

4.—(1.) For the purposes of this Act, the sale value of goods imported into Australia on or after the first day of August One thousand nine hundred and thirty—

Sale value of imported goods.

Amended by No. 26, 1939, s. 3.

- (a) by an unregistered person ; or
- (b) by a registered person who does not quote his certificate on the Customs entry relating to the goods,

shall be an amount which exceeds by twenty per centum the sum of the following :—

- (i) the value for duty of those goods converted into Australian currency ; and
- (ii) the duty of Customs payable in respect of the goods.

(2.) For the purposes of this section, “ value for duty ” means—

- (a) where the goods are subject to an ad valorem duty upon importation into Australia under the law relating to duties of Customs—the value ascertained in accordance with that law for the purpose of calculating that duty ; and
- (b) where the goods are not so subject—the value upon which, in the opinion of the Commissioner, an ad valorem duty would have been calculated if the goods had been so subject :

Provided that, pending the ascertainment of the value required to be ascertained under paragraph (a) or (b) of this sub-section, the value for duty of the goods to which this section applies shall be taken to be the value at which the goods are entered for home consumption under the law relating to the Customs :

Provided further that, in the case of goods in respect of which a Customs entry has been passed, and which have subsequently been sent out of the Commonwealth for repairs with the approval of the Minister for Trade and Customs, the sale value of the goods upon their re-importation into Australia shall be the sum of the value for duty of the goods converted into Australian currency and the duty of Customs payable in respect of the goods.

Added by No. 33, 1931, s. 2\* and amended by No. 26, 1939, s. 3.

(3.) For the purposes of this section the rate of exchange to be used in converting the value for duty into Australian currency shall be the telegraphic transfer selling rate in Australia, at the date of exportation of the goods from the country of export, as fixed by the Commonwealth Bank of Australia.

Added by No. 26, 1939, s. 3.

5. Sales tax shall be paid by the importer of goods the sale value of which is specified in sub-section (1.) of section four of this Act.

Liability for tax.

\* By section 5 of the *Sales Tax Assessment Act (No. 5) 1931*, this amendment is deemed to have commenced on the date of commencement of the *Sales Tax Assessment Act (No. 5) 1930*.

Exemptions.  
Substituted by  
No. 61, 1935,  
s. 8.\*

6. Notwithstanding anything contained in section five of this Act, sales tax shall not be payable under this Act by the person specified in that section upon the sale value of goods the sale value of which is, by virtue of the *Sales Tax Exemptions Act* 1935, exempt from sales tax under this Act.

Refund of tax  
in certain  
cases where  
goods  
re-exported.

Inserted by  
No. 33, 1931,  
s. 3,† and  
amended by  
No. 51, 1933,  
s. 2.

6A.—(1.) Sales tax payable in respect of imported goods entered for home consumption under the law relating to the Customs may, in prescribed cases, be paid to the Collector of Customs and retained by him on deposit for a period not exceeding twelve months.

(2.) If the goods are exported from Australia by the taxpayer within such time as is prescribed, the Collector may return to the taxpayer the amount deposited.

(3.) If the goods are not exported as specified in the last preceding sub-section, the Collector shall pay the amount deposited into the Consolidated Revenue Fund.

Added by  
No. 78, 1936,  
s. 33.

(4.) In lieu of payment and retention on deposit of tax pursuant to sub-section (1.) of this section the Collector may, in any case in which he thinks fit, accept such security as he deems sufficient as security that within the prescribed time the taxpayer will—

(a) export the goods from Australia ; or

(b) pay the sales tax payable in respect of the goods.

Added by  
No. 78, 1936,  
s. 33.

(5.) The provisions of the *Customs Act* 1901-1935 (including any regulations made under that Act) relating to securities shall apply to a security under the last preceding sub-section as if that security were a security for compliance with that Act.

### PART III.—ENTRIES.

Entries.

7.—(1.) Where any person imports into Australia goods to the importation of which section four of this Act applies, he shall, at the time of the entry of the goods under the law relating to the Customs, lodge, for the purposes of this Act, with the Collector of Customs at the port of importation, an entry in the prescribed manner and form.

(2.) For the purposes of the section, the expression "Collector of Customs" has the same meaning as it has in the *Customs Act* 1901-1930.

Failure to  
lodge entry or  
furnish  
information.

8. Any person who is required by or under the last preceding section to lodge any entry or to furnish any prescribed information

\* Section 18 of the *Sales Tax (Securities and Exemptions) Act* 1935 reads—

"18. Notwithstanding anything contained in sections four to twelve (inclusive) and section seventeen of this Act, the sections and Schedules repealed by the first-mentioned sections shall continue in force for all purposes in connexion with liability for sales tax arising out of transactions, acts or operations which were entered into, done or carried out prior to the commencement of this Act."

† By s. 5 of the *Sales Tax Assessment Act* (No. 5) 1931, s. 6A inserted by s. 3 of that Act is deemed to have commenced on the date of the commencement of the *Sales Tax Assessment Act* (No. 5) 1930.

and who fails to lodge that entry or to furnish that information shall be guilty of an offence.

Penalty : One hundred pounds.

PART IV.—COLLECTION AND RECOVERY OF TAX.

9. Every person liable to pay tax under section five of this Act upon the sale value of any goods imported by him into Australia shall pay sales tax at the time of the entry of those goods for home consumption under the law relating to the Customs : Time of payment of tax.

Provided that, in the case of goods the value for duty of which is, under sub-section (2.) of section four of this Act, ascertained in accordance with the opinion of the Commissioner, the person liable to pay sales tax upon the sale value of those goods shall, on or before the date specified in the notice by the Commissioner stating the sale value of those goods and the amount of any additional sales tax payable thereon and attributable to an excess in the value for duty so ascertained over the sale value of the goods at the time of entry, pay that additional tax.

10.—(1.) Where the Commissioner finds in any case that tax or further tax is payable by any person, the Commissioner may— Further tax.

- (a) assess the sale value upon which tax should be or should have been paid ; and
- (b) calculate the tax or further tax which is payable.

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

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

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

11.—(1.) Where the Commissioner finds in any case that tax has been overpaid and is satisfied that the tax has not been passed on by the taxpayer to some other person, or, if passed on to some other person, has been refunded to that person by the taxpayer, the Commissioner may refund the amount of tax found to be overpaid. Refunds of tax. Sub-section (1.) substituted by No. 51, 1933, s. 3.

(2.) Where a taxpayer sells goods in respect of the sale value of which tax has been paid under this Act, and the whole or any part of the amount for which the goods were sold has actually been written off by the taxpayer as a bad debt, the Commissioner may, to the extent to which it is proved to his satisfaction that the debt is a bad debt, refund so much of the tax as bears to the tax the

same proportion as the amount so proved to be a bad debt bears to the total amount for which the goods were sold :

Provided that, if the whole or any part of any amount in respect of which tax has been so refunded is at any time recovered by the taxpayer, he shall within seven days notify the Commissioner in writing accordingly and repay the whole or a proportionate part of the tax so refunded.

Inserted by  
No. 78, 1936,  
s. 34.

(2A.) Where the Commissioner is satisfied that—

- (a) tax has been paid in respect of the importation of goods by a registered person who was required to quote his certificate in respect of the importation of those goods but who failed to do so ; and
- (b) the tax has not been passed on by that registered person to some other person or, if passed on to some other person, has been refunded to that other person by the registered person,

the Commissioner may refund to that registered person the amount of tax so paid.

Added by  
No. 43, 1932,  
s. 2.

(3.) Where tax has been paid under this Act on the importation of goods by a person who has subsequently sold the goods to the Government of the Commonwealth or the Government of a State or to a Commonwealth or State authority and the Commissioner is satisfied that—

Amended by  
No. 61, 1935,  
s. 15.

- (a) the Government of the Commonwealth or the Government of a State would have been entitled to exemption from tax under item 74 in the Schedule to the *Sales Tax Exemptions Act* 1935 if that Government had imported the goods, and
- (b) the amount of that tax has been excluded wholly or in part from the price for which the goods were so sold,

the Commissioner may refund to the person who so sold the goods the amount which, in the opinion of the Commissioner, was so excluded.

Added by  
No. 51, 1933,  
s. 3.

(4.) Notwithstanding anything contained in this section, if, either before or after the commencement of this sub-section, any alteration is made in the rate of sales tax payable in respect of any goods, no refund, repayment or reduction shall, by reason of that alteration, be made of any amount paid or payable by any person as sales tax in respect of goods imported before the date of assent to the law making the alteration.

Drawback.  
Inserted by  
No. 43, 1932,  
s. 3.

11A.—(1.) Where, on or after the twenty-seventh day of May, One thousand nine hundred and thirty-two, drawback of import duty paid in respect of any goods is allowed pursuant to section one hundred and sixty-eight of the *Customs Act* 1901-1930 and the regulations thereunder, drawback of the sales tax paid under this Act in respect of those goods shall be allowed.



(2.) Where sales tax has been paid under this Act in respect of goods which are not subject to import duty, and, in the opinion of the Collector of Customs, drawback of duty would have been allowable under section one hundred and sixty-eight of the *Customs Act 1901-1930* and the regulations thereunder if the goods had been subject to such duty, drawback of the sales tax so paid shall be allowed and the provisions of the *Customs Act 1901-1930* and the regulations thereunder, in relation to drawback of import duty, shall apply in respect of drawback of sales tax as if the goods had been subject to import duty.

Added by  
No. 51, 1933,  
s. 4.

PART V.—APPLICATION OF SALES TAX ASSESSMENT ACT  
(No. 1) 1930.

12.—(1.) The following Parts, sections and sub-sections of the *Sales Tax Assessment Act (No. 1) 1930-1936*, namely, section three, Parts II. and III., sub-sections (5B) and (5C) of section eighteen, section twenty-three, sections twenty-seven to thirty-nine inclusive, and Parts VII., VIII., IX. and X., and the Second Schedule, shall *mutatis mutandis* apply in relation to the imposition, assessment and collection of the tax chargeable under this Act in like manner as they apply in relation to the imposition, assessment and collection of the tax chargeable under that Act, but for the purposes of this Act—

Application of  
provisions of  
*Sales Tax  
Assessment Act  
(No. 1) 1930.*  
Amended by  
No. 78, 1936,  
s. 35.

(a) section eleven of the *Sales Tax Assessment Act (No. 1) 1930* shall be read as if sub-sections (7.) and (8.) were omitted and the following sub-section inserted in their stead :—

“(7.) In respect only of the period commencing on the first day of August One thousand nine hundred and thirty and ending on the expiration of twenty-eight days after the commencement of this Act the following provisions shall apply :—

- (a) Any person required by this Act to be registered shall be deemed to be a registered person until in fact so registered ;
- (b) every person so deemed to be a registered person shall upon every importation of goods by him for the purpose of sale or for use in the manufacture of goods for sale certify in writing to the Collector of Customs on the entry of those goods that the goods have been imported for that purpose ;
- (c) where in respect of any importation of goods the importer does not so certify he shall be deemed for the purposes of this Act not to have quoted his certificate in respect of the importation of those goods.” ;

- (b) section twenty-nine of that Act shall be read as if the words "section nine or ten of this Act" were substituted for the words "section twenty-four or twenty-five of this Act" (wherever occurring), and
- (c) sub-section (2.) of section thirty-five of that Act shall be read as if the words "Part III. of this Act" were substituted for the words "Part V. of this Act".

(2.) The power to make regulations, conferred by the application, by the last preceding sub-section, of section seventy-three of Part X. of the *Sales Tax Assessment Act (No. 1) 1930*, shall include the power to make regulations for enabling registrations, certificates and securities made, issued or given for the purposes of that Act, to be treated as, or to be deemed to be, made, issued or given for the purposes also of this Act, and shall include the power generally to make regulations for treating acts, matters and things done, for the purposes of the *Sales Tax Assessment Act (No. 1) 1930*, under the sections and Parts of that Act made applicable to this Act, as done or deemed to be done under this Act.

#### PART VI.—MISCELLANEOUS.

Non-applica-  
tion of sales  
tax under other  
Acts in certain  
cases.

**13.** Where sales tax is payable under this Act upon the sale value of goods entered for home consumption on or after the first day of August One thousand nine hundred and thirty, and prior to the commencement of this Act, sales tax shall not be payable upon the sale value of those goods under any other Act.

Schedule  
repealed by  
No. 61, 1935,  
s. 17.\*

\* \* \* \* \*

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\* See now the *Sales Tax (Exemptions and Classifications) Act 1935-1950 (infra)*.

SALES TAX ASSESSMENT ACT (No. 6) 1930-1936.<sup>(a)</sup>

An Act relating to the Imposition, Assessment and Collection of a Tax upon the Sale Value of Goods imported into Australia and sold by the Importer or applied to his own use, and for other purposes.

Title amended,  
No. 44, 1932,  
s. 2.

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Sales Tax Assessment Act (No. 6)* 1930-1936.<sup>(a)</sup>

Short title.  
Short title amended,  
No. 32, 1918,  
s. 2.
2. This Act is divided into Parts, as follows :—
  - Part I.—Preliminary.
  - Part II.—Liability to Taxation.
  - Part III.—Returns.
  - Part IV.—Collection and Recovery of Tax.
  - Part V.—Application of *Sales Tax Assessment Act (No. 1)* 1930.

Parts.

PART II.—LIABILITY TO TAXATION.

3. Subject to, and in accordance with, the provisions of this Act, the sales tax imposed by the *Sales Tax Act (No. 6)* 1930 shall be levied and paid upon the sale value of goods imported into Australia by a taxpayer—

Sales tax.  
Amended by  
No. 68, 1930,  
s. 3, and by  
No. 44, 1932,  
s. 3.

- (a) either before or after the commencement of this Act and sold by him on or after the first day of August, One thousand nine hundred and thirty ; or

(a) The *Sales Tax Assessment Act (No. 6)* 1930-1936 comprises the *Sales Tax Assessment Act (No. 6)* 1930 as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Sales Tax Assessment Act (No. 6)</i> 1930	1930, No. 35	18th August, 1930	18th August, 1930
<i>Sales Tax Assessment Act (No. 6A)</i> 1930	1930, No. 68	16th December, 1930	18th August, 1930
<i>Sales Tax Assessment Act (No. 6)</i> 1931	1931, No. 35	10th August, 1931	10th August, 1931
<i>Sales Tax Assessment Act (No. 6)</i> 1932	1932, No. 44	5th October, 1932	5th October, 1932
<i>Sales Tax Assessment Act (No. 6)</i> 1933	1933, No. 52	12th December, 1933	12th December, 1933
<i>Sales Tax (Securities and Exemptions) Act</i> 1935	1935, No. 61	7th December, 1935	7th December, 1935
<i>Sales Tax Amendment Act</i> 1936	1936, No. 78	7th December, 1936	7th December, 1936

- (b) after the commencement of this Act, and applied by him to his own use on or after the date of the commencement of the *Sales Tax Act* (No. 6) 1932.<sup>(a)</sup>

Sale value of goods.  
Amended by No. 44, 1932, s. 4.\*

4.—(1.) For the purposes of this Act, the sale value of goods which are sold on or after the first day of August One thousand nine hundred and thirty shall be the amount for which those goods are sold by a registered person, or a person required to be registered, who imported those goods, to an unregistered person or to a registered person who has not quoted his certificate in respect of the purchase of those goods :

Added by No. 35, 1931, s. 2.†

Provided that where goods are sold by retail by a registered person who has quoted his certificate when importing the goods the sale value of the goods shall be the amount which would be the fair market value of those goods if sold by him by wholesale, but if the Commissioner is of opinion that the amount set forth in any return by the registered person as the sale value of any such goods is less than the amount which would be their fair market value if sold by wholesale, the Commissioner may alter the amount set forth in the return to the amount which, in his opinion, would be the fair market value of the goods if sold by wholesale, and the amount as so altered shall be the sale value of the goods for the purposes of this Act.

Inserted by No. 44, 1932, s. 4.

(1A.) For the purposes of this Act the sale value of goods imported by a registered person who quoted his certificate on the Customs entry relating to those goods, and who applies those goods to his own use, shall be the amount which would have been the sale value of those goods for purposes of the *Sales Tax Assessment Act* (No. 5) 1930-1931 if that person had not so quoted his certificate.

Sub-section (2.) omitted by No. 78, 1936, s. 37.

\* \* \* \* \*

Substituted by No. 35, 1931, s. 2† and amended by No. 78, 1936, s. 37.‡

(3.) For the purposes of this section, the sale value of goods shall not be increased by<sup>(b)</sup> any amount payable in respect of sales tax, but, when the goods are sold either in bond or while otherwise subject to the control of the Customs, the sale value shall be increased by<sup>(b)</sup> the amount of any duty of Customs to which the goods would be subject if entered for home consumption at the time at which they are sold.

(a) 5th October, 1932.

(b) See footnote (a) on p. 3767, *supra*.

\* By s. 5 of the *Sales Tax Assessment Act* (No. 6) 1933 this amendment is deemed to have commenced on the date of the commencement of the *Sales Tax Assessment Act* (No. 6) 1930.

† By s. 7 of the *Sales Tax Assessment Act* (No. 6) 1931, this amendment is deemed to have commenced on 11th July, 1931.

‡ By sub-s. (2.) of s. 37 of the *Sales Tax Amendment Act* 1936 so much of this amendment as inserts the words "increased by" in lieu of the words "taken to include" is deemed to have commenced on 11th July, 1931.



(4.) In the case of goods delivered on or after the first day of August One thousand nine hundred and thirty under a contract of sale made on or after the tenth day of July One thousand nine hundred and thirty and before the first day of August One thousand nine hundred and thirty the goods shall, for the purposes of this Act, be deemed to have been sold on the date of their delivery.

5. Sales tax shall be paid by the importer of goods the sale value of which is specified in the last preceding section.

Liability for tax.

Amended by No. 44, 1932, s. 5.

5A.—(1.) Where a registered person has quoted his certificate in respect of goods imported by him prior to the eleventh day of July, One thousand nine hundred and thirty-one, he shall be entitled, in respect of any sale of those goods by retail made by him on or after that date, to a rebate of tax of the difference between the amount of tax payable by him in respect of that sale and the amount of tax which would have been payable if the rate of tax payable in respect of such sale had been two and one-half per centum of the sale value of the goods.

Rebates.

Inserted by No. 35, 1931, s. 3.\*

(2.) Where, upon the death or bankruptcy of a registered person to whom this section applies, or otherwise by devolution of the estate of that person, the ownership of goods purchased as specified in this section becomes vested in some other person, that other person shall, if he becomes liable to pay tax in respect of any sale by retail of those goods, be entitled to a rebate of that tax to the extent specified in this section.

Added by No. 44, 1932, s. 6.

6. Notwithstanding anything contained in section five of this Act, sales tax shall not be payable under this Act by the person specified in that section upon the sale value of goods the sale value of which is, by virtue of the *Sales Tax Exemptions Act 1935*, exempt from sales tax under this Act.

Exemptions. Substituted by No. 61, 1935, s. 9.†

### PART III.—RETURNS.

7. Every person who, during any month—

Returns, &c.

(a) makes any of the sales specified in sub-section (1.) of section four of this Act; or

Substituted by No. 44, 1932, s. 7, and amended by No. 52, 1933, s. 2.

(b) applies to his own use any goods specified in sub-section (1A.) of section four of this Act,

shall, within twenty-one days after the close of that month, furnish to the Commissioner a return of those sales or, as the case may be, of those goods in the prescribed form, setting forth such information as is prescribed or is required for the due completion of that form.

\* See footnote † on previous page.

† Section 18 of the *Sales Tax (Securities and Exemptions) Act 1935* reads—

"18. Notwithstanding anything contained in sections four to twelve (inclusive) and section seventeen of this Act, the sections and Schedules repealed by the first-mentioned sections shall continue in force for all purposes in connexion with liability for sales tax arising out of transactions, acts or operations which were entered into, done or carried out prior to the commencement of this Act."

Further  
Returns.

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

#### PART IV.—COLLECTION AND RECOVERY OF TAX.

Time of  
payment  
of tax.

Amended by  
No. 44, 1932,  
s. 8.

9. Every person liable to pay tax under section five of this Act upon the sale value of any goods sold by him or applied to his own use during any month shall, within twenty-one days after the close of that month, pay sales tax upon that sale value.

Further tax.

10.—(1.) Where the Commissioner finds in any case that tax or further tax is payable by any person, the Commissioner may—

(a) assess the sale value upon which tax should be or should have been paid ; and

(b) calculate the tax or further tax which is payable.

Amended by  
No. 78, 1936,  
s. 38.

(2.) Where, under sub-section (1.) or (2.) of section four of this Act, the sale value of any goods has been altered, the Commissioner shall calculate the further tax (if any) payable in consequence of that alteration.

Inserted by  
No. 52, 1933,  
s. 3.

(2A.) Where—

(a) any person makes default in furnishing any return ; or

(b) the Commissioner is not satisfied with the return made by any person ; or

(c) the Commissioner has reason to believe or suspect that any person (though he may not have furnished any return) is liable to pay sales tax,

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

Inserted by  
No. 78, 1936,  
s. 38.

(2B.) Any person who becomes liable to pay sales tax by virtue of an assessment made under the last preceding sub-section shall also be liable to pay, by way of additional tax, double the amount of that sales tax or the amount of One pound whichever is the greater :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(3.) As soon as conveniently may be after an assessment is made or a sale value is altered, the Commissioner shall cause notice in writing of the assessment or alteration and of the tax or further tax to be given to the person liable to pay the tax or further tax.

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

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

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

Refunds of tax.  
Sub-section (1.)  
substituted by  
No. 52, 1933,  
s. 4.

(2.) Where a registered person has sold goods upon the sale value of which he has paid tax, and has subsequently written off as a bad debt the whole or any part of the amount for which the goods were sold, the Commissioner may—

Amended by  
No. 35, 1931,  
s. 5.\*

- (a) on proof to his satisfaction that the whole amount is a bad debt—refund to the registered person the amount of tax paid on the sale value of the goods ;
- (b) on proof to his satisfaction that a part of the amount is a bad debt—refund to the registered person so much of the tax as bears to the total amount of tax the same proportion as the amount so proved to be a bad debt bears to the total amount for which the goods were sold :

Provided that if any amount in respect of which tax has been so refunded is at any time wholly or partly recovered by the taxpayer, he shall, within twenty-one days after the close of the month in which the amount is so recovered, repay to the Commissioner so much of the tax refunded as bears to the total amount of that tax the proportion which the amount so recovered bears to the amount in respect of which tax was so refunded.

Proviso  
substituted by  
No. 52, 1933,  
s. 4.

(2A.) Where the Commissioner is satisfied that—

Inserted by  
No. 78, 1936,  
s. 39.

- (a) tax has been paid in respect of the sale of goods to a registered person who was required to quote his certificate in respect of the purchase of those goods but who failed to do so ;
- (b) the tax has been wholly or partly included in the price for which that registered person purchased the goods ; and
- (c) the tax has not been passed on by that registered person to some other person or, if passed on to some other person, has been refunded to that other person by the registered person,

\* By s. 7 of the *Sales Tax Assessment Act (No. 6) 1931*, this amendment is deemed to have commenced on 11th July, 1931.

the Commissioner may, if so satisfied—

- (i) within a period of three years ; or
- (ii) on consideration of a claim in writing lodged with the Commissioner within a period of three years,

from the date on which the goods were so sold, pay to that registered person an amount equal to the tax so paid and included.

Added by  
No. 44, 1932,  
s. 9.

(3.) Where goods are sold by any person to the Government of the Commonwealth or the Government of a State, and the Commissioner is satisfied—

Amended by  
No. 61, 1935,  
s. 16.

- (a) that the goods are for the official use of a Government Department or of an authority specified in item 74 in the Schedule to the *Sales Tax Exemptions Act* 1935, and are not for re-sale, and, in the case of goods sold to the Government of a State, an arrangement of the kind specified in that item has been made between the Governor-General and the Governor of the State,
- (b) that tax has been paid or is payable under this Act in respect of some prior act, operation or transaction in relation to those goods, or goods used in, wrought into or attached to those goods,
- (c) that the amount of that tax has been paid or is payable by the person who so sold the goods, or has been wholly or partly included in the price for which that person purchased those goods, or the goods used in, wrought into or attached to those goods, and
- (d) that the amount of that tax has been excluded wholly or in part from the price for which the goods were sold by that person to the Government or Government authority,

the Commissioner may refund or pay to that person the amount which, in the opinion of the Commissioner, was so excluded.

Added by  
No. 52, 1933,  
s. 4.

(4.) Notwithstanding anything contained in this section, if, either before or after the commencement of this sub-section, any alteration is made in the rate of sales tax payable in respect of any goods, no refund, repayment or reduction shall, by reason of that alteration, be made of any amount paid or payable by any person as sales tax in respect of goods sold by a taxpayer or applied by him to his own use before the date of assent to the law making the alteration.

#### PART V.—APPLICATION OF SALES TAX ASSESSMENT ACT (No. 1) 1930.

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

Amended by  
No. 78, 1936,  
s. 40.

12.—(1.) The following Parts, sections and sub-sections of the *Sales Tax Assessment Act* (No. 1) 1930-1936, namely, section three, Parts II. and III., sub-sections (4.), (5B.) and (5C.) of section eighteen, section twenty-three, sections twenty-seven to thirty-nine inclusive, and Parts VII., VIII., IX. and X., and the Second



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

- (a) sub-section (4.) of section eighteen of the *Sales Tax Assessment Act (No. 1) 1930-1936* shall be read as if the words "sub-section (1.) of section four of this Act" were substituted for the words "sub-section (1.) of this section";
- (b) section twenty-nine of the *Sales Tax Assessment Act (No. 1) 1930-1936* shall be read as if the words "section nine or ten of this Act" were substituted for the words "section twenty-four or twenty-five of this Act" (wherever occurring); and
- (c) sub-section (2.) of section thirty-five of the *Sales Tax Assessment Act (No. 1) 1930-1936* shall be read as if the words "Part III. of this Act" were substituted for the words "Part V. of this Act".

