,—

The definitions of "mortgage" and "mortgagee" herein are hereby repealed, and in lieu thereof the following definitions are enacted:—

Definition of "mortgage" and "mortgagee."

5 " 'Mortgage' includes any charge whatsoever upon land, or any interest therein, registered under any law in force relating to the registration of title to land, or of deeds, or instruments, and whether created by deed, will, or any other instrument, or in any other manner.

10 " 'Mortgagee' includes the person or company entitled at law or in equity to a mortgage or any part thereof."

The foregoing definitions of the expressions "mortgage" and "mortgagee," shall extend to all Parts or Schedules of the said Act as amended by this Act.

15 (3.) In Schedule C,—

Schedule C. Amendment of section 1 as to "insurance companies."

In the second proviso to section one of the said Schedule the expression "Insurance Companies" shall be construed to include companies carrying on business as fire, marine, accident, fidelity, or guarantee insurance companies, or for any one or more of such objects; and, generally, every company carrying on business for insurance against loss, risk, or damage, and not otherwise liable to tax.

20 To section two of the said Schedule the following proviso is added:—

Amendment of section 2 where a company has borrowed money on debentures.

25 " Provided that a company, having borrowed money in the manner hereinbefore mentioned upon debentures, shall not be liable to be assessed for income-tax in respect of so much of the money so borrowed as the company proves, to the satisfaction of the Commissioner at the date for making the annual return of income, was invested by such company on mortgages of land in New Zealand duly registered, and also that such mortgages of land had been assessed for land-tax under Schedule A of this Act, and that the then holder of any such debenture was residing beyond New Zealand; and such regulations shall from time to time be prescribed as may be necessary to give effect to this provision."

30 (4.) In Schedule D,—

Schedule D. Extended meaning of "income from business."

35 The definition of "income derived from business" includes all income derived from the deposit of money at interest with any bank, company, authority, or person, and from money lent at interest in any way otherwise than on mortgage of land; and also all income received or derived from beyond the colony, whether from land, mortgages, or any other source whatever beyond New Zealand.

40 Section two of the said Schedule is hereby repealed, and in lieu thereof the following provision is enacted:—

45 " (2.) Tax shall be assessed and paid by every person upon the income derived from business as aforesaid, and, when the taxable amount of income so derived has been ascertained in accordance with this Act, every person,

Deduction from taxable amount by way of exemption in cases of income from business.

whether carrying on business alone or in partnership, shall be entitled to a deduction by way of exemption of three hundred pounds; but no person shall be allowed more than one such exemption either in respect of income derived from business, or in respect of income derived from employment or emolument." 5

Schedule E.
Deduction from taxable amount by way of exemption in cases of income from employment or emolument.

(5.) In Schedule E,—

Section two of the said schedule is hereby repealed, and in lieu thereof the following is inserted:—

"(2.) Tax shall be assessed and paid by every person upon the income derived from employment or emolument as aforesaid, and, where the taxable amount of income so derived has been ascertained in accordance with this Act, every person, whether engaged in any employment or receiving any emolument either alone or in partnership shall be entitled to a deduction by way of exemption of three hundred pounds; but no person shall be allowed more than one such exemption either in respect of income derived from employment or emolument, or in respect of income derived from business." 10 15 20

Schedule F.
Amendment of section 3 as to partners.

(6.) In Schedule F,—

The following provision shall be read as part of the third section of the said Schedule:—

"Persons carrying on any business or employment in partnership shall be liable to make a joint return as such partners in respect of the business or employment which they carry on or are engaged in, with such particulars as may from time to time be prescribed." 25

Amendment of section 6.

At the end of section six of the said Schedule the following words are added: "under Schedule A to this Act." 30

Addition to section 7 as to deduction for life-insurance premiums.

The following provision shall be read as part of section seven of the said Schedule:—

"Where a person carries on business or is engaged in any employment in partnership with one or more other person or persons, and is in receipt of no other income than that derived from such business or employment, the amount paid in respect of his life insurance, as hereinbefore provided, may be deducted as an outgoing from such business or employment, or from the gross amount of the partnership income, as the case may be." 35 40

"The provisions of this section shall apply to any insurance effected with the Government Insurance Commissioner under any Act or authority relating to such insurance." 45

"The Land and Income Assessment Act, 1891," to apply for the purpose of affixing value in certain cases under law relating to stamp duties and duties upon estates of deceased persons.

18. The provisions of any Act in force relating to stamp duties, or the duties upon the estates of deceased persons, which provide that the amount of duty payable upon or in respect of any property shall be ascertained in accordance with the value thereof as assessed under "The Property Assessment Act, 1885," or under any Act repealed by that Act, shall be deemed to include "The Land and Income Assessment Act, 1891," as from the date of the passing thereof; and, whenever it shall be necessary to determine the amount of duty payable after the date of the passing of the last-mentioned Act on or in respect of any such property, the same shall be calculated 50 55

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on the value of the owner's interest in such property including all improvements thereon, as appearing in any assessment-roll for the time being in force under the said Act.

And generally where, in any unrepealed Act, any reference is made to "The Property Assessment Act, 1885," or any amendment thereof, such reference shall be construed as referring to "The Land and Income Assessment Act, 1891," as amended by this Act.

General application of above Act to Acts in force.

19. Except where any provision of this Act expresses a different intention, then the provisions of this Act shall be deemed to have been in operation when "The Land and Income Assessment Act, 1891," came into operation and to have formed part thereof; and, except where the context manifests a different intention, the expression "this Act," wherever used herein, shall include the said Act as amended hereby.

Provisions of this Act to be read as if same had been part of principal Act.

20. For the purpose of conclusively settling any doubts as to the validity or regularity of anything heretofore done or that may hereafter be done under the said Act it is hereby declared as follows:—

The validity of regulations made and things done under the principal Act provided for.

(1.) All regulations made under the said Act prior to the passing of this Act, and all notices given, forms prescribed, times fixed, acts, things, and proceedings done or taken by the Commissioner or any Board of Review, and all returns of land, mortgages, or income, or any of them, heretofore made or required to be made or purporting to have been so required, shall be and be deemed to have been valid and lawfully made, given, prescribed, fixed, done, taken, and required, as the case may be.

(2.) All assessments of the land, or mortgages, or income of any person or company respectively heretofore made or purporting to be made or hereafter to be made in accordance with the said Act or the said regulations for the triennial or the annual periods commencing on the first day of April, one thousand eight hundred and ninety-two, upon such returns or assessments as aforesaid, and all assessment-rolls or registers made and completed, or hereafter to be made and completed, in respect of the said periods or either of them, shall respectively be and be deemed to have been valid so far as the validity thereof depends on compliance with or conformity to the said Act as amended by this Act or the said regulations hereinbefore mentioned.

(3.) All statements of values supplied, and all valuation-rolls furnished by the Commissioner to any local authority or body under "The Rating Act, 1882," and all rates made or to be made thereon, shall respectively be deemed to have been and to be lawfully supplied, furnished, and made, and to have been and to be good and valid in all respects.

(4.) All penalties and obligations incurred or accrued under the said Act, or any such regulations as aforesaid, prior to the passing of this Act, or which would have been incurred or have accrued had this Act then been in force, are hereby declared to be and to have been incurred and to have accrued and to be enforceable as from the date or time when the same were incurred or accrued or would have been incurred or accrued as effectually as if this Act had been in force at such last-mentioned date or time.