(2.) The power to make regulations, conferred by the application, by the last preceding sub-section, of section seventy-three of Part X. of the *Sales Tax Assessment Act (No. 1) 1930*, shall include the power to make regulations for enabling registrations, certificates and securities made, issued or given for the purposes of that Act, to be treated as, or to be deemed to be, made, issued or given for the purposes also of this Act, and shall include the power generally to make regulations for treating acts, matters and things done, for the purposes of the *Sales Tax Assessment Act (No. 1) 1930*, under the sections and Parts of that Act made applicable to this Act, as done or deemed to be done under this Act.

\* \* \* \* \*

Schedule  
repealed by  
No. 61, 1935,  
s. 17.\*

\* See now the *Sales Tax (Exemptions and Classifications) Act 1935-1950 (infra)*.

SALES TAX ASSESSMENT ACT (No. 7) 1930-1936.<sup>(a)</sup>

An Act relating to the Imposition, Assessment and Collection of a Tax upon the Sale Value of Goods imported into Australia and sold by a Person other than the Importer, and for other purposes.

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

## PART I.—PRELIMINARY.

Short title,  
Short title  
amended,  
No. 32, 1918,  
s. 2.

1. This Act may be cited as the *Sales Tax Assessment Act* (No. 7) 1930-1936.<sup>(a)</sup>

Parts.

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

Part I.—Preliminary.

Part II.—Liability to Taxation.

Part III.—Returns.

Part IV.—Collection and Recovery of Tax.

Part V.—Application of *Sales Tax Assessment Act* (No. 1) 1930.

## PART II.—LIABILITY TO TAXATION.

Sales tax.  
Amended by  
No. 69, 1930,  
s. 3.

3. Subject to, and in accordance with, the provisions of this Act, the sales tax imposed by the *Sales Tax Act* (No. 7) 1930 shall be levied and paid upon the sale value of goods imported into Australia, either before or after the commencement of this Act, and sold on or after the first day of August One thousand nine hundred and thirty by a taxpayer not being the importer of the goods.

<sup>(a)</sup> The *Sales Tax Assessment Act* (No. 7) 1930-1936 comprises the *Sales Tax Assessment Act* (No. 7) 1930 as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Sales Tax Assessment Act</i> (No. 7) 1930	1930, No. 37	18th August, 1930	18th August, 1930
<i>Sales Tax Assessment Act</i> (No. 7A) 1930	1930, No. 69	16th December, 1930	18th August, 1930
<i>Sales Tax Assessment Act</i> (No. 7) 1931	1931, No. 37	10th August, 1931	10th August, 1931
<i>Sales Tax Assessment Act</i> (No. 7) 1932	1932, No. 45	5th October, 1932	5th October, 1932
<i>Sales Tax Assessment Act</i> (No. 7) 1933	1933, No. 53	12th December, 1933	12th December, 1933
<i>Sales Tax (Securities and Exemptions) Act</i> 1935	1935, No. 61	7th December, 1935	7th December, 1935
<i>Sales Tax Amendment Act</i> 1936	1936, No. 78	7th December, 1936	7th December, 1936

4.—(1.) For the purposes of this Act, the sale value of goods which are sold on or after the first day of August One thousand nine hundred and thirty shall be the amount for which those goods are sold by a registered person, or a person required to be registered, not being the importer of those goods, to an unregistered person or to a registered person who has not quoted his certificate in respect of the purchase of those goods :

Sale value of goods.  
Amended by No. 45, 1932, s. 2.\*

Provided that, where goods are sold by retail by a registered person who has quoted his certificate when purchasing the goods, the sale value of the goods shall be the amount which would be the fair market value of those goods if sold by him by wholesale, but if the Commissioner is of opinion that the amount set forth in any return by the registered person as the sale value of any such goods is less than the amount which would be their fair market value if sold by wholesale, the Commissioner may alter the amount set forth in the return to the amount which, in his opinion, would be the fair market value of the goods if sold by wholesale, and the amount as so altered shall be the sale value of the goods for the purposes of this Act.

Added by No. 37, 1931, s. 2.†

\* \* \* \* \*

Sub-section (2.) omitted by No. 78, 1936, s. 42.

(3.) For the purposes of this section, the sale value of goods shall not be increased by<sup>(a)</sup> any amount payable in respect of sales tax, but, when the goods are sold either in bond or while otherwise subject to the control of the Customs, the sale value shall be increased by<sup>(a)</sup> the amount of any duty of Customs to which the goods would be subject if entered for home consumption at the time at which they are sold.

Substituted by No. 37, 1931, s. 2† and amended by No. 78, 1936, s. 42†.

(4.) In the case of goods delivered on or after the first day of August One thousand nine hundred and thirty under a contract of sale made on or after the tenth day of July One thousand nine hundred and thirty and before the first day of August One thousand nine hundred and thirty the goods shall, for the purposes of this Act, be deemed to have been sold on the date of their delivery.

5. Sales tax shall be paid by the vendor of goods the sale value of which is specified in the last preceding section.

Liability for tax.

5A.—(1.) Where a registered person has quoted his certificate in respect of goods purchased by him prior to the eleventh day of July, One thousand nine hundred and thirty-one, he shall be

Rebates.  
Inserted by No. 37, 1931, s. 3.‡

\* By s. 5 of the *Sales Tax Assessment Act (No. 7) 1933* this amendment is deemed to have commenced on the date of the commencement of the *Sales Tax Assessment Act (No. 7) 1930*.

† By s. 7 of the *Sales Tax Assessment Act (No. 7) 1931*, this amendment is deemed to have commenced on 11th July, 1931.

‡ By sub-s. (2.) of s. 42 of the *Sales Tax Amendment Act 1936* so much of this amendment as inserts the words "increased by" in lieu of the words "taken to include" is deemed to have commenced on 11th July, 1931.

(a) See footnote (a) on p. 3767, *supra*.

entitled, in respect of any sale of those goods by retail made by him on or after that date, to a rebate of tax of the difference between the amount of tax payable by him in respect of that sale and the amount of tax which would have been payable if the rate of tax payable in respect of such sale had been two and one-half per centum of the sale value of the goods.

Added by  
No. 45, 1932,  
s. 3.

(2.) Where, upon the death or bankruptcy of the registered person to whom this section applies, or otherwise by devolution of the estate of that person, the ownership of goods purchased as specified in this section becomes vested in some other person, that other person shall, if he becomes liable to pay tax in respect of any sale by retail of those goods, be entitled to a rebate of that tax to the extent specified in this section.

Exemptions.  
Substituted by  
No. 61, 1935,  
s. 10.\*

6. Notwithstanding anything contained in section five of this Act, sales tax shall not be payable under this Act by the person specified in that section upon the sale value of goods the sale value of which is, by virtue of the *Sales Tax Exemptions Act 1935*, exempt from sales tax under this Act.

### PART III.—RETURNS.

Returns, &c.  
Amended by  
No. 53, 1933,  
s. 2.

7. Every person who during any month makes any of the sales specified in sub-section (1.) of section four of this Act shall, within twenty-one days after the close of that month, furnish to the Commissioner a return of those sales in the prescribed form, setting forth such information as is prescribed or is required for the due completion of that form.

Further  
returns.

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

### PART IV.—COLLECTION AND RECOVERY OF TAX.

Time of  
payment  
of tax.

9. Every person liable to pay tax under section five of this Act upon the sale value of any goods sold by him during any month shall, within twenty-one days after the close of that month, pay sales tax upon that sale value.

Further tax.

10.—(1.) Where the Commissioner finds in any case that tax or further tax is payable by any person, the Commissioner may—

\* Section 18 of the *Sales Tax (Securities and Exemptions) Act 1935* reads—

“18. Notwithstanding anything contained in sections four to twelve (inclusive) and section seventeen of this Act, the sections and Schedules repealed by the first-mentioned sections shall continue in force for all purposes in connexion with liability for sales tax arising out of transactions, acts or operations which were entered into, done or carried out prior to the commencement of this Act.”



- (a) assess the sale value upon which tax should be or should have been paid ; and
- (b) calculate the tax or further tax which is payable.

(2.) Where, under sub-section (1.) or (2.) of section four of this Act, the sale value of any goods has been altered, the Commissioner shall calculate the further tax (if any) payable in consequence of that alteration.

Amended by  
No. 78, 1936,  
s. 43.

(2A.) Where—

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

Inserted by  
No. 53, 1933,  
s. 3.

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

(2B.) Any person who becomes liable to pay sales tax by virtue of an assessment made under the last preceding sub-section shall also be liable to pay, by way of additional tax, double the amount of that sales tax or the amount of One pound whichever is the greater :

Inserted by  
No. 78, 1936,  
s. 43.

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(3.) As soon as conveniently may be after an assessment is made or a sale value is altered, the Commissioner shall cause notice in writing of the assessment or alteration and of the tax or further tax to be given to the person liable to pay the tax or further tax.

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

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

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

Refunds of tax.  
Sub-section (1.)  
substituted by  
No. 53, 1933,  
s. 4.

(2.) Where a registered person has sold goods upon the sale value of which he has paid tax, and has subsequently written off as a bad

Amended by  
No. 37, 1931,  
s. 5.\*

\* By s. 7 of the *Sales Tax Assessment Act (No. 7) 1931*, this amendment is deemed to have commenced on 11th July, 1931.

debt the whole or any part of the amount for which the goods were sold, the Commissioner may—

- (a) on proof to his satisfaction that the whole amount is a bad debt—refund to the registered person the amount of tax paid on the sale value of the goods ;
- (b) on proof to his satisfaction that a part of the amount is a bad debt—refund to the registered person so much of the tax as bears to the total amount of tax the same proportion as the amount so proved to be a bad debt bears to the total amount for which the goods were sold :

Proviso  
substituted by  
No. 53, 1933,  
s. 4.

Provided that if any amount in respect of which tax has been so refunded is at any time wholly or partly recovered by the taxpayer, he shall, within twenty-one days after the close of the month in which the amount is so recovered, repay to the Commissioner so much of the tax refunded as bears to the total amount of that tax the proportion which the amount so recovered bears to the amount in respect of which tax was so refunded.

Inserted by  
No. 78, 1936,  
s. 44.

(2A). Where the Commissioner is satisfied that—

- (a) tax has been paid in respect of the sale of goods to a registered person who was required to quote his certificate in respect of the purchase of those goods but who failed to do so ;
- (b) the tax has been wholly or partly included in the price for which that registered person purchased the goods ;  
and
- (c) the tax has not been passed on by the registered person to some other person or, if passed on to some other person, has been refunded to that other person by the registered person,

the Commissioner may, if so satisfied—

- (i) within a period of three years ; or
- (ii) on consideration of a claim in writing lodged with the Commissioner within a period of three years,

from the date upon which the goods were so sold, pay to that registered person an amount equal to the tax so paid and included.

Added by  
No. 45, 1932,  
s. 4.

(3.) Where goods are sold by any person to the Government of the Commonwealth or the Government of a State and the Commissioner is satisfied—

Amended by  
No. 61, 1935,  
s. 16.

- (a) that the goods are for the official use of a Government Department or of an authority specified in item 74 in the Schedule to the *Sales Tax Exemptions Act* 1935, and are not for re-sale, and, in the case of goods sold to the Government of a State, an arrangement of the kind specified in that item has been made between the Governor-General and the Governor of the State,

- (b) that tax has been paid or is payable under this Act in respect of some prior act, operation or transaction in relation to those goods, or goods used in, wrought into or attached to those goods,
- (c) that the amount of that tax has been paid or is payable by the person who so sold the goods, or has been wholly or partly included in the price for which that person purchased those goods, or the goods used in, wrought into or attached to those goods, and
- (d) that the amount of that tax has been excluded wholly or in part from the price for which the goods were sold by that person to the Government or Government Authority,

the Commissioner may refund or pay to that person the amount which, in the opinion of the Commissioner, was so excluded.

(4.) Notwithstanding anything contained in this section, if, Added by No. 53, 1933, s. 4. either before or after the commencement of this sub-section, any alteration is made in the rate of sales tax payable in respect of any goods, no refund, repayment or reduction shall, by reason of that alteration, be made of any amount paid or payable by any person as sales tax in respect of goods sold before the date of assent to the law making the alteration.

#### PART V.—APPLICATION OF SALES TAX ASSESSMENT ACT (No. 1) 1930.

12.—(1.) The following Parts, sections and sub-sections of the *Sales Tax Assessment Act* (No. 1) 1930-1936, namely, section three, Application of provisions of Sales Tax Assessment Act (No. 1) 1930. Parts II. and III., sub-sections (4.), (5B.) and (5C.) of section eighteen, section twenty-three, sections twenty-seven to thirty-nine inclusive, and Parts VII., VIII., IX. and X., and the Second Amended by No. 78, 1936, s. 45. Schedule shall *mutatis mutandis* apply in relation to the imposition, assessment and collection of the tax chargeable under this Act in like manner as they apply in relation to the imposition, assessment and collection of the tax chargeable under that Act, but for the purposes of this Act—

- (a) sub-section (4.) of section eighteen of the *Sales Tax Assessment Act* (No. 1) 1930-1936 shall be read as if the words “ sub-section (1.) of section four of this Act ” were substituted for the words “ sub-section (1.) of this section ” ;
- (b) section twenty-nine of the *Sales Tax Assessment Act* (No. 1) 1930-1936 shall be read as if the words “ section nine or ten of this Act ” were substituted for the words “ section twenty-four or twenty-five of this Act ” (wherever occurring) ; and

- (c) sub-section (2.) of section thirty-five of the *Sales Tax Assessment Act (No. 1) 1930-1936* shall be read as if the words "Part III. of this Act" were substituted for the words "Part V. of this Act".

(2.) The power to make regulations, conferred by the application, by the last preceding sub-section, of section seventy-three of Part X. of the *Sales Tax Assessment Act (No. 1) 1930*, shall include the power to make regulations for enabling registrations, certificates and securities made, issued or given for the purposes of that Act, to be treated as, or to be deemed to be, made, issued or given for the purposes also of this Act, and shall include the power generally to make regulations for treating acts, matters and things done, for the purposes of the *Sales Tax Assessment Act (No. 1) 1930*, under the sections and Parts of that Act made applicable to this Act, as done or deemed to be done under this Act.

Schedule  
repealed by  
No. 61, 1935,  
s. 17.\*

\* \* \* \* \*

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\* See now the *Sales Tax (Exemptions and Classifications) Act 1935-1950 (infra)*.



SALES TAX ASSESSMENT ACT (No. 8) 1930-1936.<sup>(a)</sup>

An Act relating to the Imposition, Assessment and Collection of a Tax upon the Sale Value of Certain Goods imported into Australia, purchased by a Taxpayer, and applied to his own use, and for other purposes.

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Sales Tax Assessment Act* (No. 8) 1930-1936.<sup>(a)</sup>

Short title.  
Short title  
amended,  
No. 32, 1918,  
s. 2.

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

Parts

Part I.—Preliminary.

Part II.—Liability to Taxation.

Part III.—Returns.

Part IV.—Collection and Recovery of Tax.

Part V.—Application of *Sales Tax Assessment Act* (No. 1) 1930.

PART II.—LIABILITY TO TAXATION.

3. Subject to, and in accordance with, the provisions of this Act, the sales tax imposed by the *Sales Tax Act* (No. 8) 1930 shall be levied and paid upon the sale value of goods which have been, either before or after the commencement of this Act, imported into Australia and sold to a taxpayer who has, on or after the first day of August One thousand nine hundred and thirty, applied those goods to his own use.

Sales tax.  
Amended by  
No. 70, 1930,  
s. 3.

(a) The *Sales Tax Assessment Act* (No. 8) 1930-1936 comprises the *Sales Tax Assessment Act* (No. 8) 1930 as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Sales Tax Assessment Act</i> (No. 8) 1930	1930, No. 39	18th August, 1930	18th August, 1930
<i>Sales Tax Assessment Act</i> (No. 8A) 1930	1930, No. 70	16th December, 1930	18th August, 1930
<i>Sales Tax Assessment Act</i> (No. 8) 1932	1932, No. 46	5th October, 1932	5th October, 1932
<i>Sales Tax Assessment Act</i> (No. 8) 1933	1933, No. 54	12th December, 1933	12th December, 1933
<i>Sales Tax (Securities and Exemptions) Act</i> 1935	1935, No. 61	7th December, 1935	7th December, 1935
<i>Sales Tax Amendment Act</i> 1936	1936, No. 78	7th December, 1936	7th December, 1936

Sale value  
of goods.  
Amended by  
No. 46, 1932,  
s. 2.\*

4. For the purposes of this Act, the sale value of goods purchased by a registered person who has quoted his certificate in respect of those goods, and has applied the goods to his own use shall be the amount for which the goods were so purchased.

Liability for  
tax.

5. Sales tax shall be paid by the registered person specified in the last preceding section.

Exemptions.  
Substituted by  
No. 61, 1935,  
s. 11.†

6. Notwithstanding anything contained in section five of this Act, sales tax shall not be payable under this Act by the person specified in that section upon the sale value of goods the sale value of which is by virtue of the *Sales Tax Exemptions Act 1935*, exempt from sales tax under this Act.

### PART III.—RETURNS.

Returns, &c.

7. Every person who during any month applies to his own use any goods purchased by him in respect of the purchase of which he has quoted his certificate shall, within twenty-one days after the close of that month, furnish to the Commissioner a return in the prescribed form setting forth full particulars of the goods so applied and such other information as is prescribed.

Further  
returns.

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

### PART IV.—COLLECTION AND RECOVERY OF TAX.

Time of  
payment  
of tax.  
Amended by  
No. 78, 1936,  
s. 47.

9. Every person liable to pay tax under section five of this Act upon the sale value of any goods applied by him to his own use during any month shall, within twenty-one days after the close of that month, pay sales tax on that sale value.

Further tax.

10.—(1.) Where the Commissioner finds in any case that tax or further tax is payable by any person, the Commissioner may—

(a) assess the sale value upon which tax should be or should have been paid; and

\* Section 4 of the *Sales Tax Assessment Act (No. 8) 1933* is as follows :—

"4. Notwithstanding anything contained in section two of the *Sales Tax Assessment Act (No. 8) 1932*, the provisions of section four of the *Sales Tax Assessment Act (No. 8) 1930-1931*, as in force immediately prior to the commencement of the *Sales Tax Assessment Act (No. 8) 1932*, shall continue, and be deemed to have at all times continued, in force for all purposes in connexion with liability to sales tax in respect of goods applied by a person to his own use prior to such commencement."

† Section 18 of the *Sales Tax (Securities and Exemptions) Act 1935* reads :—

"18. Notwithstanding anything contained in sections four to twelve (inclusive) and section seventeen of this Act, the sections and Schedules repealed by the first-mentioned sections shall continue in force for all purposes in connexion with liability for sales tax arising out of transactions, acts or operations which were entered into, done or carried out prior to the commencement of this Act."

(b) calculate the tax or further tax which is payable.

(1A.) Where—

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

Inserted by  
No. 54, 1933,  
s. 2.

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

(1B.) Any person who becomes liable to pay sales tax by virtue of an assessment made under the last preceding sub-section shall also be liable to pay, by way of additional tax, double the amount of that sales tax or the amount of One pound whichever is the greater :

Inserted by  
No. 78, 1936,  
s. 48.

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

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

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

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

11.—(1.) Where the Commissioner finds in any case that tax has been overpaid, he may refund the amount of tax found to be overpaid.

Refund of tax.

(2.) Notwithstanding anything contained in this section, if, either before or after the commencement of this sub-section, any alteration is made in the rate of sales tax payable in respect of any goods, no refund, repayment or reduction shall, by reason of that alteration, be made of any amount paid or payable by any person as sales tax in respect of goods applied by a taxpayer to his own use before the date of assent to the law making the alteration.

Added by  
No. 54, 1933,  
s. 3.

#### PART V.—APPLICATION OF SALES TAX ASSESSMENT ACT (No. 1) 1930.

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

12.—(1.) The following Parts, sections and sub-sections of the *Sales Tax Assessment Act (No. 1) 1930-1936*, namely, section three, Parts II. and III., sub-sections (5B.) and (5C.) of section eighteen,

Amended by  
No. 78, 1936,  
s. 49.

section twenty-three, sections twenty-seven to thirty-nine inclusive, and Parts VII, VIII, IX. and X., and the Second Schedule, shall *mutatis mutandis* apply in relation to the imposition, assessment and collection of the tax chargeable under this Act in like manner as they apply in relation to the imposition, assessment and collection of the tax chargeable under that Act, but, for the purposes of this Act, section twenty-nine of the *Sales Tax Assessment Act (No. 1) 1930* shall be read as if the words "section nine or ten of this Act" were substituted for the words "section twenty-four or twenty-five of this Act" (wherever occurring), and sub-section (2.) of section thirty-five of that Act shall be read as if the words "Part III. of this Act" were substituted for the words "Part V. of this Act".

(2.) The power to make regulations, conferred by the application, by the last preceding sub-section, of section seventy-three of Part X. of the *Sales Tax Assessment Act (No. 1) 1930*, shall include the power to make regulations for enabling registrations, certificates and securities made, issued or given for the purposes of that Act, to be treated as, or to be deemed to be, made, issued or given for the purposes also of this Act, and shall include the power generally to make regulations for treating acts, matters and things done, for the purposes of the *Sales Tax Assessment Act (No. 1) 1930*, under the sections and Parts of that Act made applicable to this Act, as done or deemed to be done under this Act.

Schedule  
repealed by  
No. 61, 1935,  
s. 17.\*

\* \* \* \* \*

\* See now the *Sales Tax (Exemptions and Classifications) Act 1935-1950 (infra)*.

SALES TAX ASSESSMENT ACT (No. 9) 1930-1946.<sup>(a)</sup>

An Act relating to the Imposition, Assessment and Collection of a Tax upon the Sale Value of certain Goods in Australia, dealt with by lease, and for other purposes.

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Sales Tax Assessment Act* (No. 9) 1930-1946.<sup>(a)</sup>

Short title.  
Short title  
amended,  
No. 32, 1918,  
s. 2.

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

Parts.

Part I.—Preliminary.

Part II.—Liability to Taxation.

Part III.—Returns.

Part IV.—Collection and Recovery of Tax.

Part V.—Application of *Sales Tax Assessment Act* (No. 1) 1930.

2A. In this Act, unless the contrary intention appears—

“ goods ” includes—

Definition.  
Inserted by  
No. 9, 1935,  
s. 2.

(a) commodities ; and

(b) goods or commodities which have gone into use or consumption in Australia.

(a) The *Sales Tax Assessment Act* (No. 9) 1930-1946 comprises the *Sales Tax Assessment Act* (No. 9) 1930 as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Sales Tax Assessment Act</i> (No. 9) 1930	1930, No. 41	18th August, 1930	18th August 1930
<i>Sales Tax Assessment Act</i> (No. 9A) 1930	1930, No. 71	16th December, 1930	18th August, 1930
<i>Sales Tax Assessment Act</i> (No. 9) 1931	1931, No. 41	10th August, 1931	11th July, 1931
<i>Sales Tax Assessment Act</i> (No. 9) 1932	1932, No. 47	5th October, 1932	5th October, 1932
<i>Sales Tax Assessment Act</i> (No. 9) 1933	1933, No. 55	12th December, 1933	12th December, 1933
<i>Sales Tax Assessment Act</i> (No. 9) 1935	1935, No. 9	10th April, 1935	10th April, 1935
<i>Sales Tax (Securities and Exemptions) Act</i> 1935	1935, No. 61	7th December, 1935	7th December, 1935
<i>Sales Tax Amendment Act</i> 1936	1936, No. 78	7th December, 1936	7th December, 1936
<i>Sales Tax Assessment Act</i> (No. 9) 1946	1946, No. 13	18th April, 1946	13th September, 1945



## PART II.—LIABILITY TO TAXATION.

Sales Tax.

Amended by  
No. 71, 1930,  
s. 3.

3. Subject to, and in accordance with, the provisions of this Act the sales tax imposed by the *Sales Tax Act (No. 9) 1930* shall be levied and paid upon the sale value of goods in Australia, leased by a taxpayer to a lessee on or after the first day of August One thousand nine hundred and thirty.

Sale value  
of goods.Amended by  
No. 47, 1932,  
s. 2\* ; No. 9,  
1935, s. 3 ; and  
by No. 13, 1946,  
s. 3.

4.—(1.) For the purposes of this Act, the sale value of goods which are leased by a registered person, or a person required to be registered, on or after the first day of August One thousand nine hundred and thirty to an unregistered person, or to a registered person who has not quoted his certificate in respect of that lease, shall, subject to this section, be such amount as, in the opinion of the Commissioner, having regard to the terms of the lease and the market value (if any) of the goods the subject of the lease, is fair and reasonable.

Inserted by  
No. 78, 1936,  
s. 51.

(1A.) Where the sale value of goods has been ascertained in accordance with the provisions of the last preceding sub-section and the taxpayer has subsequently written off as a bad debt the whole or any part of the amount for which the goods were leased, the Commissioner may, on proof to his satisfaction that the whole amount or any part thereof is a bad debt, reduce the sale value of the goods to such amount as, in his opinion, having regard to the amount so written off as a bad debt, is fair and reasonable :

Provided that if the amount so written off as a bad debt is at any time wholly or partly recovered by the taxpayer, the Commissioner may increase the amount of the sale value of the goods accordingly.

Added by  
No. 9, 1935,  
s. 3 : amended  
by No. 13,  
1946, s. 3.

(2.) Where goods are leased under a hire purchase agreement by a registered person, or a person required to be registered, to an unregistered person, or to a registered person who has not quoted his certificate in respect of that lease, the sale value of those goods shall, for the purposes of this Act, be the amount which, at the time the lease is effected, is the fair wholesale value of the goods, but if the Commissioner is of opinion that the amount set forth in any return by the registered person, or person required to be registered, as the sale value of any such goods, is less than the amount which is the fair wholesale value of the goods, the Commissioner may alter the amount set forth in the return to the amount which, in his opinion, is the fair wholesale value of the goods, and the amount as so altered shall be the sale value of the goods for the purposes of this Act.

Added by  
No. 9, 1935,  
s. 3.

(3.) Where the Commissioner, at any time, forms the opinion that goods have been leased by a taxpayer to a lessee for the purpose of relieving the taxpayer from liability to pay tax under

\* By s. 4 of the *Sales Tax Assessment Act (No. 9) 1933* the amendment made to this section by s. 2 of the *Sales Tax Assessment Act (No. 9) 1932* is deemed to have commenced on the date of the commencement of the *Sales Tax Assessment Act (No. 9) 1930*.

any other Act relating to the imposition of sales tax, the sale value of the goods so leased—

- (a) where a sale value of those goods has not been determined under sub-section (1.) of this section—shall be the amount which, in the opinion of the Commissioner, is the fair wholesale value of the goods; and
- (b) where a sale value of those goods has been so determined—shall be increased to the amount which, in the opinion of the Commissioner, is the fair wholesale value of the goods:

Provided that where the Commissioner subsequently becomes satisfied that the goods were not leased by the taxpayer for the purpose specified in this sub-section, the sale value of the goods under this sub-section shall be altered to an amount determined in accordance with sub-section (1.) of this section.

5. Sales tax shall be paid by the lessor of goods the sale value of which is specified in the last preceding section.

Liability  
for tax.

Amended by  
No. 78, 1936,  
s. 52.\*

6. Notwithstanding anything contained in section five of this Act, sales tax shall not be payable under this Act by the person specified in that section upon the sale value of goods the sale value of which is, by virtue of the *Sales Tax Exemptions Act 1935*, exempt from sales tax under this Act.

Exemptions.  
Substituted by  
No. 61, 1935,  
s. 12.†

### PART III.—RETURNS.

7. Every registered person, and every person required to be registered, who during any month leases any goods to a lessee as specified in section four of this Act, shall within twenty-one days after the close of that month, furnish to the Commissioner a return in the prescribed form setting forth full particulars of the lease and the goods subject to the lease, and such other information as is prescribed.

Returns, &c.  
Amended by  
No. 78, 1936,  
s. 53.‡

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

Further  
returns.

\* By sub-s. (2) of s. 52 of the *Sales Tax Amendment Act 1936* the amendment made to this section by s. 52 of that Act is deemed to have commenced on the date of the commencement of the *Sales Tax Assessment Act (No. 9) 1930*.

† Section 18 of the *Sales Tax (Securities and Exemptions) Act 1935*, reads as follows:—

“18. Notwithstanding anything contained in sections four to twelve (inclusive) and section seventeen of this Act, the sections and Schedules repealed by the first-mentioned sections shall continue in force for all purposes in connexion with liability for sales tax arising out of transactions, acts or operations which were entered into, done or carried out prior to the commencement of this Act.”

‡ By sub-s. (2) of s. 53 of the *Sales Tax Amendment Act 1936* the amendment made to this section by s. 53 of that Act is deemed to have commenced on the date of the commencement of the *Sales Tax Assessment Act (No. 9) 1930*.

## PART IV.—COLLECTION AND RECOVERY OF TAX.

Time of  
payment of  
tax.

9. Every person liable to pay tax under section five of this Act upon the sale value of any goods leased by him during any month shall, on or before the date specified in the notice served on him by post by the Commissioner, stating the amount of the sales tax payable by him upon the sale value of those goods, pay that amount to the Commissioner :

Proviso added  
by No. 9, 1935,  
s. 5.

Provided that every person liable to pay tax upon the sale value of any goods leased by him during any month under a hire purchase agreement as specified in sub-section (2.) of section four of this Act shall, within twenty-one days after the close of that month, pay tax upon the sale value of the goods so leased, and, where, in pursuance of section four of this Act, the sale value of any goods leased is increased the person liable to pay tax shall, within the time specified in a notice by the Commissioner to him of the increased sale value, pay further tax upon the sale value of the goods.

Further tax.

10.—(1.) Where the Commissioner finds in any case that tax or further tax is payable by any person, the Commissioner may—

- (a) assess the sale value upon which tax should be or should have been paid ; and
- (b) calculate the tax or further tax which is payable.

Inserted by  
No. 55, 1933,  
s. 2.

(1A.) Where—

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

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

Inserted by  
No. 78, 1936,  
s. 54.

(1B.) Any person who becomes liable to pay sales tax by virtue of an assessment made under the last preceding sub-section shall also be liable to pay, by way of additional tax, double the amount of that sales tax or the amount of One pound whichever is the greater :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(2.) As soon as conveniently may be after an assessment is made, the Commissioner shall cause notice in writing of the assess-

ment and of the tax or further tax to be given to the person liable to pay the tax or further tax.

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

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

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

Refunds of tax.  
Substituted by  
No. 55, 1933,  
s. 3.

(2.) Notwithstanding anything contained in this section, if, either before or after the commencement of this sub-section, any alteration is made in the rate of sales tax payable in respect of any goods, no refund, repayment or reduction shall, by reason of that alteration, be made of any amount paid or payable by any person as sales tax in respect of goods leased before the date of assent to the law making the alteration.

#### PART V.—APPLICATION OF SALES TAX ASSESSMENT ACT (No. 1) 1930.

12.—(1.) The following Parts, sections and sub-sections of the *Sales Tax Assessment Act (No. 1) 1930-1936*, namely, section three (except the definition of "Goods"), Parts II. and III., sub-sections (5B.) and (5C.) of section eighteen, section twenty-three, sections twenty-seven to thirty-nine inclusive, and Parts VII., VIII., IX. and X., and the Second Schedule shall apply, with such modifications and adaptations as are prescribed, in relation to the imposition, assessment and collection of the tax chargeable under this Act in like manner as they apply in relation to the imposition, assessment and collection of the tax chargeable under that Act, but for the purposes of this Act section twenty-nine of the *Sales Tax Assessment Act (No. 1) 1930* shall be read as if the words "section nine or ten of this Act" were substituted for the words "section twenty-four or twenty-five of this Act" (wherever occurring), and sub-section (2.) of section thirty-five of that Act shall be read as if the words "Part III. of this Act" were substituted for the words "Part V. of this Act".

Application of  
provisions of  
*Sales Tax  
Assessment Act  
(No. 1) 1930.*  
Amended by  
No. 9, 1935,  
s. 6, and by  
No. 78, 1936,  
s. 55.

(2.) The power to make regulations, conferred by the application, by the last preceding sub-section, of section seventy-three of Part X. of the *Sales Tax Assessment Act (No. 1) 1930*, shall

Amended by  
No. 41, 1931,  
s. 3.

include the power to make regulations for enabling registrations, certificates and securities made, issued or given for the purposes of that Act, to be treated as, or to be deemed to be, made, issued or given for the purposes also of this Act, and shall include the power generally to make regulations for treating acts, matters and things done, for the purposes of the *Sales Tax Assessment Act (No. 1) 1930*, under the sections and Parts of that Act made applicable to this Act, as done or deemed to be done under this Act.

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SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT  
1935-1950.<sup>(a)</sup>

An Act relating to exemptions from, and classifications of goods for the purposes of, Sales Tax.

Title amended  
by No. 76,  
1940, s. 3.

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

1. This Act may be cited as the *Sales Tax (Exemptions and Classifications) Act 1935-1950.*<sup>(a)</sup>

Short title.  
Short title  
amended,  
No. 32, 1918,  
s. 2.

(a) The *Sales Tax (Exemptions and Classifications) Act 1935-1950* comprises the *Sales Tax Exemptions Act 1935* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table:—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Sales Tax Exemptions Act 1935</i>	1935, No. 60	7th December, 1935	7th December, 1935
<i>Sales Tax Exemptions Act 1936</i>	1936, No. 41	2nd October, 1936	26th September, 1936
<i>Sales Tax Exemptions Act 1938</i>	1938, No. 78	13th December, 1938	13th December, 1938
<i>Sales Tax Exemptions Act 1939</i>	1939, No. 32	26th September, 1939	26th September, 1939
<i>Sales Tax Exemptions Act 1940</i>	1940, No. 29	1st June, 1940	3rd June, 1940
<i>Sales Tax (Exemptions and Classifications) Act 1940</i>	1940, No. 76	16th December, 1940	22nd November, 1940
<i>Sales Tax (Exemptions and Classifications) Act 1941</i>	1941, No. 32	25th November, 1941	30th October, 1941
<i>Sales Tax (Exemptions and Classifications) Act 1942</i>	1942, No. 6	18th May, 1942	1st May, 1942
<i>Sales Tax (Exemptions and Classifications) Act 1943</i>	1943, No. 35	3rd July, 1943	3rd July, 1943
<i>Sales Tax (Exemptions and Classifications) Act (No. 2) 1943</i>	1943, No. 44	19th October, 1943	21st July, 1943
<i>Sales Tax (Exemptions and Classifications) Act 1944</i>	1944, No. 31	6th October, 1944	8th September, 1944
<i>Sales Tax (Exemptions and Classifications) Act 1945</i>	1945, No. 36	11th October, 1945	13th September, 1945*
<i>Sales Tax (Exemptions and Classifications) Act 1946</i>	1946, No. 12	18th April, 1946	10th April, 1946†
<i>Sales Tax (Exemptions and Classifications) Act (No. 2) 1946</i>	1946, No. 67	11th December, 1946	15th November, 1946‡
<i>Sales Tax (Exemptions and Classifications) Act 1947</i>	1947, No. 65	4th December, 1947	20th September, 1947**
<i>Sales Tax (Exemptions and Classifications) Act 1948</i>	1948, No. 42	4th November, 1948	9th September, 1948††
<i>Sales Tax (Exemptions and Classifications) Act 1949</i>	1949, No. 54	28th October, 1949	8th September, 1949‡‡
<i>Sales Tax (Exemptions and Classifications) Act 1950</i>	1950, No. 37	14th December, 1950	13th October, 1950

\* The amendments made by paragraphs (g), (h), (j), (k) and (l) of s. 4 of the *Sales Tax (Exemptions and Classifications) Act 1945* were deemed to have come into operation on 1st May, 1944.

† The amendments made by the following paragraphs of s. 3 of the *Sales Tax (Exemptions and Classifications) Act 1946* were deemed to have come into operation on the dates indicated: (a) paragraph (o), 1st November, 1944; (b) paragraphs (e) and (w), 13th September, 1945; (c) paragraph (x), 1st December, 1945; and (d) paragraph (z) (in so far as it adds item 123 to the First Schedule), 1st July, 1945.

‡ The amendment made by paragraph (p) of s. 3 of the *Sales Tax (Exemptions and Classifications) Act (No. 2) 1946* was deemed to have come into operation on 1st June, 1946, and that made by paragraph (e) on 31st July, 1946.

\*\* The amendment made by paragraph (h) of s. 3 of the *Sales Tax (Exemptions and Classifications) Act 1947* was deemed to have come into operation on 15th November, 1946, and those made by paragraphs (l) and (m) on 30th December, 1946.

†† The amendment made by paragraph (a) of s. 3 of the *Sales Tax (Exemptions and Classifications) Act 1948* was deemed to have come into operation on 4th December, 1947, that made by paragraph (a) of s. 4 on 1st January, 1948, and that made by paragraph (c) of s. 4 on 1st May, 1948.

‡‡ The amendment made by paragraph (a) of s. 4 of the *Sales Tax (Exemptions and Classifications) Act 1949* was deemed to have come into operation on 20th September, 1947, the exemption conferred by item 74M inserted in the First Schedule by paragraph (i) of s. 4 was deemed to have had effect from and including 24th June 1946 and the exemption conferred by item 74N inserted by the same paragraph from and including 1st July, 1947.

Definitions.

2. In this Act, unless the contrary intention appears—

“Sales Tax Assessment Act” means any Act, as in force for the time being, relating to the imposition, assessment and collection of a tax upon the sale value of goods;

Definition  
“The  
Schedule”  
omitted by  
No. 76, 1940,  
s. 4.

\* \* \* \* \*

Interpretation.  
Sub-sections  
(1.) and (2.)  
substituted by  
No. 76, 1940,  
s. 5.  
Substituted by  
No. 44, 1943,  
s. 3.

3.—(1.) Any expression used in this Act shall, unless the contrary intention appears, have the same meaning as in the relevant Sales Tax Assessment Act.

(2.) The heading to any Schedule to this Act or to any Division in any Schedule to this Act shall not be read as affecting the interpretation of that Schedule or of any item in that Schedule.

Amended by  
No. 76, 1940,  
s. 5.

(3.) Any reference in the second column of the First Schedule to this Act to the numbers 1, 2, 3, 4, 5, 6, 7, 8 or 9 shall be read respectively as a reference to the—

*Sales Tax Assessment Act (No. 1) 1930-1935,*  
*Sales Tax Assessment Act (No. 2) 1930-1935,*  
*Sales Tax Assessment Act (No. 3) 1930-1935,*  
*Sales Tax Assessment Act (No. 4) 1930-1935,*  
*Sales Tax Assessment Act (No. 5) 1930-1935,*  
*Sales Tax Assessment Act (No. 6) 1930-1935,*  
*Sales Tax Assessment Act (No. 7) 1930-1935,*  
*Sales Tax Assessment Act (No. 8) 1930-1935, or*  
*Sales Tax Assessment Act (No. 9) 1930-1935.*

Amended by  
No. 76, 1940,  
s. 5.

(4.) Any reference in the second column of the First Schedule to this Act to two numbers which are connected by the word “to” shall be read as including a reference to each of the numbers intervening between those two numbers.

Amended by  
No. 76, 1940,  
s. 5.

(5.) Where any reference which, by sub-section (3.) of this section, is to be read as a reference to the *Sales Tax Assessment Act (No. 9) 1930-1935*, appears in the second column of the First Schedule to this Act, goods covered by the item or sub-item opposite that reference shall, for the purposes of the exemption of the sale value of those goods from sales tax under that Act, include goods which have gone into use or consumption in Australia.

Delegation by  
the  
Commissioner.

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

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

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

5.—(1.) Notwithstanding anything contained in any Sales Tax Assessment Act, sales tax shall not, subject to this section, be payable upon the sale value of any goods covered by any item or sub-item in the first column of the First Schedule to this Act, under any Act specified in the second column of that Schedule opposite that item or sub-item. Exemptions.  
Amended by  
No. 76, 1940,  
s. 6.\*

(2.) Where, in the second column of the First Schedule to this Act reference is made, opposite an item or sub-item in the first column of that Schedule, to the *Sales Tax Assessment Act (No. 9) 1930-1935* and to any one or more of the following Acts:—

*Sales Tax Assessment Act (No. 1) 1930-1935,*

*Sales Tax Assessment Act (No. 2) 1930-1935,*

*Sales Tax Assessment Act (No. 3) 1930-1935,*

*Sales Tax Assessment Act (No. 4) 1930-1935,*

but to no other Sales Tax Assessment Act, the goods covered by that item or sub-item shall not be deemed to include goods which are imported into Australia.

(3.) Where, in the second column of the First Schedule to this Act reference is made, opposite an item or sub-item in the first column of that Schedule, to the *Sales Tax Assessment Act (No. 9) 1930-1935* and to any one or more of the following Acts:—

*Sales Tax Assessment Act (No. 5) 1930-1935,*

*Sales Tax Assessment Act (No. 6) 1930-1935,*

*Sales Tax Assessment Act (No. 7) 1930-1935,*

*Sales Tax Assessment Act (No. 8) 1930-1935,*

but to no other Sales Tax Assessment Act, the goods covered by that item or sub-item shall not be deemed to include goods which are manufactured or produced in Australia.

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\* Sections 10 and 11 of the *Sales Tax (Exemptions and Classifications) Act 1940* are as follows:—

“10. Notwithstanding anything contained in this or any other Act, sales tax shall not be payable upon the sale value of any goods sold by retail on or after the date of the commencement of this Act, if those goods—

(a) were covered by any item or sub-item in the Schedule to the Principal Act; and

(b) prior to the date of the commencement of this Act were treated as stock for sale by retail, or as a common stock for sale by retail or wholesale as occasion arises, by a person whose sales of goods were made exclusively or principally by retail.

“11. Notwithstanding anything contained in this or any other Act, where any registered person is required to pay sales tax in respect of the sale by retail of goods covered by any item or sub-item in the Schedule to the Principal Act, which were purchased or imported by him, prior to the commencement of this Act, without the quotation of his certificate, sales tax shall not be payable on so much of the sale value of those goods as exceeds the amount which, in the opinion of the Commissioner, would be the fair market value of those goods if sold by that person by wholesale.”.

Wireless valves incorporated in receiving sets and sound systems.

Added by No. 41, 1936,\* s. 3; amended by No. 76, 1940, s. 7; and by No. 54, 1949, s. 3.

**6.** Notwithstanding anything contained in any Sales Tax Assessment Act, sales tax shall not be payable upon so much of the sale value under any Sales Tax Assessment Act of any wireless receiving set or chassis, or any sound system or goods to be used as part of a sound system, in which any valves as specified in item 121 in the First Schedule to this Act are incorporated as is equal to the amount which would have been the sale value of those valves under that Act if the transaction, act or operation in relation to which the first-mentioned sale value arose had been a transaction, act or operation in relation to those valves only.

Pre-fabricated buildings.

Inserted by No. 36, 1945, s. 3.

**6A.—(1.)** Notwithstanding anything contained in any Sales Tax Assessment Act, sales tax shall not be payable upon so much of the sale value under any Sales Tax Assessment Act of any pre-fabricated building or pre-fabricated building section which is made of timber, metal, fibro-cement or any other materials or combinations of materials as exceeds the amount which, in the opinion of the Commissioner, would have been the sale value of the taxable goods (if any) incorporated in the building or section if the transaction, act or operation in relation to the sale value of the building or section had been a transaction, act or operation in relation to those taxable goods only.

(2.) In this section “taxable goods” means goods which, if sold separately, would not be covered by any item in the First Schedule to this Act.

Classification of goods.

Inserted by No. 37, 1950, s. 3.

**6B.** For the purpose of any sales tax imposed on the sale value of goods specified in any of the Schedules to this Act other than the First Schedule, those goods shall be classified as set out in those Schedules.

Regulations.

Inserted by No. 35, 1943, s. 3.

**7.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, for prescribing penalties not less than One pound or more than Twenty pounds for any breach of the regulations.

\* Sub-section (2.) of s. 3 of the *Sales Tax Exemptions Act 1936* reads :—

“(2.) The exemptions effected by this section shall, in so far as they relate to sales tax imposed by—

the *Sales Tax Act (No. 5) 1930*;  
the *Sales Tax Act (No. 6) 1930*;  
the *Sales Tax Act (No. 7) 1930*;  
the *Sales Tax Act (No. 8) 1930*; or by  
the *Sales Tax Act (No. 9) 1930*,

or by any of those Acts as amended from time to time, apply to all transactions, acts or operations performed or entered into on or after the first day of August, One thousand nine hundred and thirty.”



THE SCHEDULES.  
THE FIRST SCHEDULE.

Heading  
amended by  
No. 76, 1940,  
s. 9.\*

In this Schedule, unless the contrary intention appears—

“agricultural” means of or pertaining to agriculture and, for the purposes of this definition, “agriculture” includes viticulture, horticulture, pasturage, apiculture, poultry farming, dairy farming and other operations connected with the cultivation of the soil, the gathering in of crops and the rearing of live stock; and

“aids to manufacture” means goods for use by a manufacturer being—

(a) machinery, implements and apparatus for use exclusively, or primarily and principally—

(i) in the actual processing or treatment of goods to be used in, wrought into or attached to goods to be manufactured by him;

(ii) in any processing or treatment by which the goods to which that processing or treatment is applied are used in, wrought into or attached to goods to be manufactured by him;

(iii) in any processing or treatment for the purpose of bringing goods manufactured by him into, or maintaining those goods in, the form or condition in which he markets or uses those goods;

(iv) in any processing or treatment for the purpose of disposing of waste substances resulting from any processing or treatment applied by him as specified in sub-paragraph (i), (ii) or (iii) of this paragraph;

(v) in operating, applying, cleansing or sterilizing machinery, implements or apparatus used in the processing or treatment specified in sub-paragraph (i), (ii), (iii) or (iv) of this paragraph;

(vi) in the cleansing or sterilizing of bottles, vats or other containers which he uses in the storage or marketing of goods which he manufactures or which he processes or treats as specified in sub-paragraph (i), (ii) or (iii) of this paragraph; or

(vii) in carrying out scientific research in relation to manufacturing operations conducted by him;

Inserted by  
No. 41, 1936,  
s. 4;

Substituted by  
No. 36, 1945,  
s. 4.

Inserted by  
No. 12, 1946,  
s. 3.

(b) goods for use as integral parts of machinery, implements or apparatus to be constructed *in situ* and to be used exclusively, or primarily and principally, as specified in paragraph (a) of this definition;

(c) parts for, or materials for use in the repair of so as to form part of, any of the machinery, implements or apparatus specified in paragraph (a) or (b) of this definition; or

Amended by  
No. 12, 1946,  
s. 3.

(d) goods (other than those specified in paragraph (a) or paragraph (b)) for use as specified in paragraph (a) of this definition,

but does not include—

(e) road vehicles of the kinds ordinarily used for the transport of persons or the delivery of goods;

(f) cooking appliances or other plant for use exclusively, or primarily and principally, in the preparation of foodstuffs for consumption on any premises of the person preparing the foodstuffs;

(g) office equipment which is not for use directly in the manufacture of goods;

\* Section eight of the *Sales Tax (Exemptions and Classifications) Act 1940* is as follows:—

“8. For the purpose of any sales tax imposed on the sale value of certain goods, those goods shall be classified as set forth in the Second and Third Schedules to this Act.”

This section was repealed following upon the insertion of s. 6B, in the *Sales Tax (Exemptions and Classifications) Act 1935-1950* by Act No. 37, 1950, s. 3 (2).



## THE FIRST SCHEDULE—continued

Substituted by  
No. 54, 1949,  
s. 4.\*

Inserted by  
No. 65, 1947,  
s. 3.

Inserted by  
No. 41, 1936,  
s. 4.

Amended by  
No. 76, 1940,  
s. 9.

- (h) machinery, implements or apparatus for use in the production of electric current, gas, steam, compressed air or hydraulic power, for purposes other than for sale or for use by the producer thereof exclusively, or primarily and principally, as specified in paragraph (a) of this definition ;
- (i) containers (including goods of the classes and for the uses included in, or specifically excluded from, Item 91 in this Schedule) for use by a manufacturer in the storage or delivery of his products, or materials or parts for the construction *in situ* of any containers for use in such storage ;
- (j) goods for use in connexion with the manufacture for sale of goods, if the first-mentioned goods are to be sold to the purchaser of the goods to be so manufactured, unless the goods to be so manufactured—
- (i) are covered by any item in this Schedule ; or
  - (ii) are to be sold by the manufacturer to a person who quotes his certificate of registration in respect of the purchase of those goods and who furnishes to the manufacturer a certificate in writing that the first-mentioned goods are not for re-sale to a person to whom the goods to be so manufactured are also to be sold ; or
- (k) parts for any of the goods specified in paragraphs (e), (f), (g), (h), (i) or (j) of this definition ;

“ goods to be used in, wrought into or attached to goods to be manufactured ” means goods to be so used or dealt with that those goods, or some essential element thereof, will form an integral part of the goods to be manufactured, and will remain in those goods as an element essential to the goods in their completely manufactured condition, but does not include goods to be so used that those goods, or some element thereof, will, or may, remain adventitiously in the goods to be manufactured, if the goods to be so used are intended to be used primarily as aids to manufacture ;

“ n.e.i. ” means not covered by any other item or sub-item in this Schedule or by any item or sub-item in any other Schedule to this Act.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
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## DIVISION I.—AGRICULTURAL MACHINERY, IMPLEMENTS, EQUIPMENT AND MATERIALS.

1. Agricultural machinery, implements and apparatus (and parts therefor), viz. :—	
(1) Bag loaders and bag rammers for use in agricultural industry	Nos. 1 to 9
(2) Baling presses .. .. .	Nos. 1 to 9
(3) Blade shears .. .. .	Nos. 1 to 9
(4) Bore drain delvers .. .. .	Nos. 1 to 9
(5) Broadcast seed sowers .. .. .	Nos. 1 to 9
(6) Cane chippers and cane planters .. .. .	Nos. 1 to 9
(6A) Cane lifts and other machinery, implements or apparatus for use exclusively or primarily and principally in the loading or unloading of sugar cane	} Nos. 1 to 9
(7) Chaff cutters .. .. .	
(8) Clover brooms for harvesting subterranean seed ..	Nos. 1 to 9
(9) Corn, grain or feed grinders .. .. .	Nos. 1 to 9
(10) Corn shellers, corn huskers and corn baggers ..	Nos. 1 to 9
(11) Cotton gins .. .. .	Nos. 1 to 9

Sub-item (6A)  
inserted by  
No. 37, 1950,  
s. 4.

\* By s. 2 (2) of Act No. 54, 1949, this amendment is deemed to have come into operation on 20th September, 1947.

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION I.—AGRICULTURAL MACHINERY, IMPLEMENTS, EQUIPMENT AND MATERIALS— <i>continued</i> .	
1. Agricultural machinery, implements and apparatus (and parts therefor), viz.:— <i>continued</i> .	
(12) Cultivators .. .. .	Nos. 1 to 9
(13) Drills—seed, grain and fertilizer .. .. .	Nos. 1 to 9
(14) Engines for use in agricultural industry, and shafting, belting, pulleys and other transmission gear for use therewith	Nos. 1 to 9
(15) Fencing wire strainers .. .. .	Nos. 1 to 9
(15A) Fencing tools for use in agricultural industry ..	Nos. 1 to 9
(16) Fertilizer spreaders .. .. .	Nos. 1 to 9
(17) Field mowers .. .. .	Nos. 1 to 9
(18) Fire rakes and fire ploughs .. .. .	Nos. 1 to 9
(19) Flax machinery, viz.:—	
(a) Binders .. .. .	Nos. 1 to 9
(b) Breakers .. .. .	
(c) Scutchers .. .. .	
(d) Threshers .. .. .	
(e) Winnowers .. .. .	
(20) Harrows .. .. .	Nos. 1 to 9
(21) Hay forks .. .. .	Nos. 1 to 9
(22) Hay knives .. .. .	Nos. 1 to 9
(23) Hay presses .. .. .	Nos. 1 to 9
(24) Hay rakes .. .. .	Nos. 1 to 9
(25) Hay, straw and lucerne stackers .. .. .	Nos. 1 to 9
(26) Hay tedders .. .. .	Nos. 1 to 9
(27) Hoes .. .. .	Nos. 1 to 9
(28) Hooks and slashers of a kind used in clearing land	Nos. 1 to 9
(29) Lucerne bunchers .. .. .	Nos. 1 to 9
(30) Machines for planting seedlings .. .. .	Nos. 1 to 9
(31) Machines for use in agricultural industry in grinding or sharpening knives, tools and other implements	Nos. 1 to 9
(32) Maize harvesters and maize binders .. .. .	Nos. 1 to 9
(33) Peanut picking machines, peanut shellers and peanut graders	Nos. 1 to 9
(34) Ploughs, including road ploughs; plough mould-board plates in the flat	Nos. 1 to 9
(35) Potato planters, raisers, diggers, sorters, forks and draggers	Nos. 1 to 9
(36) Reapers and binders .. .. .	Nos. 1 to 9
(37) Reaper threshers and harvesters .. .. .	Nos. 1 to 9
(38) Sack sewing machines for use in agricultural industry	Nos. 1 to 9
(39) Scarifiers, including road scarifiers .. .. .	Nos. 1 to 9
(40) Scoops for use in agricultural industry .. .. .	Nos. 1 to 9
(41) Scrub rollers .. .. .	Nos. 1 to 9
(41A) Secateurs, pruning shears, pruning saws, pruning knives, pruning hoops, tree pruners, branch shears, cincturing knives, grape scissors and orange cutters .. .. .	Nos. 1 to 9
(42) Sheep shearing plant .. .. .	Nos. 1 to 9
(43) Sickles and scythes .. .. .	Nos. 1 to 9
(44) Soil packers and soil pulverizers for use in agricultural industry	Nos. 1 to 9
(45) Strippers and stripper harvesters .. .. .	Nos. 1 to 9
(46) Stump and tree extractors and grubbers; lifting jacks for use in agricultural industry	Nos. 1 to 9

Sub-item (15)  
substituted by  
No. 37, 1950,  
s. 4.

Sub-item (15A)  
inserted by  
No. 37, 1950,  
s. 4.

Sub-item (41A)  
inserted by  
No. 41, 1936,  
s. 4.

Sub-item (46)  
substituted by  
No. 37, 1950,  
s. 4.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.		Acts to which Exemption Applies.
DIVISION I.—AGRICULTURAL MACHINERY, IMPLEMENTS, EQUIPMENT AND MATERIALS—continued.		
1. Agricultural machinery, implements and apparatus (and parts therefor), viz. :—continued.		
	(47) Threshing machines . . . . .	Nos. 1 to 9
Sub-item (48) substituted by No. 41, 1936, s. 4.	(48) Tractors (and covers therefor) for use in agricultural industry or for use in the timber-getting industry in the hauling of log timber	} Nos. 1 to 9
	(49) Wagons, drays, spring drays and trailers for use in agricultural industry, but not including motor trucks or other self-propelled vehicles or semi-trailers	
Sub-item (49) substituted by No. 37, 1950, s. 4.	(50) Wheat grading and pickling machines . . . . .	Nos. 1 to 9
	(51) Winnowers and winnower forks (wood and steel) . .	Nos. 1 to 9
	(52) Wool presses . . . . .	Nos. 1 to 9
2. Agricultural equipment and materials, viz. :—		
	(1) Binder twine . . . . .	Nos. 1 to 9
	(2) Coir yarn for use in supporting hop vines . . . . .	Nos. 1 to 9
	(3) Covers (and parts therefor) for haystacks . . . . .	Nos. 1 to 9
	(4) Equipment (and parts therefor), and materials for use therewith, for use in agricultural industry in combating frosts	} Nos. 1 to 9
	(5) Ethylene gas for use in the colouring of vegetables by persons engaged in the vegetable growing industry	
	(6) Chemicals for clearing land for use in agricultural industry	Nos. 1 to 9
Sub-item (6) amended by No. 41, 1936, s. 4.	(7) Glass and substitutes therefor, for horticultural purposes; clips, galvanized nails and galvanized iron rafters for roofing glass houses for horticultural purposes	} Nos. 1 to 9
	(8) Hessian for use in agricultural industry . . . . .	
	(9) Manufactured field wire fencing and gates (and attachments therefor), and fencing droppers and posts for wire fencing, which are of a kind ordinarily used in agricultural industry	} Nos. 1 to 9
	(10) Paper hotkaps and other similar materials for protecting, and promoting the growth of, plants	
	(11) Portable grain storage bins and silos (and parts therefor) for use in agricultural industry	Nos. 1 to 9
	(12) Twine for use in supporting tomato plants . . . . .	Nos. 1 to 9
Added by No. 12, 1946, s. 3.	(13) Preparations and materials for use in the agricultural industry in testing soil	} Nos. 1 to 9
3. Equipment (and parts therefor), and preparations and materials, for the checking or eradication of diseases and pests, viz. :—		
	(1) Agricultural spraying and dusting materials . . . . .	Nos. 1 to 9
	(2) Blow-fly traps . . . . .	Nos. 1 to 9
	(3) Equipment, preparations and materials, for use in the checking or destruction of weeds, scrub and noxious plants, plant and seed insect pests, and plant and seed diseases	} Nos. 1 to 9
	(4) Fly traps and fly lure for fruit flies . . . . .	
	(5) Fumigators for the extermination of rabbits . . . . .	Nos. 1 to 9
	(6) Poison carts, poison bait layers and poison bait distributors	Nos. 1 to 9

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION I.—AGRICULTURAL MACHINERY, IMPLEMENTS, EQUIPMENT AND MATERIALS—continued.	
3. Equipment (and parts therefor), &c.—continued.	
(7) Poisons and other preparations for use in the checking or destruction of rats and mice	Nos. 1 to 9
(8) Rabbit poisons .. .. .	Nos. 1 to 9
(9) Traps for rabbits and dingoes .. .. .	Nos. 1 to 9
4.—(1) Plants, seeds and similar goods, namely, plants, trees, tree stocks, root stocks, budding and propagating wood, bulbs, seeds, pulse and mushroom spawn, but not including edible fruit, vegetables or nuts	Nos. 1 to 9
(2) Fertilizers and raw materials for use in the manufacture of fertilizers	Nos. 1 to 9
5. Livestock imported solely for breeding purposes .. .. .	Nos. 5 to 9
6. Goods (and parts therefor) for use in the maintenance of livestock, viz. :—	
(1) Bullnose punches .. .. .	Nos. 1 to 9
(2) Dips and washes for cattle or sheep .. .. .	Nos. 1 to 9
(3) Drenching guns and syringes.. .. .	Nos. 1 to 9
(4) Foods for livestock .. .. .	Nos. 1 to 4 and 9
(5) Lamb-marking cradles .. .. .	Nos. 1 to 9
(6) Marking and branding preparations and materials..	Nos. 1 to 9
(7) Preparations for use in the prevention, cure or eradication of diseases or pests in livestock	Nos. 1 to 9
(8) Rock salt and licks for livestock .. .. .	Nos. 1 to 9
(9) Rugs for horses, cattle, sheep and pigs .. .. .	Nos. 1 to 9
(10) Sheep and stock feeders for use in agricultural industry	Nos. 1 to 9
(11) Sheep jetting plant .. .. .	Nos. 1 to 9
(12) Tar brands, fire brands, tattoo brands, ear pliers, ear tags and ear markers, for marking or branding livestock	Nos. 1 to 9
(13) Veterinary instruments, appliances and materials of a kind ordinarily used by veterinary surgeons	Nos. 1 to 9.
7. Dairying machinery and equipment (and parts therefor) and dairying materials, viz. :—	
(1) Cheese presses .. .. .	Nos. 1 to 9
(2) Churns .. .. .	Nos. 1 to 9
(3) Cream and milk bottles, and wads, caps or stoppers therefor	Nos. 1 to 9
(4) Cream cans, milk cans and dairy utensils but not including buckets of a kind ordinarily used for other than dairying purposes	Nos. 1 to 9
(5) Cream separators .. .. .	Nos. 1 to 9
(6) Dairy coolers .. .. .	Nos. 1 to 9
(7) Equipment and materials for use in the dairying industry in the testing, pasteurization and cooling of milk and cream	Nos. 1 to 9
(8) Filter wads .. .. .	Nos. 1 to 9
(9) Machinery, implements and apparatus for use in the manufacture of butter and cheese	Nos. 1 to 9
(9A) Butter printing, moulding and wrapping machines, and engines, starters and transmission gear for use therewith	Nos. 1 to 9

Item 4 substituted by No. 37, 1950, s. 4.

Sub-item (6) amended by No. 12, 1946, s. 3.

Sub-item (9A) inserted by No. 41, 1936, s. 4.\*

(a) Held by the High Court (Rich, Dixon, McTiernan, Williams and Webb JJ., Latham C.J. dissenting) that fish bred for sale or for stocking rivers etc. are not livestock within the meaning of this sub-item. *Deputy Commissioner of Taxation (N.S.W.) v. Zest Manufacturing Co. Pty. Ltd.*, (1949) 79 C.L.R. 166; 23 A.L.J. 520.

\* By s. 5 (1.) of Act No. 41, 1936, this amendment is deemed to have commenced on 11th May, 1936.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION I.—AGRICULTURAL MACHINERY, IMPLEMENTS, EQUIPMENT AND MATERIALS—continued.	
7. Dairying machines and equipment, &c.—continued.	
(10) Machinery, implements and apparatus, n.e.i., for use by dairy-farmers or dairymen if, in the opinion of the Commissioner, they are goods of a kind used exclusively, or primarily and principally, by such persons in the production, treatment, storage or distribution of milk or cream, but not including vehicles	Nos. 1 to 9
8. Equipment (and parts therefor) and materials for use in the fruit-growing industry, viz. :—	
(1) Ethylene gas for use in the colouring of fruits ..	Nos. 1 to 9
(2) Fruit picking bags, baskets, trays and buckets, not being of a kind ordinarily used for any other purposes	Nos. 1 to 9
(3) Fruit wrapping paper .. .. .	Nos. 1 to 9
(4) Grafting wax and greftex .. .. .	Nos. 1 to 9
* * * * *	
(6) Wire fruit cleansing baskets .. .. .	Nos. 1 to 9
9. Equipment (and parts therefor) and materials for use in the dried fruit industry, viz. :—	
(1) Carbonate of potash, caustic soda and olive oil ..	Nos. 1 to 9
(2) Dehydrators and evaporators, and materials to be used in the construction or repair of, and wrought into or attached to, so as to form part of, built-in or fixed dehydrators or evaporators .. .. .	Nos. 1 to 9
(2A) Dehydrator trays and dehydrator trolleys.. ..	Nos. 1 to 9
(3) Dip tins, dip tanks, dipping baskets, dipping crates, bleaching vats, sulphur boxes, sweat boxes, rack verandahs, drying trays and spreading trays	Nos. 1 to 9
(4) Engines, and shafting, belting, pulleys and other transmission gear for use therewith	Nos. 1 to 9
(5) Hessian .. .. .	Nos. 1 to 9
(6) Sisalkraft and materials having similar uses ..	Nos. 1 to 9
(7) Chemicals, preparations and other materials, n.e.i., for use in the drying, dipping, spraying, dusting, fumigating, washing, bleaching and colouring of fruit	Nos. 1 to 9
(8) Spray pumps, spray guns and atomizers .. ..	Nos. 1 to 9
(9) Stemmers and Graders and other machinery, implements and apparatus for use in grading, sorting, stemming, seeding or cleansing dried fruits; Showell Plant, California Washers, and other plant having similar uses	Nos. 1 to 9
10. Equipment (and parts therefor) and materials, for the handling or treatment of fruit, viz. :—	
(1) Cranes for use in connexion with the dipping of fruit	Nos. 1 to 9

\* By s. 5 (2.) of Act No. 41, 1936, this amendment, in so far as it relates to dip tanks, applies to all transactions, acts and operations performed or entered into on or after 26th October, 1933.

† By s. 5 (3.) of Act No. 41, 1936, this amendment applies to all transactions, acts and operations performed or entered into on or after 2nd September, 1932.



## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION I.—AGRICULTURAL MACHINERY, IMPLEMENTS, EQUIPMENT AND MATERIALS—continued.	
10. Equipment (and parts therefore) &c.—continued.	
(2) Fruit grading rings .. .. .	Nos. 1 to 9
(3) Fruit grading, sorting and cleansing machines ..	Nos. 1 to 9
(4) Machinery, implements, apparatus and refrigerating agents, for the regulation of atmospheric conditions for the purpose of preserving, ripening or storing fruit	Nos. 1 to 9
11.—(1) Poultry and fertile poultry eggs imported solely for breeding purposes	Nos. 5 to 9
(2) Foods for poultry .. .. .	Nos. 1 to 4 and 9
(3) Poultry farmers' equipment (and parts thereof), viz.:—	
(a) Bone cutters .. .. .	Nos. 1 to 9
(b) Brooders .. .. .	
(c) Egg cleaning tables .. .. .	
(d) Egg fillers and flats .. .. .	
(e) Egg graders .. .. .	
(f) Egg scales .. .. .	
(g) Feeders .. .. .	
(h) Feed mixers .. .. .	
(i) Fountains .. .. .	
(j) Green feed cutters .. .. .	
(k) Hoppers .. .. .	
(l) Incubators .. .. .	
(m) Poultry coops .. .. .	
(n) Root pulpers .. .. .	
(o) Root slicers .. .. .	
(p) Trap-nests .. .. .	
(q) Waterers .. .. .	
(4) Preparations for use in the prevention, cure or eradication of diseases or pests in poultry	Nos. 1 to 9
12.—(1) Bees imported solely for breeding purposes .. ..	Nos. 5 to 9
(2) Bee-keepers' equipment (and parts therefor), but not including articles ordinarily used for any other purpose	Nos. 1 to 9
13.—(1) Machinery, implements and apparatus, n.e.i. (and parts therefor), for use in agricultural industry if, in the opinion of the Commissioner, they are goods of a kind used exclusively, or primarily and principally, in that industry	Nos. 1 to 9
(2) Accessories (being machines, implements or apparatus) of any goods (being machines, implements or apparatus) covered by any item or sub-item in Division I. in this Schedule, if those accessories are of a kind ordinarily sold with those goods	Nos. 1 to 9
(3) Attachments (being machines, implements or apparatus, n.e.i.) for any goods (being machines, implements or apparatus) covered by any other item or sub-item in Division I. in this Schedule, if the purpose of the attachments is to facilitate or supplement the primary function of those goods; and parts therefor	Nos. 1 to 9
* * * * *	

Sub-item (1) amended by No. 12, 1946, s. 3.

Items 14, 15, 16 and 17 omitted by No. 76, 1940, s. 9.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.		Acts to which Exemption Applies.
<div>Division II. inserted by No. 67, 1946, s. 3.</div> <div>DIVISION II.—MINING MACHINERY AND EQUIPMENT.</div> <div>14. Machinery, implements and apparatus (and parts therefor), for use in the mining industry in carrying out mining operations and in the treatment of the products of those operations</div> <div>15. Materials for use in the mining industry, viz. :— (1) Brattice cloth and brattice tacks (2) Carbide of calcium</div> <div>Nos. 1 to 9</div>		
<div>Heading— Division II. inserted by No. 31, 1944, s. 3; re-num- bered III. by No. 67, 1946.</div> <div>Item 18 inserted by No. 31, 1944, s. 3.</div> <div>Sub-items (1) and (2) amended by No. 37, 1950, s. 4.</div> <div>DIVISION III.—IRRIGATION, WATER SUPPLY, DRAINAGE AND SEWERAGE EQUIPMENT.</div> <div>18.—(1) Piping or tubing made principally of metal, wood, stoneware, earthenware, concrete, reinforced con- crete, reinforced cement, fibro-cement, asbestos- cement, blue metal or other stone, bitumen, pitch, tar or synthetic resin or of combinations of any two or more of those materials (but not including rubber hose or rubber tubing or any hose or tubing of a kind used principally for any of the purposes for which rubber hose or rubber tubing is ordinarily used); channelling and guttering</div> <div>(2) Fittings (and parts therefor) for goods covered by sub-item (1) of this item, including taps, cocks, valves, faucets, inspection boxes and doors, clear outs, floor wastes, grates, gullies, traps, syphonic connexions, pipe heads, shoes, stop blocks, meters and meter covers, hydrants and hydrant covers, hydrant pit frames and covers, valve covers, valve pit frames and covers, and air valve frames and covers</div> <div>(3) Materials for use as integral parts in the construction or repair <i>in situ</i> of— (a) piping or tubing of the kinds described in sub-item (1) of this item; or (b) channelling or guttering, including manholes and inspection shafts used in connexion therewith</div> <div>(4) Water tanks and water tank stands, and parts and fittings therefor</div> <div>Nos. 1 to 9</div>		
<div>Added by No. 65, 1947, s. 3; amended by No. 37, 1950, s. 4.</div> <div>Item 19 omitted by No. 76, 1940, s. 9 and inserted by No. 32, 1941, s. 3.</div> <div>19. Pumping and other machinery, implements and apparatus (and parts and fittings therefor), for use in agricultural industry, viz. :— (1) Windmills and windmill towers (2) Pumps (3) Tanks and tank stands (4) Troughing (5) Water sprinklers (6) Machinery, implements and apparatus, for pump- ing, water supply or irrigation purposes</div> <div>Nos. 1 to 9</div>		
<div>Item 20 omitted by No. 76, 1940, s. 9 and inserted by No. 32, 1941, s. 3.</div> <div>20.—(1) Water bore casings, and parts and fittings therefor . . (2) Water boring plant and equipment (and parts there- for), and tools for use therewith</div> <div>Nos. 1 to 9</div>		

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
<p style="text-align: center;">DIVISION IV.—FISHING AND PEARLING MACHINERY AND EQUIPMENT.</p>	
<p>20A. Fishing equipment (and parts therefor), viz. :—</p> <p>(1) Boats (including oars, sails, life-belts, life-boats and other similar accessories) for use in the fishing industry</p> <p>(2) Crayfish pots .. .. .</p> <p>(3) Engines for use in the fishing industry .. .. .</p> <p>(4) Nets and netting for fishing, and cotton, hemp twine and other materials for the repair thereof</p> <p>(5) Lines, hooks, floats and sinkers for use in the fishing industry</p> <p style="text-align: center;">*     *     *     *     *     *     *</p>	<p>Nos. 1 to 9</p>
<p>20B. Machinery and equipment (and parts therefor) and materials, for use in the pearling industry</p>	<p>Nos. 1 to 9</p>
<p style="text-align: center;">DIVISION V.—PRIMARY PRODUCTS.</p>	
<p>21.—(1) Goods, being primary products which are derived directly from operations carried on in Australia in—</p> <p>(i) mining;(a)</p> <p>(ii) the cultivation of land;</p> <p>(iii) the maintenance of animals, poultry and bees;</p> <p>(iv) fisheries; or</p> <p>(v) timber-getting,</p> <p>and which have not been subject to any process or treatment resulting in an alteration of the form, nature or condition of the goods</p> <p>(2) Fauna, n.e.i. .. .. .</p> <p>(3) Flora (including seeds) n.e.i., which have not been subject to any process or treatment resulting in an alteration of their form, nature or condition</p>	<p>Nos. 1 to 4 and 9</p> <p>Nos. 1 to 4 and 9</p> <p>Nos. 1 to 4 and 9</p>
<p>22. Metals as recovered from ores .. .. .</p>	<p>Nos. 1 to 4 and 9</p>
<p style="text-align: center;">DIVISION VI.—FOODSTUFFS, BEVERAGES AND TOBACCO.</p>	
<p>23.—(1) Bread .. .. .</p> <p>(2) Bread sandwiches .. .. .</p> <p>(3) Yeast, bread improvers, yeast compounds, gluten and malt products, where the goods are of a kind used exclusively or primarily and principally in the manufacture of bread</p> <p>(4) Baby rusks, milk arrowroot biscuits and baby rice biscuits</p>	<p>Nos. 1 to 4 and 9</p> <p>Nos. 1 to 4 and 9</p> <p>Nos. 1 to 4 and 9</p> <p>Nos. 1 to 4 and 9</p>

Division II. omitted by No. 76, 1940, s. 9; inserted by No. 6, 1942, s. 3; re-numbered III. by No. 31, 1944, s. 3; and re-numbered IV. by No. 67, 1946.

Item 20A inserted by No. 6, 1942, s. 3.

Division III. as previously numbered, and Division IV. omitted by No. 76, 1940, s. 9.

Inserted by No. 12, 1946, s. 3.

Sub-items (2) and (3) added by No. 54, 1949, s. 4.

Sub-item (3) inserted by No. 54, 1949, s. 4.

Sub-item (4) amended by No. 29, 1940, s. 3.

(a) Concerning s. 20—(1.) (g) (i) of the *Sales Tax Assessment Act* (No. 1) 1930-1933 (which was identical with this item) it was held by the High Court that granite and freestone cut out of quarries and prepared for building purposes were not covered by that paragraph. *Deputy Federal Commissioner of Taxation (Queensland) v. Stronach*, (1936) 55 C.L.R. 305; 10 A.L.J. 111; 42 A.L.R. 345; 3 A.T.D. 365. (N.B.—That Act did not then exempt "stone" which is now covered by item 82 (2) of the *Sales Tax (Exemptions and Classifications) Act* 1935-1950, *infra*.)

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION VI.—FOODSTUFFS, BEVERAGES AND TOBACCO—continued.	
Sub-item (1) substituted by No. 76, 1940, s. 9; again substituted by No. 12, 1946, s. 3; amended by No. 67, 1946, s. 3.	24.—(1) Meat and meat products (whether or not marketed in containers), namely, raw meat, cooked meat and poultry, sausages, sausage meat, mince meat, suet, dripping, lard and butchers' small goods; meat pies, meat pasties and sausage rolls
Sub-item (3) amended by No. 76, 1940, s. 9; and by No. 12, 1946, s. 3.	(2) Bacon and hams .. .. .
Sub-item (4) added by No. 37, 1950, s. 4.	(3) Mutton birds .. .. .
Item 25 substituted by No. 76, 1940, s. 9; again substituted by No. 12, 1946, s. 3.	(4) Beefine, Bonox, Bovril and similar meat extracts ..
Sub-item (3) substituted by No. 42, 1948, s. 3.*	25.—(1) Fish of Australian origin, including oysters, crayfish, prawns, crabs and other marine animals (whether or not cooked or otherwise processed, or marketed in containers)
Sub-item (4) added by No. 42, 1948, s. 3.*	(2) Fish (imported) preserved by cold process or smoked, dried, salted or otherwise cured, but not including fish imported in tins or air-tight containers and cooked or otherwise fully prepared for human consumption
	(3) Fish paste .. .. .
	(4) Foods consisting principally of fish .. .. .
Item 26A inserted by No. 54, 1949, s. 4; amended by No. 37, 1950, s. 4.	26.—(1) Milk products, viz., casein, milk powder, milk (condensed or concentrated), or any food containing not less than 95 per centum of milk or milk powder
Item 27, Sub-items (1) and (2) omitted by No. 76, 1940, s. 9; inserted by No. 12, 1946, s. 3.	(2) Butter including margarine and similar substitutes for butter
Sub-item (1) amended by No. 67, 1946, s. 3.	(3) Cheese .. .. .
Sub-item (2) omitted by No. 65, 1947, s. 3.	(4) Cream .. .. .
	26A. Vegetable fats and vegetable oils put up for use for culinary purposes .. .. .
	27.—(1) Vegetables, processed or treated (including vegetable salads) * * * * *
	(3) Dried vegetables .. .. .
	(4) Potatoes, cooked, dried or otherwise processed ..
	(5) Split peas and flaked peas .. .. .
	(6) Pea sausage, pea meal and brose meal .. ..

\* By s. 2 (2) of Act No. 42, 1948, this amendment is deemed to have come into operation on 4th December, 1947.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION VI.—FOODSTUFFS, BEVERAGES AND TOBACCO—continued.	
27.—continued.	
(7) Soups .. .. .	Nos. 1 to 9
(8) Soup powders and soup cubes .. .. .	
(9) Tomato puree and tomato paste .. .. .	
	Sub-items (7), (8) and (9) omitted by No. 76, 1940, s. 9; inserted by No. 67, 1946, s. 3.
(10) Hops, dried .. .. .	Nos. 1 to 9
	Sub-item (10) added by No. 41, 1936, s. 4.
27A. Foods consisting principally of one or more of the goods covered by items 24, 25, 27, 29, 30 and 34 in this Schedule	Nos. 1 to 4 and 9
	Item 27A substituted by No. 37, 1950, s. 4.
28.—(1) Fruits (including fruit salads and fruit spreads consisting principally of fruits, but not including crystallized fruits or dried fruits) marketed in cans, bottles or other containers	Nos. 1 to 9
(2) Fruits, dried (whether minced or otherwise, and including fruit spreads consisting principally of dried fruits)	
	Item 28, sub-item (1) substituted by No. 67, 1946, s. 3.
(3) Fruit pulp .. .. .	Nos. 1 to 9
(4) Jam .. .. .	Nos. 1 to 9
(5) Honey jelly .. .. .	Nos. 1 to 9
29.—(1) Sauces and relishes (including mustard, mayonnaise and salad dressing, whether liquid, semi-liquid or dry)	Nos. 1 to 9
	Item 29 omitted by No. 76, 1940, s. 9; inserted by No. 67, 1946, s. 3; amended by No. 37, 1950, s. 4.
(2) Pickles, olives and capers .. .. .	Nos. 1 to 9
(3) Vinegar .. .. .	
30.—(1) Prepared breakfast foods, consisting of processed grain	Nos. 1 to 9
(2) Barley .. .. .	
(3) Rice, including ground rice, flaked rice and rice flour	Nos. 1 to 9
(4) Sago .. .. .	Nos. 1 to 9
	Sub-item (3) amended by No. 41, 1936, s. 4.
(5) Tapioca, including ground tapioca or tapioca flour ..	Nos. 1 to 9
	Sub-item (5) amended by No. 41, 1936, s. 4.
(6) Macaroni (including macaroni fancy pastes), spaghetti (including egg spaghetti) and vermicelli	Nos. 1 to 9
(7) Cere-creme, Cerevite, Rycena, Rycola, Vigorice, and similar products for use for culinary purposes	Nos. 1 to 9
	Sub-items (6) and (7) added by No. 37, 1950, s. 4.
31.—(1) Sugar and icing mixtures consisting principally of sugar	Nos. 1 to 4 and 9
(2) Treacle, molasses, golden syrup and other syrups produced by sugar refineries	
	Sub-item (1) amended by No. 41, 1936, s. 4.
32. Flour, <sup>(a)</sup> including self-raising flour, bran and pollard ..	Nos. 1 to 4 and 9
33. Nuts, shelled, roasted or otherwise processed, including nut meal, nut paste and peanut butter	Nos. 1 to 4 and 9

(a) For a discussion on the meaning of the word "flour" see *Jackett v. Deputy Federal Commissioner of Taxation*, 1932 S.A.S.R. 405; 2 A.T.D. 203. (The Court there held that "flour" did not include "self-raising flour" but "self-raising flour" has since been included in the item.)



THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION VI.—FOODSTUFFS, BEVERAGES AND TOBACCO— <i>continued</i> .	
Item 34 inserted by No. 54, 1949, s. 4.	34.—(1) Marmite, Vegemite and similar spreads being extracts of yeast, extracts of vegetables or extracts of yeast and vegetables
Sub-item (2) added by No. 37, 1950, s. 4.	(2) Sandwich spreads, and goods for use for purposes similar to those of sandwich spreads, n.e.i. ..
Item 34A inserted by No. 37, 1950, s. 4.	34A. Ice and solid carbon dioxide .. .. .
Sub-item (3) amended by No. 41, 1936, s. 4.	35. Food for infants and invalids, and materials for the preparation thereof, viz. :—
Sub-item (13A) inserted by No. 37, 1950, s. 4.	(1) All-am-bi Food (2) Allenbury's Diabetic Rusks for Diabetics .. (3) Allenbury's Diet for Invalids and Children and Allenbury's Milk Cocoa (4) Allenbury's Food (5) Allenbury's Malted Food (No. 3) (6) Allenbury's Malted Rusks for Infants (7) Anchor Groats (8) Arab Groats (9) Baked Flour (10) Barley Malt Extract (11) Barnes' Sago Food (12) Bemax (13) Bengers Food (13A) Boost
Sub-item (14) amended by No. 41, 1936, s. 4.	(14) Bourn-Vita, Kraftine and Vitogen (15) Bono-Lactin (16) Bread, Van Abbotts' Gluten (17) Bronamalt
Sub-item (23A) inserted by No. 54, 1949, s. 4.	(18) Callard's Kalari Biscuits (19) Callard's Casoid Biscuits (20) Callard's Vitmar (21) Calvesfoot Jelly (22) Carnick's Soluble Food (23) Carnick's Liquid Peptonoids (23A) Chocolate Horlicks (24) Clinic Baby Food (25) Cocolac (26) Corn Cob Baby Syrup (27) "D.C.L." Cherry Flavoured Malt Extract with Cod Liver Oil and Parrish's Food (28) "D.C.L." Irradiated Malt (29) "D.C.L." Malt and Oil (30) "D.C.L." Malt and Oil with Parrish's Food (31) "D.C.L." Vitamine Malt (32) Diabetic Flour, Diabetic Biscuits and Diabetic Rolls, being goods which are marketed primarily as foods for diabetics (33) Digestin (34) Eledon (35) Elliott's Special Clinic Emulsion (36) Energen Bran Biscuits (37) Energen Digestive Biscuits (38) Energen Endobran Biscuits

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION VI.—FOODSTUFFS, BEVERAGES AND TOBACCO— <i>continued</i> .	
35. Food for infants and invalids, &c.— <i>continued</i> .	} Nos. 1 to 9
(39) Extract of Malt	
(40) Extract of Malt and Cod Liver Oil	
(41) Fairchild's and Foster's Panopepton	
(42) Faliere's Phosphatine	
(43) Farewell Flour	
(44) Faulding's Farinaceous Food	
(45) Foster's Farinaceous Food	
(46) Foster's Malted Food	
(47) Frame Food	
(48) Glac-Ovo	
(49) Glaxo	
(50) Gluten Flour, Gluten Meal and Gluten Biscuits	
(51) Herogen	
(52) Hewlett's Malted Food	
(53) Intarvin	
(54) Jellerta	
(55) Karil	
(56) Karilac	
(57) Kariol	
(58) Kellogg's Malted Nuts	
(59) Kemp's Emulsion	
(60) Lactogen	
(61) Lactogol	
(62) Lactone Syrup	
(63) Lactose	
(64) Malted Milk	
(65) Maltogen	
(66) Maltovine Milk Food Biscuits	
(67) Mellin's Food	
(68) Mellin's Food Biscuits	
(69) Milk Powder, Peptogenic	
(70) Milo	
(71) Moseley's Foods	
(72) Murdoch's Liquid Food	
(73) McKenzie's Patent Barley	
(74) McKenzie's Patent Groats	
(75) Neave's Food	
(76) Neave's Health Diet	
(77) Neave's Milfo	
(78) Neave's Milk Food	
(79) Nestle's Milk Food	
(80) Neurogen	
(81) Nutritive Liquid Peptone	
(82) Ovalact	
(83) Ovaltine	
(84) Ovaltine Rusks	
(85) Paramount Vitamin Malt	
(86) Parson's Caledonian Groats	
(87) Parson's Prepared Barley	
(88) Plasmon Food	
(89) Prescription Glaxo	
(90) Radio Malt	
(91) Rhines Manhu Special Flour	
(92) Robinson's Patent Barley	
(93) Robinson's Patent Groats	
(94) Roboleine	
(95) Rumford's Groats	

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
<b>DIVISION VI.—FOODSTUFFS, BEVERAGES AND TOBACCO—continued.</b>	
<b>35. Food for infants and invalids, &amp;c.—continued.</b>	
(96) Russell Prepared Green Bone (lime food)	Nos. 1 to 9
(97) Sanatogen	
(98) Saunder's Haemovita	
(99) Saunder's Maltocret	
(100) Saunder's Starch-free Bran	
(101) Savory and Moore's Food	
(102) "Scotia Brand" Malt and Oil	
(103) Smedley's, Dr., Malted Food	
(104) Somatose in liquid or powder form .. ..	
(105) Soul's Clinic Emulsion	
(106) Storer's Ivaline Ivatone No. 7	
(107) Sugar of Milk	
(108) Suppositories, meat (pre-digested)	
(109) Suppositories, milk (pre-digested)	
(110) Swallow and Ariell's Glutamon Biscuits	
(111) Vi-Lactogen	
(112) Vimos Tonic Food	
(113) Virol	
(114) Vitamin	
(115) Vitamina	
Sub-item (116) amended by No. 41, 1936, s. 4; and by No. 78, 1938, s. 8.*	(116) Vita B, Vita-Co, Vitacup and Choc Yeast
	(117) Foods, n.e.i., which, in the opinion of the Com- missioner, are marketed primarily as foods for infants and invalids
Item 35A inserted by No. 41, 1936, s. 4.	35A.—(1) Tea .. .. . Nos. 1 to 9
Sub-item (2) added by No. 37, 1950, s. 4.	(2) Coffee, including raw or roasted coffee beans, coffee essence, chicory and preparations for potable use the ingredients of which consist principally of coffee or coffee essence or principally of— (a) coffee or coffee essence; and (b) chicory, milk, milk powder, sugar or figs, or a mixture of any two or more of those goods Nos. 1 to 9
Sub-item (3) added by No. 37, 1950, s. 4.	(3) Cocoa, cocoa essence and chocolate for potable use and preparations for potable use the ingredients of which consist principally of cocoa, cocoa essence or chocolate or principally of— (a) cocoa, cocoa essence or chocolate; and (b) milk, milk powder, malt or sugar, or a mix- ture of any two or more of those goods, but not including confectionery Nos. 1 to 9
Sub-item (4) added by No. 37, 1950, s. 4.	(4) Instant Postum, Kwic Bru Coffee and other similar preparations for potable use which are made principally from cereals or cereal products Nos. 1 to 9
	36.—(1) Beer .. .. . Nos. 1 to 4 and 9

\* By section 4 of Act No. 78, 1938, the latter amendment applies to all transactions, acts and operations performed or entered into on or after 26th October, 1933.

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION VI.—FOODSTUFFS, BEVERAGES AND TOBACCO— <i>continued</i> .	
36.— <i>continued</i> .	
(2) Cider .. .. .	Sub-item (2) omitted by No. 76, 1940, s. 9; inserted by No. 12, 1946, s. 3.  Sub-item (3) omitted by No. 76, 1940, s. 9; inserted by No. 12, 1946, s. 3.
(3) Essences, concentrates and cordials, consisting wholly or principally of juices of Australian fruits, for the making of non-alcoholic beverages; (a) non-alcoholic beverages consisting wholly of juices of Australian fruits	
(4) Australian wine .. .. .	Nos. 1 to 4 and 9
37.—(1) Tobacco .. .. .	Nos. 1 to 4 and 9
(2) Cigarettes .. .. .	Nos. 1 to 9
(3) Cigars .. .. .	Nos. 1 to 9
DIVISION VII.—DRUGS, MEDICINES AND SURGICAL GOODS.	
38. Drugs and medicines (including patent and proprietary medicines) used in the prevention, cure or treatment of sickness or disease in human beings, and in the compounding or preparation of such drugs or medicines, but not including—	Item 38 omitted by No. 76, 1940, s. 9; inserted by No. 6, 1942, s. 3.
(i) Drugs and preparations put up and sold for the purposes of photography; (ii) Toilet preparations (including soaps, tooth pastes, cosmetics, pomades, perfumes and hair lotions); (iii) Dyes, methylated spirits, naphthaline, turpentine, linseed oil, bicarbonate of soda, carbonate of soda, cream of tartar, caustic soda, sodium chloride, alum, borax, glycerine, petroleum jelly, lead salts, zinc salts, citric acid, chromic acid, formic acid, hydrochloric acid, hydrofluoric acid, nitric acid, pyrogallie acid, stearic acid, sulphuric acid and tartaric acid; or (iv) medicated confectionery	
39.—(1) Goods manufactured and sold by a dispensing chemist who sells goods exclusively by retail	Nos. 1 to 9
(2) Goods, being medicines manufactured and sold by a society duly registered under any Friendly Societies' Act of the Commonwealth or a State	No. 1
40. Rectified spirits for use in making medicines and essences	No. 1
41. Surgical instruments and appliances, n.e.i., (and parts therefor) and surgical materials, n.e.i., being instruments, appliances or materials which are of a kind— (i) sold exclusively or principally by manufacturers or distributors of such instruments, appliances and materials; and	Nos. 1 to 9  Nos. 1 to 9

(a) Held by the High Court (Latham C.J., Webb and Fullagar J.J.), reversing the judgment of Rich J., that the words "consisting wholly or principally" refer to weight or volume and that the exemption does not apply to cordials in which, although the juices of Australian fruits might be the dominant or essential element, such juices are not quantitatively the principal constituent. *Quære, per Fullagar J.*, whether this Item exempts the products mentioned only if they are for use as ingredients in the manufacture of non-alcoholic beverages. *Commissioner of Taxation v. F. H. Faulding and Co. Ltd.*, [1950] A.L.R. 862.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION VII.—DRUGS, MEDICINES AND SURGICAL GOODS—continued.	
<p>41. Surgical instruments and appliances, &amp;c.—continued.</p> <p>(ii) used exclusively or principally in hospitals or by medical practitioners, but not including the following articles :—</p> <p>Air cushions ; atomizers  Bed rests ; bed tables ; brackets  Chairs, bedside or commode  Depilatory forceps ; dispensing plant ; drip feed lamps  Electric urns ; enemas ; eye-baths, eye droppers, eye shells and eye shades . .  Kettles  Linen cupboards  Magnifying lenses ; measure glasses ; medicament bottles and glasses ; microscopes which are not for use in hospitals or by medical practitioners or medical students  Name plates ; nasal douches ; nipple aerators  Restraint apparatus, viz., anklets, wristlets, straps and sheets ; rubber finger stalls ; rubber surgical syringes  Scales, baby weighing and personal ; sprays, disinfectant ; staining bottles ; surgeons' , nurses' and attendants' aprons, gowns and overalls ; surgery and gate lamps  Towel cupboards, hangars and stands  Ward cupboards, lockers and chairs ; wash basins and stands</p>	Nos. 1 to 9
<p>Item 42 omitted by No. 76, 1940, s. 9 ; and inserted by No. 32, 1941, s. 3.</p> <p>Sub-items (2), (3) and (4) inserted by No. 6, 1942, s. 3.</p> <p>Sub-item (7) inserted by No. 6, 1942, s. 3.</p> <p>Sub-item (9) inserted by No. 6, 1942, s. 3.</p> <p>Sub-item (11) inserted by No. 6, 1942, s. 3.</p> <p>Sub-item (13) inserted by No. 6, 1942, s. 3.</p> <p>42.—Surgical appliances (and parts therefor), viz. :—</p> <p>(1) Abdominal belts</p> <p>(2) Absorbent cotton wool, gauzes and lint</p> <p>(3) Adhesive plaster and strapping</p> <p>(4) Articles designed for the alleviation of deafness, but not including articles for public use in buildings or other places</p> <p>(5) Artificial eyes</p> <p>(6) Artificial limbs</p> <p>(7) Bandages and bandage winders</p> <p>(8) Crutches</p> <p>(9) Elastic bandages, knee caps and stockings</p> <p>(10) Invalid chairs, invalid carrying chairs, invalid wheeled lounges and lounge chairs, invalid tricycles including motor propelled invalid wheel chairs and invalid tricycles ; spinal carriages and other invalid hand carriages ; wheeled beds of the kind used by invalids</p> <p>(11) Spectacles and eye-glasses (and cases and wipers therefor), but not including goggles, sun glasses, field glasses or similar optical goods</p> <p>(12) Surgical boots, braces and irons</p> <p>(13) Surgical, medical and first-aid outfits</p> <p>(14) Trusses</p> <p>(15) Umbilical belts</p>	
	Nos. 1 to 9



THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION VII.—DRUGS, MEDICINES AND SURGICAL GOODS— <i>continued.</i>	
43.—(1) Surgical X-ray apparatus and accessories (and parts therefor), but not including accessories of a kind ordinarily used for other purposes (2) Diathermy apparatus and appliances, and parts therefor	Nos. 1 to 9
44. Oxygen, carbogen, nitrous oxide, ethylene and other medical gases, and any mixture of such gases, for use in hospitals or by medical practitioners or dentists	Nos. 1 to 9
45. Dental instruments and appliances (and parts therefor) and materials, which are of a kind exclusively or principally sold by manufacturers or distributors of such instruments, appliances and materials for use by dentists or dental mechanics, and dentures, gold, alloys, amalgams, porcelain, gold inlays, bridges, crowns and other articles for similar dental use, which are to be disposed of (whether in an altered form or condition or not) to patients in the course of dental treatment	Nos. 1 to 9
46.—(1) Machinery and equipment (and parts therefor), for use by life saving clubs, mines' rescue stations and ambulance societies, in connexion with the preservation of human life or the transport of persons for the purpose of medical or surgical treatment (2) Ambulances (and parts therefor) for use by hospitals	Nos. 1 to 9
DIVISION VIII.—FUEL, POWER AND LIGHT.	
47.—(1) Briquettes .. .. . (2) Charcoal .. .. . (2A) Coal .. .. . (3) Coke .. .. . (4) Firewood .. .. .	Nos. 1 to 4 and 9 Nos. 1 to 4 and 9 Nos. 1 to 9 Nos. 1 to 4 and 9 Nos. 1 to 4 and 9
48.—(1) Crude oil, fuel oil and fuel tar .. .. . (2) Crude tar sold to a manufacturer for use by him as a fuel or applied by the manufacturer thereof as a fuel for use in the manufacture of goods (3) Ethyl-fluid, dyes and other substances for use in the blending of petrol (4) Kerosene .. .. . (5) Petrol .. .. . (6) Power alcohol produced in Australia and mixtures produced in Australia of petrol and power alcohol (7) Methylated spirits for use as fuel in internal combustion engines or for admixture with fuel for use in internal combustion engines (8) Substances not covered by any other sub-item of this Item for use as fuel for internal combustion engines	Nos. 1 to 9 Nos. 1 to 4 and 9 Nos. 1 to 9 Nos. 1 to 9 Nos. 1 to 4 and 9 Nos. 1 to 4 and 9 Nos. 1 to 4 and 9
49.—(1) Compressed air .. .. . (2) Hydraulic power .. .. . (3) Steam .. .. .	Nos. 1 to 4 and 9 Nos. 1 to 4 and 9 Nos. 1 to 4 and 9
50.—(1) Electric current for lighting or power .. .. . (2) Gas, commercially known as coal gas .. .. . (3) Butane-propane gas .. .. .	Nos. 1 to 4 and 9 Nos. 1 to 4 and 9 Nos. 1 to 9

Items 43 to 45 omitted by No. 76, 1940, s. 9; inserted by No. 6, 1942, s. 3.

Sub-item (2A) inserted by No. 37, 1950, s. 4.

Sub-item (1) substituted by No. 41, 1936, s. 4.

Sub-item (7) substituted by No. 42, 1948, s. 3.

Sub-item (8) inserted by No. 6, 1942, s. 3.\*

Sub-item (3) added by

\* By s. 6 of Act No. 6, 1942, this amendment applies to all transactions, acts or operations performed or entered into on or after the 1st January, 1942.

THE FIRST SCHEDULE—continued.

[illegible]

\* By s. 5 (4.) of Act No. 41, 1936, this amendment is deemed to have commenced on 7th May, 1936.

† By s. 4 of Act No. 78, 1938, this amendment applies to all transactions, acts and operations performed or entered into on or after 26th September, 1936.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION IX.—BOOKS, PRINTED MATTER AND PAPER—continued.	
52.—continued.	
(4) Blocks for use in the production of books and printed matter covered by item 51, 53, 54 or by sub-item (2) of item 65	Nos. 1 to 9
(5) Lithographic and offset plates and stones .. ..	Nos. 1 to 9
(6) Etched plates, etched sleeves and etched printing cylinders for use in photogravure, rotogravure and other similar processes of printing	Nos. 1 to 9
(7) Photographic negatives and diapositives for use in the production of blocks or of any goods specified in sub-item (5) or (6) of this item	Nos. 1 to 9
(8) Drawings, sketches, cartoons, paintings, pictures, photographs, printed matter and any combination thereof for use in the production of goods specified in sub-item (5) or (7) of this item	Nos. 1 to 9
* * * * *	
53.—(1) Maps, including road and tourist maps and navigators' charts, but not including— (a) advertising matter; or (b) maps or charts published or to be published for the purpose of, or as a means of, advertising the business or the products of the publisher or of the person or persons for whom they are or are to be published	Nos. 1 to 9
(2) Geographical, topographical and astronomical globes	
54. Newspapers .. .. *	Nos. 1 to 4 and 9
* * * * *	
57. Postage stamps .. ..	Nos. 1 to 9
58. Posters, display signs, pamphlets, books and other printed matter issued by Government Tourist Bureaux, Railways Authorities, Airways Authorities, or Steamship Companies, advertising or having reference to places beyond the Commonwealth	No. 5
59. Trade catalogues not imported for sale or distribution ..	No. 5
60. Vegetable parchment paper, waxed paper and grease proof paper	Nos. 1 to 9

Sub-item (4) amended by No. 76, 1940, s. 9; by No. 32, 1941, s. 3; and by No. 67, 1946, s. 3.

Sub-item (5) added by No. 78, 1938, s. 3.\*

Sub-item (6) added by No. 78, 1938, s. 3.\*

Sub-item (7) added by No. 78, 1938, s. 3,\* and amended by No. 76, 1940, s. 9; and No. 67, 1946, s. 3.

Sub-item (8) added by No. 78, 1938, s. 3\*; and amended by No. 67, 1946, s. 3.

Sub-item (9) omitted by No. 76, 1940, s. 9.  
Item 53 omitted by No. 76, 1940, s. 9; inserted by No. 32, 1941, s. 3; substituted by No. 54, 1949, s. 4.

Item 55 omitted by No. 35, 1943, s. 4.

Item 56 omitted by No. 76, 1940, s. 9.

Item 60 amended by No. 41, 1936, s. 4.

\* By s. 4 of Act No. 78, 1938, this amendment applies to all transactions, acts and operations performed or entered into on or after 1st June, 1935.

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.		Acts to which Exemption Applies.
DIVISION IX.—BOOKS, PRINTED MATTER AND PAPER— <i>continued</i> .		
Inserted by No. 67, 1946, s. 3.	60A. Printed matter for use and not for sale by a society, institution or organization established and maintained for the advancement of agriculture and not carried on for the profit of an individual For the purposes of this item "printed matter" means programmes, schedules, catalogues, syllabuses, advertising matter, tickets of admission and award ribbons, certificates and cards for use in connexion with agricultural shows or exhibitions	Nos. 1 to 9
DIVISION X.—SCIENTIFIC, EDUCATIONAL AND RELIGIOUS GOODS, AND WORKS OF ART.		
	61. Anthropological specimens imported into Australia for use by research workers * * * * *	No. 5
Item 62 omitted by No. 12, 1946, s. 3.		
Item 63 omitted by No. 76, 1940, s. 9; inserted by No. 6, 1942, s. 3.	63. Goods for use in universities and schools, viz.:— (1) Scientific instruments and scientific apparatus (and parts therefor), and materials for use therewith (2) Charts, wall sheets and diagrams (3) Examination papers, and direction sheets and envelopes for use therewith	Nos. 1 to 9
Inserted by No. 12, 1946, s. 3.	63A. Goods for use (whether as goods or in some other form), exclusively for the purposes of tuition, by a university or by a school conducted by an organization not established or carried on for the profit of an individual, but not including any goods for sale, or equipment, apparatus or accessories of a kind used exclusively, or primarily and principally, in indoor or outdoor sports or games, gymnastics, athletics or physical culture	Nos. 1 to 9
	64. Exchange publications (including manuscripts, typescripts, pictures, maps and plans which the Commissioner is satisfied are of such historical educational value or historical interest as to justify their inclusion in a national or State institution within the Commonwealth) consigned to international exchange centres in Australia, and publications donated to a Commonwealth or State Government Department or to an institution or society and not intended to be sold by the donee	No. 5
	65. Equipment for use in churches and church services and articles for use in religious devotion, viz.:— (1) Furniture, furnishings, ornaments, vestments and other articles for use for the purposes of church services (2) All articles for use in religious devotion except any article of a kind which is ordinarily and primarily used for purposes of a non-religious character	Nos. 1 to 9 Nos. 1 to 9
	66.—(1) Memorial boards, memorial tablets, statues and stained glass windows, in memory of deceased persons (2) Tombstones and other articles for erection on graves and tombs	Nos. 1 to 9 Nos. 1 to 9

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION X.—SCIENTIFIC, EDUCATIONAL AND RELIGIOUS GOODS, AND WORKS OF ART—continued.	
66A.—(1) Tablets, plaques, boards, columns or other monuments to be erected in a public place in commemoration of historical events	Nos. 1 to 9
(2) Goods for use as integral parts in the construction or repair of such monuments	
(3) Honour boards or honour rolls on which are inscribed, or to be inscribed, the names of persons who have served in the armed forces of His Majesty within the meaning of that expression in item 81A of this Schedule	
67. Articles for exhibition in a museum or an art gallery controlled by a public authority or by a committee or trustees appointed by a public authority, if those articles are purchased or imported by or for, or are donated or bequeathed to, the authority, committee or trustees for such exhibition	Nos. 1 to 9
68.—(1) Works of art intended for continuous public exhibition free of charge	Nos. 1 to 9
(2) Works of art produced in Australia or abroad by Australian artists	Nos. 1 to 9
69. Goods covered by sub-item 3 of item 338, by item 405 or 406, by paragraph (2) of sub-item 3 of item 410, or by item 412, in the Schedule to the <i>Customs Tariffs</i> 1933, viz.:—	
(1) Printed matter and photographs the property of any public institution and intended for deposit or exhibition therein	No. 5
(2) Models of inventions and other improvements in the arts and manufactures and models of ships	No. 5
(3) Natural history, specimens of; models and wall diagrams for illustrations of natural history	No. 5
(4) Oil or water colour paintings, not intended for sale, which have become the property of the owner under the will or intestacy of a deceased person or by gift, if the owner was, at the time when the paintings became his or its property, a person, body or institution resident or established in Australia	No. 5
(5) Pictorial illustrations and casts and models for teaching purposes, when imported by or for the use of universities, colleges, schools or public institutions	No. 5.
70. Trophies won abroad, and decorations, medallions and certificates awarded or to be awarded and sent from abroad to individuals, and trophies or prizes sent by donors resident abroad for presentation or competition in Australia, as prescribed by Departmental By-laws under the law relating to Customs	No. 5
DIVISION XI.—GOODS FOR USE BY GOVERNMENTS, REPRESENTATIVES OF GOVERNMENTS, AND PUBLIC BODIES.	
71.—(1) Articles imported or cleared from bond for the personal or official use of—	Nos. 5 to 7
(i) the diplomatic representative in the Commonwealth of any foreign country;	
(ii) the High Commissioner in the Commonwealth for any part of His Majesty's dominions;	

Item 66A inserted by No. 36, 1945, s. 4; amended by No. 67, 1946, s. 3.

Sub-item (4) substituted by No. 54, 1949, s. 4.

Item 71 substituted by No. 36, 1945, s. 4.



THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XI.—GOODS FOR USE BY GOVERNMENTS, REPRESENTATIVES OF GOVERNMENTS, AND PUBLIC BODIES— <i>continued</i> .	
71.—(1)— <i>continued</i> .	
(iii) the Official Representative (not being a High Commissioner) in the Commonwealth of a part of His Majesty's dominions, being a citizen of that part ; (iv) a member of the family of any person mentioned in the preceding paragraphs of this sub-item ; or (v) a member of the staff of any such person, provided that that member is a citizen of the country represented	Nos. 5 to 7
Sub-item (2) amended by No. 42, 1948, s. 3.	
(2) Articles imported or cleared from bond for the official use of a consular representative in Australia of any foreign country and declared as being for such official use, if the consular representative is a citizen of the country he represents and is not otherwise engaged in any business, occupation or profession ; and articles owned and imported by any such consular representative or by a member of his staff, if the person importing the articles is a citizen of the country represented and is not engaged in any other business, occupation or profession	Nos. 5 to 7
Sub-item (3) amended by No. 42, 1948, s. 3.	
(3) Articles imported or cleared from bond for the official use of a trade commissioner of any British or foreign country and declared as being for such official use, if the trade commissioner is a citizen of the country he represents and is not engaged in any other business, occupation or profession ; and articles owned and imported by any such trade commissioner or by a member of his staff, if the person importing the articles is a citizen of the country represented and is not engaged in any other business, occupation or profession	Nos. 5 to 7
(4) Subject to the approval of the Minister of State for Trade and Customs, articles, not covered by any other sub-item of this item, imported or cleared from bond for the official use of a representative in Australia of a British possession or foreign country and declared as being for such official use	
Item 71A inserted by No. 36, 1945, s. 4.	
71A. Articles cleared from bond for the personal or official use of— (i) the diplomatic representative in the Commonwealth of any foreign country ; (ii) the High Commissioner in the Commonwealth for any part of His Majesty's dominions ; (iii) the Official Representative (not being a High Commissioner) in the Commonwealth of a part of His Majesty's dominions, being a citizen of that part ; (iv) a member of the family of any person mentioned in the preceding paragraphs of this item ; or (v) a member of the staff of any such person, provided that that member is a citizen of the country represented,	Nos. 1 to 3
if the articles are owned by the person for whose use they are so cleared, or by the Government concerned, before clearance for home consumption	

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XI.—GOODS FOR USE BY GOVERNMENTS, REPRESENTATIVES OF GOVERNMENTS, AND PUBLIC BODIES— <i>continued</i> .	
72. Articles for official use by—	
(i) a High Commissioner, or a Trade Commissioner representing in Australia any other part of His Majesty's dominions; or	Nos. 1 to 9
(ii) a Consul or other Representative in Australia of the Government of any other part of His Majesty's dominions or of any other country, who is a citizen of that other part or country and who is not engaged in any other business, occupation or profession	
73. Articles imported or cleared from bond for the personal or official use of—	
(i) the Governor-General;	Nos. 5 to 7
(ii) the Governor of a State; or	
(iii) a member of the staff of the Governor-General or of the Governor of a State (if the member is not an Australian citizen) or a member of the family of the Governor-General or of the Governor of a State	
73A. Articles cleared from bond for the personal or official use of—	
(i) the Governor-General;	Nos. 1 to 3
(ii) the Governor of a State; or	
(iii) a member of the staff of the Governor-General or of the Governor of a State (if the member is not an Australian citizen) or a member of the family of the Governor-General or of the Governor of a State,	
if the articles are owned by the person for whose use they are so cleared, or by the Government of the Commonwealth or of the State, as the case may be, before clearance for home consumption	
74. Goods for official use (whether as goods or in some other form), and not for sale, by a department of the Government of the Commonwealth or of a State, or an authority which is completely controlled by, and the expenditure of which is exclusively borne by, that Government, provided that, in the case of goods for the use of a department or an authority of the Government of a State, an arrangement has been made between the Governor-General and the Governor-in-Council of the State for the collection and payment by the State of sales tax upon the sale value of goods sold by the Government of the State, and by every such authority established under the law of the State, in the conduct of an enterprise which, in the opinion of the Commissioner, is a trading enterprise	Nos. 1 to 9
74A. Goods for use (whether as goods or in some other form) by a State public library, museum or art gallery, established in the capital city of a State, being an institution which is controlled by a public authority constituted under a State Act and the expenditure of which is wholly or partly borne by the Government of a State	Nos. 1 to 9

Item 72 substituted by No. 29, 1940, s. 3\* and amended by No. 36, 1945, s. 4.

Item 73 substituted by No. 36, 1945, s. 4.

Item 73A inserted by No. 36, 1945, s. 4.

Item 74A inserted by No. 78, 1938, s. 3.†

\* By s. 4 of Act No. 29, 1940, this amendment applies to all transactions, acts or operations performed or entered into on or after 1st January, 1940.

† By s. 4 of Act No. 78, 1938, this amendment applies to all transactions, acts and operations performed or entered into on or after 28th June, 1938.

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XI.—GOODS FOR USE BY GOVERNMENTS, REPRESENTATIVES OF GOVERNMENTS, AND PUBLIC BODIES— <i>continued</i> .	
Item 74B inserted by No. 32, 1939, s. 3.*	<p>74B.—(1) Materials for use in the construction, repair or alteration of buildings or other structures (being materials which are to be wrought into or attached to, so as to form part of, those buildings or other structures) which, under an agreement in writing between the Government of the Commonwealth and any person, are to be used by that person, for a period of not less than ten years, exclusively in or in connexion with the manufacture, processing, treatment or storage of munitions or other defence supplies to the order of the Government of the Commonwealth.</p> <p>(2) Plant, machinery and apparatus (and parts therefor) for use directly and exclusively in the manufacture, processing, treatment or storage of munitions or other defence supplies to the order of the Government of the Commonwealth under an agreement of the class specified in sub-item (1) of this item.</p> <p>Nos. 1 to 9</p>
Item 74C inserted by No. 32, 1939, s. 3.*	<p>74C. Uniforms and equipment for members of the Naval, Military and Air Forces of the Commonwealth and Cadet Units raised in connexion with those Forces, viz.—</p> <p>(i) clothing, badges, accoutrements and kit for sale by a Department of the Government of the Commonwealth or by an authority which is completely controlled by and the expenditure of which is exclusively borne by the Government of the Commonwealth to members of those Forces or Units ;</p> <p>(ii) clothing, badges, accoutrements and kit (specified in the approved scale of issues or Orders for Dress or otherwise specially approved by Defence authorities); n.e.i., for use as uniforms or parts of uniforms by any section of those Forces or Units or by any member of those Forces or Units including military pattern tunic shirts but not including other shirts, under-clothing, collars, ties, studs, sleeve-links, braces, socks, gloves, scarves, bathing costumes or trunks, jerseys, sweaters, pullovers, pyjamas and goods similar to or used in substitution for the goods specified in the abovementioned exceptions.</p> <p>Nos. 1 to 9</p>
Added by No. 32, 1941, s. 3.†	<p>For the purposes of this item, " members of the Naval, Military and Air Forces of the Commonwealth " shall be deemed to include members of—</p> <p>(i) the Australian Army Nursing Service ;</p> <p>(ii) the Australian Women's Army Service ;</p> <p>(iii) the Women's Auxiliary Australian Air Force ;</p> <p>(iv) Voluntary Aid Detachments who have been called up for full-time service with those Forces ; and</p> <p>(v) such other organizations as are prescribed</p>

\* By s. 4 of Act No. 32, 1939, these amendments, except in so far as they insert paragraph (i) of item 74C, apply to all transactions, acts or operations performed or entered into on or after 1st October, 1938. The amendments, in so far as they insert paragraph (i) of item 74C, apply to all transactions, acts or operations performed or entered into on or after the 1st October, 1932.

† By s. 3 (2.) of Act No. 32, 1941, this amendment is deemed to have commenced on 1st October, 1938.

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XI.—GOODS FOR USE BY GOVERNMENTS, REPRESENTATIVES OF GOVERNMENTS, AND PUBLIC BODIES— <i>continued</i> .	
74CA. Clothing, badges, accoutrements and kit, n.e.i., for use as uniforms or parts of uniforms by members in Australia of the armed forces of any part of His Majesty's dominions other than Australia, or members in Australia of any allied or other foreign force serving in association with His Majesty's armed forces, including military pattern tunic shirts but not including other shirts, underclothing, collars, ties, studs, sleeve links, braces, socks, gloves, scarves, bathing costumes or trunks, jerseys, sweaters, pull-overs, pyjamas and goods similar to or used in substitution for the goods specified in the above-mentioned exceptions	Nos. 1 to 9 Item 74CA inserted by No. 6, 1942, s. 3* and amended by No. 36, 1945, s. 4.†
74D. Goods for use (whether as goods or in some other form) exclusively in air raid precautions services by public authorities which undertake those services in protection of the general public or of property publicly owned	Nos. 1 to 9 Item 74D inserted by No. 32, 1941, s. 3.‡
74E. Goods for use (whether as goods or in some other form), and not for sale, by the Navy Army and Air Force Institutes incorporated in the United Kingdom	Nos. 1 to 9 Item 74E inserted by No. 36, 1945, s. 4.†
74F. Goods for use (whether as goods or in some other form), and not for sale, by the United Nations Relief and Rehabilitation Administration	Nos. 1 to 9 Inserted by No. 12, 1946, s. 3.§
74G. Goods for use (whether as goods or in some other form), and not for sale, by the Imperial War Graves Commission	Nos. 1 to 9 Substituted by No. 67, 1946, s. 3.
74H. Goods for use (whether as goods or in some other form), and not for sale, by the United Nations	No. 5 Inserted by No. 42, 1948, s. 3.
74J. Goods for use (whether as goods or in some other form), and not for sale, by the trustees of the Services Canteens Trust Fund	Nos. 1 to 9 Inserted by No. 54, 1949, s. 4.
74K. Goods for use (whether as goods or in some other form), and not for sale, by a society, institution or organization which is established and maintained exclusively or principally for the purpose of engaging in research into the causes, prevention or cure of diseases in human beings, and which is not established or carried on for the profit of individuals	Nos. 1 to 9 Inserted by No. 54, 1949, s. 4.
74L. Goods for use (whether as goods or in some other form), and not for sale, by— (a) the National Safety Council of Australia; (b) the National Safety Council (South Australia) Incorporated; (c) the National Safety Council of Western Australia Incorporated; or (d) the Road Safety Council of New South Wales, Queensland or Tasmania	Nos. 1 to 9 Inserted by No. 54, 1949, s. 4.

\* By s. 6 of Act No. 6, 1942, this amendment applies to all transactions, acts or operations performed or entered into after 1st December, 1941.

† By s. 2 (2.) of Act No. 36, 1945, this amendment is deemed to have come into operation on 1st May, 1944.

‡ By s. 3 (3.) of Act No. 32, 1941, this amendment is deemed to have commenced on 1st February, 1939.

§ By s. 2 (2.) of Act No. 12, 1946, this amendment is deemed to have come into operation on 1st November, 1944.

|| By s. 2 (2.) of Act No. 67, 1946, this amendment is deemed to have come into operation on 1st June, 1946.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
<b>DIVISION XI.—GOODS FOR USE BY GOVERNMENTS, REPRESENTATIVES OF GOVERNMENTS, AND PUBLIC BODIES—continued.</b>	
Inserted by No. 54, 1949, s. 4.*	74M. Goods for use (whether as goods or in some other form), and not for sale, by British Commonwealth Pacific Airlines Limited } Nos. 1 to 9
Inserted by No. 54, 1949, s. 4.*	74N. Goods for use (whether as goods or in some other form), and not for sale, by Qantas Empire Airways Limited } Nos. 1 to 9
	75.—(1) Goods which are for official use (whether as goods or in some other form), and not for sale, by a technical school the expenditure of which is wholly or partly borne by the Government of the Commonwealth or the Government of a State } Nos. 1 to 9
Sub-item (2) added by No. 31, 1944, s. 3.	(2) Tools, implements, apparatus and parts therefor and materials for use exclusively for the purposes of technical instruction in woodwork, metal work or any other manual trade course by a school not carried on for the profit of an individual } Nos. 1 to 9
Added by No. 12, 1946, s. 3.	(3) Goods for use (whether as goods or in some other form), and not for sale, by a society, institution or organization which is established and carried on exclusively or principally for the promotion of the interests of a university, or of a school which is conducted by an organization not carried on for the profit of an individual } Nos. 1 to 9
	76. Goods produced by the Commonwealth Bank of Australia } Nos. 1 to 9
Item 77 substituted by No. 41, 1936, s. 4.†	77. Goods for use (whether as goods or in some other form) by public transport authorities exclusively in, or exclusively in connexion with, the establishment, con- duct or maintenance of transport services } Nos. 1 to 9
Item 78 substituted by No. 36, 1945, s. 4.	78. Goods for use (whether as goods or in some other form) and not for sale by— (i) a municipal, shire or district council constituted for the general purposes of local government under any law of the Commonwealth or of a State or Territory of the Commonwealth; (ii) a public authority constituted under any law of the Commonwealth or of a State or Territory of the Commonwealth for the purpose of carry- ing out any or all of the functions ordinarily carried out by a council of the kind specified in paragraph (i) of this item; (iii) a harbour board, harbour trust or marine board constituted under any law of the Common- wealth or of a State or Territory of the Commonwealth; or (iv) a fire brigade board or fire brigade established for public purposes } Nos. 1 to 9

\* By s. 2, sub-ss. (3) and (4) of Act No. 54, 1949, the exemptions conferred by items 74M and 74N are deemed to have had effect from and including 24th June, 1946, and 1st July, 1947, respectively.

† By s. 5 (5.) of Act No. 41, 1936, this amendment is deemed to have commenced on 1st April, 1936.



THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XI.—GOODS FOR USE BY GOVERNMENTS, REPRESENTATIVES OF GOVERNMENTS, AND PUBLIC BODIES— <i>continued</i> .	
78A.—(1) Materials for use in the construction or repair of silos, bins, elevators, buildings or other structures (being materials which are to be wrought into or attached to, so as to form part of, any of those silos, bins, elevators, buildings or other structures) to be used exclusively in, or in connexion with, the handling or storage of grain in bulk by any person or body charged with responsibility or vested with authority, under the law of a State, for the establishment, conduct or maintenance of facilities for the handling or storage of grain in bulk	<div data-bbox="1264 510 1396 593" data-kind="parent" data-rs="2">Item 78A inserted by No. 78, 1938, s. 3.*</div> <div data-bbox="1061 638 1204 667" data-kind="parent" data-rs="2">Nos. 1 to 9</div>
(2) Machinery, implements and apparatus (and parts therefor) for use by any person or body specified in sub-item (1) of this item directly in the handling or storage of grain in bulk, or in the installation or maintenance (whether as goods or as fixtures) of machinery, implements and apparatus to be so used	<div data-bbox="1061 851 1204 880" data-kind="parent" data-rs="2">Nos. 1 to 9</div>
79. Water supplied by public bodies or public authorities . .	Nos. 1 to 4 and 9
80. Goods which, at the time of their entry for home consumption under the law relating to Customs, have been donated or bequeathed to any society or institution established in Australia solely for public purposes or to any society, institution or organization established and maintained for religious, philosophical, educational, scientific or literary purposes, or for the encouragement or advancement of the fine arts	<div data-bbox="1264 974 1396 1057" data-kind="parent" data-rs="2">Item 80 amended by No. 41, 1936, s. 4.†</div> <div data-bbox="1061 1064 1141 1093" data-kind="parent" data-rs="2">No. 5</div>
81.—(1) Goods for use (whether as goods or in some other form), and not for sale, by a public hospital, or a public benevolent institution, or any public organization which the Commissioner is satisfied is established and maintained for the relief of unemployed persons	<div data-bbox="1061 1243 1204 1272" data-kind="parent" data-rs="2">Nos. 1 to 9</div>
(2) Wireless Transceivers and parts therefor acquired by or for the Australian Aerial Medical Services	Nos. 1 to 9
(3) Goods for use (whether as goods or in some other form), and not for sale, by a society, institution or organization established and maintained for the purpose of obtaining money exclusively or principally for donation towards the establishment or maintenance of public hospitals or public benevolent institutions	<div data-bbox="1061 1433 1204 1462" data-kind="parent" data-rs="2">Nos. 1 to 9</div> <div data-bbox="1264 1332 1396 1541" data-kind="parent" data-rs="2">Sub-item (2) added by No. 41, 1936, s. 4; and amended by No. 76, 1940, s. 9. Added by No. 12, 1946, s. 3.</div>
81A. Goods purchased, imported or manufactured by an organization not carried on for the profit of individuals— (i) for donation to, or for the use, comfort or recreation (whether as goods or in some other form) of, members in Australia of the armed forces of His Majesty or of any allied or other foreign force serving in association with those forces ;	<div data-bbox="1061 1612 1204 1641" data-kind="parent" data-rs="2">Nos. 1 to 9</div> <div data-bbox="1264 1541 1428 1702" data-kind="parent" data-rs="2">Item 81A inserted by No. 29, 1940, s. 3;‡ amended by No. 6, 1942, s. 3,§ and No. 36, 1945, s. 4.  </div>

\* By s. 4 of Act No. 78, 1938, this amendment applies to all transactions, acts and operations performed or entered into on or after 1st January, 1936.

† By s. 5 (6.) of Act No. 41, 1936, this amendment is deemed to have commenced on 18th May, 1936.

‡ By s. 4 of Act No. 29, 1940, these amendments shall apply to all transactions, acts or operations performed or entered into on or after the 3rd September, 1939.

§ By s. 6 of Act No. 6, 1942, this amendment applies to all transactions, acts or operations performed or entered into after 1st March, 1942.

|| By s. 2 (2.) of Act No. 36, 1945, this amendment is deemed to have come into operation on 1st May, 1944.

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.		Acts to which Exemption Applies.
DIVISION XI.—GOODS FOR USE BY GOVERNMENTS, REPRESENTATIVES OF GOVERNMENTS, AND PUBLIC BODIES— <i>continued</i> .		
81A. Goods purchased, &c.— <i>continued</i> .		
(ii) for donation to another such organization for dona- tion or use by that other organization as specified in the last preceding paragraph; or	Nos. 1 to 9	
(iii) for use as raw materials in the production of goods to which any of the foregoing provisions of this item applies		
Added by No. 32, 1941, s. 3; and amended by No. 36, 1945, s. 4.	For the purposes of this item, "the armed forces of His Majesty" shall be deemed to include—	
	(i) the Australian Army Nursing Service;	
	(ii) the Australian Women's Army Service;	
	(iii) the Women's Auxiliary Australian Air Force;	
	(iv) Voluntary Aid Detachments who have been called up for full-time service with that Force; and	
	(v) such other organizations as are prescribed;	
Inserted by No. 12, 1946, s. 3.	81B. Goods for use (whether as goods or in some other form), and not for sale, by a society, institution or organization, not carried on for the profit of an individual, established for the conduct and maintenance of public zoological gardens	Nos. 1 to 9
Inserted by No. 12, 1946, s. 3.	81C. Goods for use (whether as goods or in some other form), and not for sale by—	
	(a) an infant welfare centre or clinic which is conducted by a society, institution or organization not established or carried on for the profit of an individual; or	Nos. 1 to 9
	(b) a society, institution or organization which is established exclusively for the purpose of conducting, or promoting the interests of, infant welfare centres or clinics specified in paragraph (a) of this item	
DIVISION XII.—BUILDING MATERIALS.		
Division XII. omitted by No. 76, 1940, s. 9; inserted by No. 31, 1944, s. 3; amended by No. 12, 1946, s. 3.	82.—(1) Bricks, blocks, shapes, tiles, sections, slabs, and other structural or architectural building units, whether made of burnt clay, marble, granite, stone, cement, concrete, magnesite, cinder-cement, asbestos- cement, fibro-cement, coke-breeze, terra cotta, gypsum, terrazzo, or of any other materials or mixtures of materials; concrete fencing posts	Nos. 1 to 9
	(2) Stone, including synthetic stone, crushed metals, crushed bricks, furnace slag (crushed or uncrushed), screenings, toppings and dust	
	(3) Fireclay, refractory cement, plastic refractory cement, mortar, and other agents for bonding or setting any of the goods specified in sub-item (1) of this item	
Inserted by No. 31, 1944, s. 3.	83.—(1) Plaster . . . . . (2) Goods being—	Nos. 1 to 9
	(a) plaster products;	
	(b) goods having structural uses similar to those of plaster and plaster products; or	

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XII.—BUILDING MATERIALS—continued.	
83.—continued.	
(c) boards, sheets and linings made of metal, wood, wood pulp, asbestos or fibro-cement, or of bituminous or other compositions, which are of a kind used exclusively or principally in the construction and repair of, and wrought into or attached to so as to form part of, buildings or other fixtures, but not including linoleum, rubber, cork or other similar floor coverings	Nos. 1 to 9
(3) Boards, sheets and linings, n.e.i., to be used in the construction or repair of, and wrought into or attached to, so as to form part of, buildings or other fixtures, but not including linoleum, rubber, cork or other similar floor coverings	
(4) Adhesive preparations for use in the attachment of goods covered by this item to the walls of buildings or in sealing the joints of those goods	Nos. 1 to 9
83A. Wallpaper . . . . .	Nos. 1 to 9
84.—(1) Metal building materials (including girders, rods, bars, wire, sheets, mesh, lathing and fabricated units composed of any of those goods, and attachments for such units) for use in the construction or repair of, and to be wrought into, or attached to, so as to form part of, buildings or other fixtures	Nos. 1 to 9
(2) Builders' hardware (not including electrical fittings, accessories or equipment), being goods of a kind used in the construction or repair of, and wrought into or attached to so as to form part of, buildings or other fixtures, including—	
Bolts, brackets, brads	Nos. 1 to 9
Catches, ceiling ties, clips, clouts, corrugated fasteners	
Decking spikes, door bells, door handles, door knockers, door sheaves and tracks, door stops and stoppers, door and cupboard catches, door and gate springs, drawer pulls, dryvins	
Flush rings	
Gate loops	
Hasps, hinges, hooks, hooks and eyes, house numbers	
Knobs	
Latches, letter boxes, letter plates, locks, locksets and keys therefor, loxins	
Metal frames for the support of wash basins	
Nails, name plates, nuts	
Padbolts, panel pins	
Rivets	
Staples, screws, scruius	
Washers	
(3) Metal window frames and sashes, metal fanlight frames and sashes, metal window screens, metal louvre frames and shutters, metal doors and door frames, of a kind used in the construction or repair of, and wrought into or attached to, so as to form part of, buildings or other fixtures	Nos. 1 to 9

Sub-item (4) added by No. 37, 1950, s. 4.

Inserted by No. 67, 1946, s. 3.

Item 84 substituted by No. 37, 1950, s. 4.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.		Acts to which Exemption Applies.
DIVISION XII.—BUILDING MATERIALS—continued.		
Inserted by No. 31, 1944, s. 3.	85. Roofing materials, viz.:— (1) Tiles, slates and shingles .. .. (2) Fibro-cement, asbestos-cement, metal and other sheets for roofings (3) Asphalt mineral or bituminous roll roofings and asbestos roofing felt	Nos. 1 to 9
Sub-item (4) omitted by No. 65, 1947, s. 3.	* * * * *	
Sub-item (5) amended by No. 67, 1946, s. 3; and by No. 37, 1950, s. 4.	(5) Materials for use as integral parts of roofings made or mixed <i>in situ</i> (6) Ridging, flashing, finials, vanes, gable rolls, barge boards and similar roofing accessories (7) Skylights, glazed or unglazed .. ..	
Inserted by No. 67, 1946, s. 3; substi- tuted by No. 65, 1947, s. 3.*	85A.—(1) Paints and other coatings in liquid, paste or powder form (including stains, creosote and other wood preservatives, waterproofing liquids and compounds and petrifying liquid, but not including polishes or mop oils) of a kind applied to buildings or other fixtures	Nos. 1 to 9
Sub-item (2) amended by No. 54, 1949, s. 4.	(2) White lead, red lead, zinc white, lithopone, titanium, antimony oxide, litharge, barytes and whiting; terebine and other paint driers; linseed oil, tung oil, turpentine, mineral turpentine and goods marketed primarily as paint thinners (3) Putties, woodfillers and wall size (4) Goods, n.e.i., for use as ingredients for goods covered by sub-item (1), (2) or (3) of this item	
Inserted by No. 31, 1944, s. 3.	86.—(1) Sheet iron and sheet steel, flat or corrugated, galvan- ized or black, of gauge 10 or lighter (Birmingham gauge) (2) Sheets, strip and circles, of copper or muntz metal, gauge 10 or lighter (Birmingham gauge) (3) Lead sheets .. .. (4) Terne plate .. ..	Nos. 1 to 9
Sub-item (4) added by No. 36, 1945, s. 4.	87.—(1) Compositions for application in a plastic condition so as to form the flooring of buildings, and materials for use in the construction <i>in situ</i> of flooring so formed and wrought into, so as to form part of, that flooring .. .. (2) Dampcourse, and materials for use as, or in the con- struction of, dampcourse in buildings	
Inserted by No. 31, 1944, s. 3.	88.—(1) Wall, roof or ceiling ventilators, but not including forced draught ventilating or air-conditioning systems .. .. (2) Wall ties .. ..	Nos. 1 to 9
Inserted by No. 31, 1944, s. 3.	89.—(1) Concrete .. .. (2) Cement .. .. (3) Lime .. ..	
Sub-item (4) added by No. 37, 1950, s. 4.	(4) Materials of a kind used exclusively or primarily and principally as ingredients of concrete or of cement, mortar or plaster mixtures	Nos. 1 to 9

\* By s. 2 (2.) of Act No. 65, 1947, this amendment is deemed to have come into operation on 15th November, 1946.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
<b>DIVISION XII.—BUILDING MATERIALS—continued.</b>	
89A.—(1) Bitumen, bituminous emulsions and tar (2) Asphalt, mastic asphalt and other asphalt mineral, tarred or bituminous mixtures or compositions of a kind used in a plastic or fluid condition in the construction or repair of roads, paths, buildings or other fixtures	Substituted by No. 65, 1947, s. 3. Nos. 1 to 9
89B.—(1) Glass, being sheet glass (plain or corrugated), plate glass, figured rolled glass, cast glass, bent glass, structural glass, anti-actinic glass, vita glass, safety glass, fire-resisting glass, and other similar glass (2) Leadlights, brasslights, copperlights and zinclights, and other lights panels or squares having similar uses and made principally of glass and metal; wired glass (3) Pavement lights and stallboard lights including frames and glass lenses or prisms for the construction <i>in situ</i> of pavement lights or stallboard lights	Inserted by No. 31, 1944, s. 3. Nos. 1 to 9
90. Timber, including— (a) timber (not being joinery or turnery) which has been mortised, tenoned, bevelled, chamfered, checked, bored, trimmed or shaped at an end or ends, or cut into lengths; (b) floorings, linings, mouldings, weatherboards, parquet blocks, plywood, veneers and sawdust; and (c) joinery and turnery of a kind used in the construction or repair of, and wrought into or attached to, so as to form part of, buildings or other fixtures	Inserted by No. 31, 1944, s. 3. Nos. 1 to 9
90A. Window fittings, viz.:— Sash rollers, sash tracks, sash sheaves, sash balances, sash cord, sash weights, sash drops, sash pulleys, sash lifts, sash fasteners, casement stays, casement fasteners, combination casement stays and fasteners and fanlight openers	Inserted by No. 36, 1945, s. 4; amended by No. 65, 1947, s. 3. Nos. 1 to 9
90B.—(1) Cooking stoves and ranges (and parts therefor) of a kind used exclusively, or primarily and principally, for domestic purposes, but not including portable stoves, portable roasters, portable cookers or portable ranges (2) Fire grates and fire places (and parts therefor) of a kind exclusively, or primarily and principally, installed as fixtures in houses	Inserted by No. 36, 1945, s. 4. Amended by No. 12, 1946, s. 3.
90C.—(1) Electrical fittings (and parts therefor) of a kind used exclusively, or primarily and principally, in, or in connexion with, electrical installations in houses, viz.:— Ceiling roses, connectors and connector bodies, connectors of a kind used in junction boxes, flush plates, lampholders (including switch lampholders and batten lampholders), mains connexion boxes, plugs and plug sockets, plug receptacles, flush pilot receptacles, adaptors, switches, switch plugs, switch plug combinations, switchboards, fuse boards, distribution boards, switchboxes and flush switch wall boxes	Inserted by No. 36, 1945, s. 4. Nos. 1 to 9



## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.		Acts to which Exemption Applies.
DIVISION XII.—BUILDING MATERIALS—continued.		
90c.—continued.		
Added by No. 37, 1950, s. 4.	(2) Electrical fittings and accessories (and parts therefor) and electrical materials, n.e.i., being goods of a kind used exclusively or primarily and principally as part of electrical installations in houses or other consumers' premises, but not including— (a) bell equipment, burglar alarm equipment, fire alarm equipment, recording equipment, and electronic equipment ; (b) brackets, canopies, chains, hooks and galleries ; (c) candelabra, chandeliers, electroliers, electric light globes, lamps and tubes, pendants, shades, bowls and reflectors ; (d) condensers, converters, starters and transformers ; (e) electrically operated appliances, apparatus or machines ; (f) engines, alternators, primary and secondary batteries and other generating equipment ; (g) flexible cables ; (h) light boxes ; or (i) neon signs and other luminous discharge lighting equipment, including fluorescent lighting equipment	Nos. 1 to 9
Substituted by No. 37, 1950, s. 4.	90D. Household fittings and sanitary ware (and parts therefor, including chains, plugs and washers) of a kind installed in houses or other buildings so as to become fixtures therein, viz. :— (1) Baths, bath and shower screens, pedestal lavatory basins, wall and bowl basins, earthenware bathroom fittings, towel rails and towel rail holders, sinks, sink tops, draining boards, combination sinks and drainers, wash troughs and stands and pedestals therefor (2) Toilet pans and seats and covers therefor ; appliances for sterilizing or disinfecting toilet pans and seats ; sanitary cisterns and water storage tanks for use in sewerage systems (3) Septic tanks, and filter tanks and distributing chambers of a kind used in septic tank installations (4) Chemical sanitary units, and tanks, pumps and barrels of a kind used in chemical sanitary systems	Nos. 1 to 9
Inserted by No. 37, 1950, s. 4.	90DA. Movable toilet pans or chemical sanitary units, and seats and covers therefor	Nos. 1 to 9
Inserted by No. 12, 1946, s. 3.	90E. Household washing coppers not exceeding 16 gallons capacity, and parts and accessories therefor, including copper frames, copper stands, furnace doors, furnace frames, furnace grates, dampers and damper frames	Nos. 1 to 9
Inserted by No. 37, 1950, s. 4.	90F.—(1) Bath heaters, sink heaters and other water heating and hot water storage equipment, being goods of a kind installed as fixtures in houses (2) Parts for goods covered by sub-item (1) of this item, and stands and drip trays for use in connexion with those goods	Nos. 1 to 9

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
<b>DIVISION XIII.—CONTAINERS.</b>	
91.—(1) Containers, viz., the inner or outer coverings in which goods are packed or secured, or to be packed or secured, in the ordinary course of business, including—	Sub-item (1) amended by No. 41, 1936, s. 4.
(a) inside linings and inside packing materials, and goods which are ordinarily used to secure or seal those coverings or to describe the contents thereof and which form an actual part of the completed coverings; and	Nos. 1 to 9
(b) paper bags for the marketing of fertilizers and other goods which are customarily placed on the market for sale by wholesale or by the manufacturer thereof in paper bags, but not including—	Paragraph (b) amended by No. 76, 1940, s. 9.
(c) other paper bags or wrapping paper, string, lashing, adhesive strips and similar goods which are used to wrap up and secure goods for delivery, for use in marketing, or imported containing, goods covered by any item or sub-item in this Schedule, except goods covered by item 39, 76, 100 or 103, provided that the property in the container passes to the purchaser, importer or lessee of the contents	Nos. 1 to 9
(2) Can keys, glass droppers and others goods which are accessories of containers covered by sub-item (1) of this item, or of exempt goods marketed in those containers as specified in that sub-item, and which are attached to or form part of the inner covering, or are contained in the outer covering, of the goods so marketed, and are sold with those goods for one inclusive price	Sub-item (2) inserted by No. 41, 1936, s. 4.
92. Bags and sacks used for fertilizers or chaff or for marketing goods covered by any item or sub-item in this Schedule, except goods covered by item 39, 76, 100 or 103	Nos. 1 to 9
93. Boxes, cases and crates manufactured in Australia, and wood in shooks for the manufacture thereof, for use in marketing goods manufactured in Australia and covered by any item or sub-item in this Schedule, except goods covered by item 39, 76, 100 or 103 <sup>(a)</sup>	Nos. 1 to 4 and 9
94. Bottles, bearing a moulded notification that they remain the property of the lessor, leased to manufacturers for use in marketing the goods manufactured by them, or to wholesale merchants for use in marketing the goods sold by them	No. 9
*     *     *     *     *     *     *	Item 95 omitted by No. 76, 1940, s. 9.
96. Sulphite wrapping paper for use by proprietors or publishers of newspapers in wrapping newspapers .. .. .	Nos. 1 to 9
97. Sewing twine .. .. .	Nos. 1 to 9
98. Stockingette and hessian for use in the manufacture of meat wraps .. .. .	Nos. 1 to 9
99. Wool packs .. .. .	Nos. 1 to 9

(a) Held by the High Court that a similar item in the First Schedule to the Sales Tax Assessment Act (No. 1) 1930 did not include a kilderkin cask. *Federal Commissioner of Taxation v. Fisher's Cooperage Pty. Ltd.*, (1933) 7 A.L.J. 281; 2 A.T.D. 377.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XIV.—MANUFACTURES OF SMALL BUSINESSES.	
<p>Item 100 substituted by No. 41, 1936, s. 4; amended by No. 76, 1940, s. 9 and by No. 32, 1941, s. 3.*</p> <p>Amended by No. 78, 1938, s. 3.†</p>	<p>100.—(1) Goods manufactured and sold by retail by a person (not being a manufacturer of the class specified in sub-item (2) of this item) if the Commissioner is of the opinion that the average annual value of that person's sales of all goods is not, or would not be, in excess of Seven hundred pounds</p> <p>(2) Goods manufactured by a person exclusively in his own home if the Commissioner is of the opinion that the average annual value of that person's sales of all goods is not, or would not be, in excess of Five hundred pounds</p> <p>For the purposes of this item, "average annual value of sales of all goods" means—</p> <p>(a) the amount which, in the opinion of the Commissioner, represents the average annual value of all sales of goods effected by a person in the course of carrying on business, computed by reference to the following periods :—</p> <p>(i) in the case of a person who engaged in business continuously on and from a date not later than five years prior to the beginning of the financial year in which the goods so manufactured are sold—the five financial years next preceding the financial year in which those goods are sold; or</p> <p>(ii) in the case of a person (not being a person to whom the last preceding sub-paragraph applies) who engaged in business continuously on and from a date not later than the beginning of the financial year next preceding the financial year in which the goods so manufactured are sold—a period commencing on the date upon which he so commenced to engage in business and terminating on the last day of the financial year next preceding the year in which those goods are sold; or</p> <p>(b) in any case (not being a case covered by the last preceding paragraph) where a person who, after commencing to engage in business, continues to engage in business up to the date on which the goods manufactured as specified in this item are sold—</p> <p>(i) where that date is prior to the expiration of a period of twelve months after he so commenced to engage in business, the amount which, in the opinion of the Commissioner—</p> <p>(a) if that opinion is formed prior to the expiration of that period—would be or would have been the value of that person's sales of all goods during that period in the event of his continuance in business for the whole of that period; or</p>

\* By s. 3 (4.) of Act No. 32, 1941, this amendment is deemed to have commenced on 1st December, 1941.

† By s. 4 of Act No. 78, 1938, this amendment applies to all transactions, acts and operations performed or entered into on or after 4th August, 1934.

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XIV.—MANUFACTURES OF SMALL BUSINESSES— <i>continued</i> .	
100.— <i>continued</i> .	
(b) if that opinion is formed after the expiration of that period—is the value of that person's sales of all goods during that period or would have been the value of those sales if he had continued in business during the whole of that period; or (ii) where that date is after the expiration of a period of twelve months from the date on which he so commenced to engage in business, the amount which, in the opinion of the Commissioner, is the value of that person's sales of all goods during that period of twelve months	
* * * * *	
103. Goods manufactured by a person who satisfies the Commissioner that the amount of sales tax which, but for this item, would be payable by him is not, or would not be, in excess of Five pounds per annum : Provided that—	
(a) where that person has on hand goods in respect of the purchase or importation of which he has quoted his certificate, he has paid to the Commissioner an amount equivalent to the sales tax which would have been payable in respect of the sale to or importation by him of those goods if he had not so quoted his certificate; and (b) the Commissioner has issued to that person a statement in writing to the effect that he has been satisfied as specified in this item, and that statement has not been revoked by notice in writing	Nos. 1 to 3
DIVISION XV.—MISCELLANEOUS.	
* * * * *	
105.—(1) Axes and tomahawks .. .. .	Nos. 1 to 9
(2) Tool handles of wood .. .. .	Nos. 1 to 9
106. Coffins, cremation caskets and urns, and fittings and trimmings therefor	Nos. 1 to 9
107. Films, viz. :—	
(1) Exposed or developed films which are imported into Australia and which represent dramatic or Australian subjects, but not including films suitable for use only with home cinematographs	Nos. 5 to 9
(2) Films in respect of which certificates have been issued by the International Committee on Intellectual Co-operation in pursuance of the convention for facilitating the international circulation of films of an educational character, as prescribed by Departmental By-laws under the law relating to Customs	Nos. 5 to 9

Items 101 and 102 omitted by No. 41, 1936, s. 4.

Item 103 amended by No. 41, 1936, s. 4, and by No. 76, 1940, s. 9.

Item 104 omitted by No. 76, 1940, s. 9.

Item 105 omitted by No. 76, 1940, s. 9; inserted by No. 6, 1942, s. 3.

Sub-item (2) amended by No. 29, 1940, s. 3.\*

\* By s. 4 of Act No. 29, 1940, this amendment applies to all transactions, acts or operations performed or entered into on or after the 28th August, 1939.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
<b>DIVISION XV.—MISCELLANEOUS—continued.</b>	
<b>107.—Films &amp;c.—continued.</b>	
Sub-item (3) inserted by No. 41, 1936, s. 4.	(3) Any film produced by a person established in the United Kingdom in respect of which the Collector of Customs is satisfied that the Board of Education of the United Kingdom has issued a certificate, pursuant to sub-section (4) of section seven of the Finance Act, 1935 of the United Kingdom, certifying that that film is of an educational character
	Nos. 5 to 9
Sub-item (4) inserted by No. 35, 1943, s. 4.	(4) Other educational films as prescribed .. ..
	Nos. 5 to 9
Sub-items (5) and (6) substituted by No. 54, 1949, s. 4.	(5) Films of a scenic, tourist or travel nature produced or issued by or on behalf of government authorities or railway, airway or steamship companies or authorities, as prescribed by Departmental By-laws under the law relating to Customs
	Nos. 5 to 9
	(6) Copies made in Australia of any film covered by sub-item (3), (4) or (5) of this item
	Nos. 1 to 4 and 9
Item 107A inserted by No. 41, 1936, s. 4.	107A. Records for talking machines for use in conjunction with films covered by sub-item (2) or (3) of item 107 and posters advertising those films
	Nos. 5 to 9
	108.—(1) Foods for birds .. ..
	Nos. 1 to 4 and 9
Sub-item (2) omitted by No. 76, 1940, s. 9.	* * * * *
	109. Gold bullion, gold coin, and gold recovered by crushing, washing, dollying or sweeping, where the bullion, coin or gold is imported for treatment by the Royal Mint
	No. 5
	110. Goods exported or to be exported or goods sold by any person for export by the purchaser from him
	Nos. 1 to 9
	111.—(1) Goods the produce or manufacture of New Zealand, Fiji, the Territory of Papua, or the Territory of New Guinea, being goods of the same class or kind as goods upon the sale value of which, if produced or manufactured in Australia, sales tax is not payable
	Nos. 5 to 9
	(2) Goods imported from Norfolk Island .. ..
	Nos. 5 to 9
	(3) Goods, secondhand, owned by a person resident in the Territory of Papua or the Territory of New Guinea and sent to the Commonwealth for repair and return to that person
	No. 5
	112. Machinery and plant (and parts therefor), for the bulk handling of wheat
	Nos. 1 to 9
Item 113 amended by No. 78, 1938, s. 3,† and by No. 76, 1940, s. 9,† and No. 36, 1945, s. 4.	113. Materials sold to or imported by an unregistered manufacturer to be used in, wrought into, or attached to, so as to form part of, goods to be manufactured by him, being goods covered by any item or sub-item in this Schedule except goods covered by sub-item (1) or (2) of item 39 or by item 76, 100 or 103
	Nos. 1 to 8

† By s. 4 of Act No. 78, 1938, this amendment, in so far as it omits the references to sub-item (2) of item 52 and items 101 and 102, applies to all transactions, acts and operations performed or entered into on or after 26th September, 1936, and in so far as it inserts the reference to sub-item (1) or (2) of item 51B, to all transactions, acts and operations performed or entered into on or after 7th December, 1935. The reference to sub-item (1) or (2) of item 51B was substituted by No. 76, 1940, s. 9 to read as a reference to sub-items (1) to (5) of item 52.



## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
<b>DIVISION XV.—MISCELLANEOUS—continued.</b>	
113A.—(1) Goods, being aids to manufacture (as defined in this Schedule), sold or leased to or imported by an unregistered manufacturer for use by him in, or in connexion with, the manufacture of goods covered by any item or sub-item in this Schedule other than item 39, 76, 100 or 103	Nos. 1 to 9
(2) Goods sold or leased to or imported by an unregistered manufacturer for use by him—	
(a) in the processing or treatment of goods to be used by him as aids to manufacture (as defined in this Schedule); or	Nos. 1 to 9
(b) in the cleansing or sterilizing of bottles, vats or other containers for use in the storage of goods to be used by him as aids to manufacture (as defined in this Schedule); or	
(c) as integral parts in the construction <i>in situ</i> or repair of machinery, implements or apparatus to be used in the processing, treatment, cleansing or sterilizing specified in paragraph (a) or (b) of this sub-item,	
where those aids to manufacture are for use in or connexion with the manufacture of goods covered by any item or sub-item in this Schedule other than item 39, 76, 100 or 103, but excluding machinery, implements or apparatus (or parts thereof) which are not for use exclusively, or primarily and principally, in a manner specified in this sub-item or which are of any of the kinds specifically excluded from the definition of aids to manufacture in this Schedule	
113B.—(1) Goods manufactured by any person and applied by him to his own use as aids to manufacture (as defined in this Schedule)	No. 1
(2) Goods manufactured by any person and applied by him to his own use—	
(a) in the processing or treatment of goods to be used by him as aids to manufacture (as defined in this Schedule); or	No. 1
(b) in the cleansing or sterilizing of bottles, vats or other containers for use in the storage of goods to be used by him as aids to manufacture (as defined in this Schedule); or	
(c) as integral parts in the construction <i>in situ</i> or repair of machinery, implements or apparatus to be used in the processing, treatment, cleansing or sterilizing specified in paragraph (a) or (b) of this sub-item,	No. 1

Item 113A  
inserted by  
No. 41, 1936,  
s. 4; and  
amended by  
No. 76, 1940,  
s. 9; by No.  
36, 1945, s. 4;  
and by No. 12,  
1946, s. 3.\*

Item 113B  
inserted by  
No. 41, 1936,  
s. 4; and  
amended by  
No. 36, 1945,  
s. 4; and No.  
12, 1946, s. 3.\*

\* By s. 2 (3.) of Act No. 12, 1946, this amendment is deemed to have come into operation on 13th September, 1945.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XV.—MISCELLANEOUS—continued.	
113B—continued.	
(c)—continued.	
but excluding machinery, implements or apparatus (or parts therefor) which are not applied exclusively, or primarily and principally, in a manner specified in this sub-item or which are of any of the kinds specifically excluded from the definition of aids to manufacture in this Schedule	No. 1
Item 113c substituted by No. 36, 1945, s. 4; amended by No. 12, 1946, s. 3.*	
113c.—(1) Goods applied by a registered person to his own use as aids to manufacture	
(2) Goods applied by a registered person to his own use—	
(a) in the processing or treatment of goods to be used by him as aids to manufacture; or	
(b) in the cleansing or sterilizing of bottles, vats or other containers for use in the storage of goods to be used by him as aids to manufacture; or	
(c) as integral parts in the construction <i>in situ</i> or repair of machinery, implements or apparatus to be used in the processing, treatment, cleansing or sterilizing specified in paragraph (a) or (b) of this sub-item, but excluding machinery, implements or apparatus (or parts therefor), which are not applied exclusively, or primarily and principally, in a manner specified in paragraph (a) or (b) of this sub-item or which are of any of the kinds specifically excluded from the definition of aids to manufacture	Nos. 1, 4, 6 and 8
For the purposes of this item, "aids to manufacture" means aids to manufacture as defined by Regulations made under the Sales Tax Assessment Acts	
Inserted by No. 65, 1947, s. 3.	
113D.—(1) Goods (which are not of any of the kinds specifically excluded from the definition of "aids to manufacture" in this Schedule) sold or leased to, or imported or manufactured by, any person for use by him exclusively, or primarily and principally, in—	
(a) the cleansing or sterilizing of bottles, vats or other containers which are to be used by manufacturers in the storage or marketing of goods which they manufacture or which they process or treat as specified in sub-paragraph (i), (ii) or (iii) of paragraph (a) of the definition of "aids to manufacture" in this Schedule; or	
(b) carrying out scientific research on behalf of manufacturers in relation to manufacturing operations conducted by them	Nos. 1 to 9

\* By s. 2 (3.) of Act No. 12, 1946, this amendment is deemed to have come into operation on 13th September, 1945.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XV.—MISCELLANEOUS—continued.	
113D—continued.	
(2) Goods for use as integral parts of machinery, implements or apparatus to be constructed <i>in situ</i> and to be used exclusively, or primarily and principally, as specified in sub-item (1) of this item	Nos. 1 to 9
(3) Parts for, or materials for use in the repair of, so as to form part of, any machinery, implements or apparatus covered by sub-item (1) of this item	
114.—(1) Passengers' furniture and household goods which have been in actual use by such passengers for at least one year, not exceeding £125 in value for each adult passenger (two members of a family, being children, being for the purposes of this item reckoned as one adult)	No. 5
(2) Passengers' personal effects .. .. .	No. 5
(3) Articles imported <i>bona fide</i> as passengers' baggage and accompanying the passenger, not being— (a) articles for sale or trade; (b) merchandise in commercial quantities; or (c) articles which the passenger is required to enter at the Customs House	No. 5
114A.—(1) Goods sent or brought to Australia by— (i) a member of the Defence Force serving outside Australia; (ii) a person ordinarily resident in Australia who is serving with the Naval, Military or Air Forces of the United Kingdom; (iii) a person serving with any nursing service, voluntary aid detachment, red cross society, ambulance association or any similar body or association attached to any part of the Defence Force; (iv) a person who is a representative, attached to or accompanying any part of the Defence Force, of any organization which is providing philanthropic, welfare or medical services for members of any part of the Defence Force; or (v) a member of any police force attached to or accompanying any part of the Defence Force (2) Goods sent to a member of— (i) the Naval Forces; (ii) the Australian Imperial Force; (iii) the Air Force; or (iv) the Australian Army Nursing Service, serving in Australia	<p>Amended by No. 42, 1948, s. 3.</p> <p>Sub-item (3) added by No. 42, 1948, s. 3.</p> <p>Item 114A inserted by No. 35, 1943, s. 4;* and amended by No. 36, 1945, s. 4.†</p>

Amended by No. 42, 1948, s. 3.

Sub-item (3) added by No. 42, 1948, s. 3.

Item 114A inserted by No. 35, 1943, s. 4;\* and amended by No. 36, 1945, s. 4.†

\* By s. 6 (1.) of Act No. 35, 1943, this amendment applies to all transactions, acts and operations performed or entered into on or after 7th October, 1942.

† By s. 2 (2.) of Act No. 36, 1945, this amendment is deemed to have come into operation on 1st May, 1944.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XV.—MISCELLANEOUS—continued.	
114A—continued.	
(3) Goods sent to any member of— (i) any naval, military or air forces of the United Kingdom or of any part of His Majesty's dominions (other than the Commonwealth); or (ii) any naval, military or air forces of any foreign power allied or associated with His Majesty in any war in which His Majesty is engaged, serving in Australia	} No. 5
(4) Goods sent to a person not ordinarily resident in Australia— (i) who is serving in Australia with any nursing service, voluntary aid detachment, red cross society, ambulance association or any similar body or association attached to any of the Forces specified in the last preceding sub-item; (ii) who is a representative, attached to or accompanying any of the Forces so specified, of any organization which is providing philanthropic, welfare or medical services for members of any of those Forces; or (iii) who is a member of any police force attached to or accompanying any of the Forces so specified	
(5) Goods imported by and being the property of the American Red Cross to be used in Australia for the welfare of the members of the naval or military forces of the United States of America or of war victims	} No. 5
(6) Goods imported by and being the property of— (i) the Government of the United Kingdom or of any part of His Majesty's dominions (other than the Commonwealth); or (ii) the Government of any foreign power allied or associated with His Majesty in any war in which His Majesty is engaged, for sale in Australia in canteens of the naval, military or air forces of the United Kingdom, part of His Majesty's dominions or foreign power, as the case may be	
Sub-item (7) substituted by No. 65, 1947, s. 3.*	(7) Goods sent to any child who is an immigrant child as defined in the <i>Immigration (Guardianship of Children) Act 1946</i> , by any relation, guardian or former guardian of that child
Sub-items (8) and (9) added by No. 36, 1945, s. 4.	
(8) Goods imported by the Navy Army and Air Force Institutes incorporated in the United Kingdom for sale by that organization in canteens, messes, clubs, recreation rooms, hostels and other similar institutions established for the welfare of members of the naval, military or air forces of His Majesty	} No. 5

\* By s. 2 (3.) of Act No. 65, 1947, this amendment is deemed to have come into operation on 30th December, 1946.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XV.—MISCELLANEOUS—continued.	
114A—continued.	
(9) Goods imported by the Navy Army and Air Force Institutes incorporated in the United Kingdom and sold by that organization in canteens, messes, clubs, recreation rooms, hostels and other similar institutions established for the welfare of members of the naval, military or air forces of His Majesty	No. 6
Provided that the provisions of sub-item (1), (2), (3), (4) or (7) of this item shall apply only to goods not for sale or exchange and not exceeding in value, in the particular case, Ten pounds sterling in any period of twelve months	
* * * * *	Added by No. 65, 1947, s. 3.*
	Item 115 omitted by No. 75, 1940, s. 9.
116. Re-imported goods which are covered by item 401 of the Customs Tariffs 1933, viz.:—	
(1) Goods the produce of Australia and samples of duty-paid goods on which drawback has not been paid, subject to such conditions as may be prescribed under the law relating to Customs	No. 5
(2) Goods, other, which after having been properly entered for home consumption in Australia were exported without drawback having been paid thereon and which have been brought back to Australia by the exporter and which remained the property of such exporter from the time of exportation until the time of re-importation, as prescribed by Departmental By-laws under the law relating to Customs	
	No. 5
117. Saddlery and harness (and parts therefor), trace chains (complete), collar check, kersey and saddle serge	Nos. 1 to 9
118. Secondhand goods, viz.:—	
(1) Plant, machinery or equipment which has been used as such by a person in the ordinary course of his business and is leased by him, or by the grantee of a Bill of Sale of which that person was the grantor, or by any trustee in whom the ownership of that business becomes vested or who becomes entitled to the possession, management or control of that business or of the goods of that business	No. 9
(2) Goods which are leased under a hire purchase agreement by the taxpayer to a lessee and which, prior to that leasing, had gone into use or consumption in Australia	
	No. 9
119.—(1) Ships and other vessels, but not including those to be used exclusively or principally for purposes of pleasure, sport or recreation either by the owner thereof or by any other person or persons	Nos. 1 to 9
(2) Parts for, or materials for use in the repair of, so as to form part of, goods covered by sub-item (1) of this item	
	Sub-items (1) and (2) substituted by No. 12, 1946, s. 3.†

\* By s. 2 (3.) of Act No. 65, 1947, this amendment is deemed to have come into operation on 30th December, 1946.

† By s. 2 (4.) of Act No. 12, 1946, this amendment is deemed to have come into operation on 1st December, 1945.



## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XV.—MISCELLANEOUS—continued.	
119.—continued.	
<p>Sub-item (3) added by No. 41, 1936, s. 4* and amended by No. 78, 1938, s. 3; and No. 12, 1946, s. 3.</p> <p>(3) Spare gear for any ship or vessel covered by sub-item (1) of this item, being spare gear required or recommended for that ship or vessel by—</p> <p>(a) the Board of Trade of the United Kingdom;</p> <p>(b) the Marine Branch, Department of Commerce, in accordance with the provisions of the <i>Navigation Act 1912-1935</i> or any regulations made thereunder;</p> <p>(c) Lloyd's Register of Shipping;</p> <p>(d) the British Corporation Registry of Shipping and Aircraft; or</p> <p>(e) the Bureau Veritas (British Committee)</p> <p>Sub-item (4) substituted by No. 78, 1938, s. 3; and amended by No. 12, 1946, s. 3.</p> <p>(4) Other gear for use on or as part of any ship or vessel covered by sub-item (1) of this item if that gear is of a kind required or recommended as spare gear for that ship or vessel as specified in sub-item (3) of this item</p>	<p>Nos. 1 to 9</p> <p>Nos. 1 to 9</p>
<p>Item 120 substituted by No. 42, 1948, s. 3; amended by No. 37, 1950, s. 4.</p> <p>120. Clothing, footwear, drapery, piece goods, soft furnishings and yarns (other than goods covered by any item in the Fourth Schedule to this Act) viz. :—</p> <p>(1) Clothes for human wear made of any material whatsoever (including cloth, glass fibre, leather, rubber or plastic material) including—</p> <p>Aprons; armbands; armlets;</p> <p>Baby bags; baby napkins, and disposable pads or liners for use with baby napkins;</p> <p>belts; bibs; binders for infants; bows;</p> <p>brassieres; bust bodices; bust improvers;</p> <p>bust shields; braces;</p> <p>Capelines; caps; cap covers; capes;</p> <p>collars; corsets; corselettes; cuffs;</p> <p>Elastic pants; eye shades;</p> <p>Gaiters; garters; girdles for dressing gowns or pyjamas; gloves;</p> <p>Hair nets; hats; hat bands; head bands for waitresses and maids; hoods;</p> <p>Jabots;</p> <p>Knitted parts for garments, including bands, basques and necks;</p> <p>Laces for footwear or corsets; leg bands; leggings; leg protectors;</p> <p>Mittens; muffs;</p> <p>Pockets; puggarees; puttees;</p> <p>Revers;</p> <p>Sanitary napkins; sanitary pads; sanitary towels; and articles used exclusively for purposes similar to the purposes for which those goods are used; scarves; shawls;</p> <p>sleeve protectors; snoods; spats; stocks;</p> <p>suspenders; suspender belts;</p> <p>Ties; turbans;</p> <p>Veils; and</p> <p>Waders,</p>	<p>Nos. 1 to 9</p>

\* By s. 5 (7.) of Act No. 41, 1936, this amendment applies to all transactions, acts and operations performed or entered into on or after 1st March, 1935.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XV.—MISCELLANEOUS—continued.	
120.—continued.	
(1)—continued.	
but not including protective head wear, protective pads, guards or gloves where these goods are of a kind used exclusively or primarily and principally for the purposes of sport or recreation	
(2) Footwear for human wear	
(3) Sole leather and boot and shoe uppers; rubber soles, rubber heels, Kromhyd, Rubberhide, Rubbercord, Tufhide, Narmhide, Tufflex, Rubax, Re-Nu Synthetic Leather Rubber, Leather-tex, Truda-Mend and other materials which are of a kind used exclusively or principally for the soling or heeling of footwear	
(4) Household drapery and soft furnishings, viz. :—	
(a) Bed sheets;	
(b) Bed spreads, cot covers and pram covers;	
(c) Bolster cases, bolster shams and bolster slips;	
(d) Chair back covers;	
(e) Counterpanes;	
(f) Curtains;	
(g) Cushion covers;	
(h) Laundry bags;	
(i) Loose furniture covers;	
(j) Mattress cases, mattress covers and mattress protectors;	
(k) Meat bags;	
(l) Mosquito nets;	
(m) Pillow cases, pillow shams and pillow slips;	
(n) Pudding cloths;	
(o) Quilts;	
(p) Table cloths, table covers, table mats, table napkins, table runners and d'oyleys;	
(q) Tea-towels;	
(r) Towels, face cloths and face washers	
(5) Piece goods, being cloth (whether woven, felted, knitted, netted or crocheted), including plastic and rubber sheeting, table baize, and cloth made wholly or partly of glass fibre, rubber, synthetic or plastic material, but not including tracing cloth or floor coverings	
(6) Braid, cloth belting, cloth ribbon, cloth tape, elastic, insertion, lace, wadding and webbing	
(7) Blankets, bunny rugs and travelling rugs	
(8) Yarns, viz. :—	
(a) Hand knitting, mending, crochet, tapestry, embroidery and rug wools;	

Nos. 1 to 9

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XV.—MISCELLANEOUS—continued.	
120.—continued.	
(8)—continued.	
(b) Sewing, knitting, crocheting and embroidery silks and artificial silks; sewing, knitting, crocheting and embroidery silk twists and artificial silk twists;	} Nos. 1 to 9
(c) The following yarns when put up for household purposes, viz.:—	
(i) sewing, mending, crocheting, embroidery, knitting and mercerised cottons;	
(ii) sewing threads of linen flax, hemp or ramie; and	
(iii) yarns consisting of mixtures of wool, cotton, rayon, nylon, silk or artificial silk	
(9) Car covers made from duck or canvas weighing less than 10 ounces per square yard	} Nos. 1 to 9
(10) Handkerchiefs made of cloth	
121. Wireless valves, including rectifying valves for wireless telegraphy or telephony	Nos. 1 to 9
Item 122 amended by No. 76, 1940, s. 9; and by No. 6, 1942, s. 3.	122. Wire netting, barbed wire and iron or steel wire of gauges 6 to 14
Items 123, 124 and 125 omitted by No. 76, 1940, s. 9.	123. Braille watches and braille clocks
Items 123, 124 and 125 inserted by No. 12, 1946, s. 3.*	124. Baby carriages (including perambulators, strollers, pushers and go-carts), perambulator mattresses and cushions, cuddle seats
Item 124 substituted by No. 67, 1946, s. 3.	125. Explosives (but not including fire-works, rockets, coloured fires, sporting powder, safety cartridges, percussion caps and ammunition) and raw materials for use in producing explosives
Item 126 added by No. 41, 1936, s. 4.	126. Goods sold by retail or applied to his own use by any person if the Commissioner is satisfied that those goods have been treated by any other person as stock for sale exclusively by retail and that—
	(a) the goods were so treated by that other person prior to the first day of August, One thousand nine hundred and thirty; or
	(b) tax has been paid or is payable by that other person in respect of the importation by him of those goods or of the treatment by him of those goods as stock for sale by retail; or
	(c) tax paid or payable in respect of the sale of those goods to that other person has been included in the price for which he purchased those goods

\* By s. 2 (5.) of Act No. 12, 1946, this amendment, insofar as it adds item 123 to the First Schedule, is deemed to have come into operation on 1st July, 1945.

THE FIRST SCHEDULE—*continued*.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
DIVISION XV.—MISCELLANEOUS— <i>continued</i> .	
127. Oils, greases and other preparations which are— (a) of a kind sold exclusively or principally as ; or (b) put up for sale as ; or (c) for use as lubricants of machinery, implements or apparatus	<div> <div>Nos. 1 to 9</div> <div>Item 127 added by No. 41, 1936, s. 4.</div> </div>
128. Raffia .. .. .	Nos. 1 to 9 <div>Item 128 added by No. 41, 1936, s. 4.</div>
129. Tallow .. .. .	Nos. 1 to 9 <div>Item 129 added by No. 41, 1936, s. 4.*</div>
130. Wool tops .. .. .	Nos. 1 to 9 <div>Item 130 added by No. 41, 1936, s. 4.</div>
131. Goods, n.e.i., not intended for sale, which have become the property of the owner under the will or intestacy of a deceased person, if the owner was, at the time when the goods became his or its property, a person, body or institution resident or established in Australia	<div> <div>No. 5</div> <div>Item 131 substituted by No. 54, 1949, s. 4.</div> </div>
132. Aqua (liquid) ammonia and anhydrous ammonia ..	Nos. 1 to 9 <div>Item 132 inserted by No. 54, 1949, s. 4.</div>
133. Producer gas units (and parts and accessories therefor) for use in the production of fuel for land transport vehicles, including tractors	<div> <div>Nos. 1 to 9</div> <div>Item 133 inserted by No. 32, 1941, s. 3.†</div> </div>
134. Stores for aircraft, n.e.i., in respect of which, by reason of the operation of regulation 108A of the Customs Regulations, duty under the <i>Customs Tariff</i> 1933-1948 is not payable	<div> <div>Nos. 5 to 7</div> <div>Item 134 inserted by No. 67, 1946, s. 3. Substituted by No. 54, 1949, s. 4.</div> </div>
134A. Stores (being goods in respect of which, by reason of the operation of regulation 108B of the Customs Regulations, as in force from time to time, duty under the <i>Customs Tariff</i> 1933-1949 is not payable) imported or cleared from bond and consumed within Australian waters on a ship engaged on overseas services	<div> <div>Nos. 5 to 7</div> <div>Item 134A substituted by No. 37, 1950, s. 4.</div> </div>
134B. Stores purchased in Australia for consumption in Australia or within Australian waters on a ship or aircraft engaged on overseas services	<div> <div>Nos. 1 to 9</div> <div>Inserted by No. 54, 1949, s. 4.</div> </div>

\* By s. 5 (8.) of Act No. 41, 1936, this amendment is deemed to have commenced on 1st February, 1936.

† By s. 3 (5.) of Act No. 32, 1941, this amendment is deemed to have commenced on 2nd June, 1941.

## THE FIRST SCHEDULE—continued.

Sales Tax Exemption Items.	Acts to which Exemption Applies.
<b>DIVISION XV.—MISCELLANEOUS—continued.</b>	
Item 135 inserted by No. 65, 1947, s. 3. Substituted by No. 54, 1949, s. 4.	<div style="display: flex; justify-content: space-between;"> <div> 135. Motor vehicles (and parts therefor) for use in his personal transportation and not for sale by a person who has served as a member of the Armed Forces of His Majesty within the meaning of that expression in item 81A in this Schedule, and who, as a result of that service—  (a) has lost a leg or both arms or, for the purposes of the Fifth Schedule to the <i>Australian Soldiers' Repatriation Act 1920-1949</i>, is deemed to have lost a leg or both arms; or  (b) is in receipt of a special pension under the Second Schedule to the <i>Australian Soldiers' Repatriation Act 1920-1949</i> in respect of blindness, total and permanent incapacity or tuberculosis </div> <div style="font-size: 3em; line-height: 1;">}</div> <div style="text-align: right; vertical-align: middle;">Nos. 1 to 9</div> </div>
Inserted by No. 54, 1949, s. 4.	136. Toluol .. .. . Nos. 1 to 9
Inserted by No. 37, 1950, s. 4.	<div style="display: flex; justify-content: space-between;"> <div>137.—(1) Wreaths and covers and mounts for wreaths ..</div> <div style="font-size: 3em; line-height: 1;">}</div> <div style="text-align: right; vertical-align: middle;">Nos. 1 to 9</div> </div> <div style="display: flex; justify-content: space-between;"> <div>(2) Floral tributes (including bouquets, posies, floral baskets and sheaves) containing natural flowers</div> <div style="font-size: 3em; line-height: 1;">}</div> <div style="text-align: right; vertical-align: middle;">Nos. 1 to 9</div> </div>
Inserted by No. 37, 1950, s. 4.	138. Wedding rings, but not including rings set with gems or with imitation, reconstructed or synthetic gems } Nos. 1 to 9

## SECOND SCHEDULE.

Section 6B.

- Inserted by  
No. 37, 1950,  
s. 5.
1. Motor cars designed primarily and principally for the transport of persons, including sedans, coupes, tourers, roadsters, racing cars, taxi-cabs, station waggons and estate cars, but not including panel vans, delivery vans, utilities, hearses, jeeps, trucks, lorries, or motor buses.

## THE THIRD SCHEDULE.

Amended by  
No. 37, 1950,  
s. 6.  
Division I.  
substituted by  
No. 37, 1950,  
s. 6.

## DIVISION I.—MUSICAL, BAND AND ORCHESTRAL INSTRUMENTS.

1. Musical, band and orchestral instruments (and accessories and parts therefor) including—
- (1) Pianolas, player-pianos, orchestrals, electric and other organs, carillons and bells.
  - (2) Gramophones, phonographs, musical boxes and novelty musical boxes, juke boxes and musical machines.
  - (3) Wireless receiving sets and combined wireless receiving and gramophone sets (but not including batteries therefor); record players and pickups.
  - (4) Records for gramophones and phonographs; pianola and player-piano rolls; cabinets for records or rolls covered by this sub-item.
  - (5) Drums, cymbals, chimes, triangles, castanets, bones, tambourines, cow-bells, sleigh bells, wood blocks and other percussion instruments; mouth organs, harmonicas, concertinas, bagpipes, musettes, pitch pipes, tuning forks, tuning hammers.
  - (6) Flageolets, jaw's or jew's harps, ocarinas and ocarines, tonettes, canary warblers, kazoos, whistles, magic flutes, calls, blowhorns and musical novelties of all kinds.



THE THIRD SCHEDULE—*continued.*

- (7) Bows, strings, chin rests, bridges, snares, mutes, reeds, metronomes, batons, drum-majors' staffs, drum sticks, wire brushes, neck straps, music or instrument stands and holders, piano stools, musical instrument cases and covers, picks and plectra.

\* \* \* \* \*

Divisions II. and V. omitted by No. 37, 1950, s. 6.

Divisions III. and IX. omitted by No. 67, 1946, s. 5.

Divisions IV., VI. and X. omitted by No. 54, 1949, s. 5.

Divisions VII., VIII. and XI. omitted by No. 36, 1945, s. 6.

Division XII. omitted by No. 12, 1946, s. 4.

DIVISION XIII.—MISCELLANEOUS.

36. Patentex Cream, Ortho-Gynol Cream, Resurin Tablets, Q.T. Cream, Kareen Cream, Agressit Tablets, Semori Tablets, Controids, condoms, goldpin pessaries, cervical caps, and goods used for purposes similar to the purposes for which these goods are used.

\* \* \* \* \*

Added by No. 32, 1941, s. 5.

Item 37 omitted by No. 54, 1949, s. 5.

FOURTH SCHEDULE.

Section 6B.

Fourth Schedule added by No. 37, 1950, s. 7.

1. Jewellery and fancy goods, viz. :—

- (1) Jewellery and imitation jewellery (but not including wedding rings covered by item 138 in the First Schedule to this Act); precious stones; semi-precious stones; pearls; cultured pearls; imitation, reconstructed and synthetic stones and pearls; and personal adornments.
- (2) Plate and plated ware (but not including knives, forks, spoons, scissors or other cutlery, or cutlery sharpeners) and pewter; crystal and cut glass ware.
- (3) Watches and clocks (but not including alarm clocks, business time recording apparatus or machines, braille watches or braille clocks), and movements, parts and keys therefor; watch chains; bands, straps and clasps for wristlet watches.
- (4) Toilet or dressing sets, including home hair waving sets; hair brushes and combs, hand mirrors, clothes brushes and hat brushes; manicure and pedicure sets and pieces; dressing table sets; powder compacts, puffs, sprays and bowls; hair tidies, lipstick containers; perfume sprays; containers for beauty aids in the form of boxes, cases, bowls or tubes.
- (5) Studs, sleeve links, tie chains, tie clips, collar and tie pins, gold and silver safety pins and chains therefor.
- (6) Field, marine and opera glasses.
- (7) Fountain pens and propelling pencils (including ball-pointed pens and pencils) and stylographs, and parts and re-fills therefor; leads for propelling pencils.

FOURTH SCHEDULE—*continued.*

- (8) Serviette rings, book ends, book marks, collar boxes, jewel boxes and cases, tie boxes, handkerchief boxes, stud boxes, paper weights, paper knives, fobs, nut crackers, picnic hampers and outfits, incense burners, art or decorative candles, card cases, table mats (but not including cloth or paper table mats), cocktail picks, tooth picks, trays (including ash trays), cigar and cigarette cases, and lighters for cigarettes, cigars or pipes.
  - (9) Fancy goods made wholly or principally of precious metals, ivory, amber, jet, coral, mother-of-pearl, natural shells or tortoise shell, jade, onyx, lapis lazuli, ebony, alabaster, marble, xylonite, bone, bakelite and other compositions.
  - (10) Ornaments, including jardinières and vases.
2. Artificial flowers, fruits, vegetables, trees, plants, leaves, berries and grains, but not including wreaths or floral tributes covered by item 137 in the First Schedule to this Act.
- 3.—(1) Travelling bags, brief bags, kit bags exceeding eighteen inches in length, gladstone bags, bookmakers' bags, hat boxes, trunks, suitcases, dressing or toilet cases, attache cases exceeding eighteen inches in length, writing or letter cases, music cases, sporting cases and bags, regalia cases, lunch cases exceeding twelve inches in length, hat cases, satchels, grips, sewing bags and cases, sleeping valises and bags, but not including school bags or cases.
- (2) Handbags, evening bags, purses, shopping bags, knitting bags, money belts, wallets and pouches, beach bags, cosmetic bags, cosmetic holdalls, and similar goods.
- (3) Baskets and hampers of a kind used for private, personal, domestic or office purposes, made of cane, wicker, seagrass, metal, wood, fibre or any other material, but not including bassinets and other sleeping baskets for babies.
4. Toilet and beauty preparations and materials, viz. :—
- (1) Hair oils, lotions, lacquers, settings, dressings, trainers, tonics, restorers, tints, shampoos, rinsers, bleaching preparations, dyes, dye removers, pomades and waving solutions, emulsions, sachets and medications.
  - (2) Face powders, rouge, creams, lotions, oils, astringents, colourings, packs, masks and similar preparations; lipsticks, lip salves, eye-brow pencils, eye beautifiers, mascara, eye shadows and similar preparations.
  - (3) Nail polishes and lacquers, lacquer and polish removers, hand creams and lotions and similar preparations.
  - (4) Foot powders, creams, tablets and similar preparations.
  - (5) Body powders, deodorants, depilatories, creams and similar preparations.
  - (6) Suntan oils, lotions and creams.
  - (7) Leg tan cream, leg tan lotion, stockingless cream, liquid hosiery and similar preparations.
  - (8) Cleansing pads.
  - (9) Perfumery, eau-de-cologne and toilet waters.
  - (10) Bath salts (solid or liquid) and foam preparations.
  - (11) Beauty spots, artificial eye-lashes, artificial eye-brows, artificial finger nails.
  - (12) Containers for any goods covered by any sub-item in this item.
- 5.—(1) Cameras, including cinematograph and stereo cameras.
- (2) Photomaton and machines for taking photographs.
  - (3) Photographic enlarging and reducing apparatus.
  - (4) Accessories and parts for goods covered by sub-item (1), (2) or (3) of this item.

FOURTH SCHEDULE—*continued.*

6.—(1) Photographs not covered by item 52 in the First Schedule to this Act, including stereoscopic views produced by means of photography and photographs wholly or partly coloured by hand.

(2) Lantern, screen and camera slides.

(3) The following goods, not being goods covered by item 52 in the First Schedule to this Act, namely :—

(a) Photographic negatives produced for sale ;

(b) Positives produced by processing photographic film ;

(c) Transparencies and reversals.

(4) Photographic materials not covered by item 43 in the First Schedule to this Act, namely :—

(a) Unexposed photographic plates and film, including sensitized film for cinematograph cameras ;

(b) Photographic sensitized paper, cards, board, linen and other sensitized materials ;

(c) Mounts, plaques and medallions.

7. Articles made wholly or principally of furskin (including any skin with fur or hair attached), namely :—

(1) Coats, coatees, boleros, capes, chokers, collars, hats, caps, necklets, wraps, stoles, crossovers, hand muffs and foot muffs, rugs and mats.

(2) Fur trimmings.

(3) Fur skins, tanned, dressed or otherwise processed.

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SALES TAX PROCEDURE ACT 1934-1940.<sup>(a)</sup>

An Act to provide Procedure in relation to the Collection and Recovery of Sales Tax and for other purposes.

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

Short title.  
Short title  
amended,  
No. 32, 1918,  
s. 2.

Commence-  
ment.

Definitions.

Amended by  
No. 12, 1935,  
s. 12.

1. This Act may be cited as the *Sales Tax Procedure Act* 1934-1940.<sup>(a)</sup>

2. This Act shall be deemed to have commenced on the eighteenth day of August, One thousand nine hundred and thirty.

3. In this act, unless the contrary intention appears—

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

“Company” includes all bodies or associations, corporate or unincorporate, but does not include partnerships;

“Goods” includes commodities, but (except in the application of this Act to goods to which the *Sales Tax Assessment Act* (No. 9) 1930, or that Act as amended from time to time, applies) does not include goods which have, either through a process of retailing or otherwise, gone into use or consumption in Australia;

“Person” includes a company;

“Sales tax” or “tax” means the tax imposed and as in force from time to time under any one or more of the following Acts :—

(a) The *Sales Tax Procedure Act* 1934-1940 comprises the *Sales Tax Procedure Act* 1934 as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Sales Tax Procedure Act</i> 1934	1934, No. 53 ..	15th December, 1934	18th August, 1930
<i>Sales Tax Procedure Act</i> 1935	1935, No. 12 ..	11th April, 1935 ..	11th April, 1935
<i>Sales Tax Amendment Act</i> 1936	1936, No. 78 ..	7th December, 1936	7th December, 1936
<i>Sales Tax Procedure Act</i> 1940	1940, No. 63 ..	13th December, 1940	13th December, 1940

the *Sales Tax Act* (No. 1) 1930,  
 the *Sales Tax Act* (No. 2) 1930,  
 the *Sales Tax Act* (No. 3) 1930,  
 the *Sales Tax Act* (No. 4) 1930,  
 the *Sales Tax Act* (No. 5) 1930,  
 the *Sales Tax Act* (No. 6) 1930,  
 the *Sales Tax Act* (No. 7) 1930,  
 the *Sales Tax Act* (No. 8) 1930, and  
 the *Sales Tax Act* (No. 9) 1930,

or under any one or more of those Acts as amended from time to time, and, in respect of sales tax payable in respect of transactions, acts or operations which took place, or in respect of goods which were imported, on or after the twenty-sixth day of October, One thousand nine hundred and thirty-three, means that tax as varied by section nineteen of the *Financial Relief Act* 1933 or by any subsequent Act ;

“ *Sales Tax Assessment Act* ” means any of the following Acts :—

the *Sales Tax Assessment Act* (No. 1) 1930,  
 the *Sales Tax Assessment Act* (No. 2) 1930,  
 the *Sales Tax Assessment Act* (No. 3) 1930,  
 the *Sales Tax Assessment Act* (No. 4) 1930,  
 the *Sales Tax Assessment Act* (No. 5) 1930,  
 the *Sales Tax Assessment Act* (No. 6) 1930,  
 the *Sales Tax Assessment Act* (No. 7) 1930,  
 the *Sales Tax Assessment Act* (No. 8) 1930, and  
 the *Sales Tax Assessment Act* (No. 9) 1930,

and includes any of those Acts as amended from time to time ;

“ the Commissioner ” means the Commissioner of Taxation and, when used in relation to any matter in respect of which the Second Commissioner or a Deputy Commissioner may exercise any power or function by virtue of a delegation conferred upon him pursuant to section four of this Act, includes the Second Commissioner or that Deputy Commissioner ;

Amended by  
 No. 78, 1936,  
 s. 57.

“ the Second Commissioner ” means the Second Commissioner of Taxation ;

“ the Regulations ” means the Regulations made under this Act ;

“ Trustee ”, in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, includes—

- (a) an executor or administrator, guardian, committee, receiver, or liquidator ; and
- (b) every person having or taking upon himself the administration or control of goods affected by



any express or implied trust, or acting in any fiduciary capacity, or having the possession, control or management of the goods of a person under any legal or other disability.

Delegation  
by the  
Commissioner.

4.—(1.) The Commissioner may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand, delegate to the Second Commissioner, a Deputy Commissioner of Taxation or other person all or any of his powers or functions under this Act or the Regulations (except this power of delegation) so that the delegated powers or functions may be exercised by the Second Commissioner, the Deputy Commissioner or person with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

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

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

Returns.

5.—(1.) Notwithstanding anything contained in any Sales Tax Assessment Act, any person who is registered or required to be registered under any such Act and who, during any month—

- (a) sells goods ;
- (b) being a manufacturer of goods, treats those goods as stock for sale by him by retail ;
- (c) applies goods to his own use ; or
- (d) leases goods to a lessee,

shall, within twenty-one days after the close of that month, furnish to the Commissioner of Taxation, for the purposes of the ascertainment of the liability of that person to sales tax in respect of those goods, a return of those goods.

(2.) Every return furnished under the last preceding sub-section shall be in the prescribed form and shall set forth such information as is prescribed or, where no such form is prescribed, shall be in such form as is authorized by the Commissioner, and, in either case, shall set forth such information as is required for the due completion of that form.

(3.) Without restricting the generality of the foregoing provisions of this section, forms of returns may, for the purposes of those provisions, be prescribed or authorized which will permit, in cases provided for in the forms, a person required to furnish a return under this section in respect of goods sold by him or applied by him to his own use, to furnish a return without specifying which of the Sales Tax Assessment Acts applies to those goods.

(4.) Any return furnished before the date upon which this Act receives the Royal Assent, by any person specified in sub-section (1.) of this section of any goods so specified, and made or purporting to be made under any one or more of the Sales Tax Assessment Acts, shall be deemed to be a return furnished under this section.

(5.) Any return furnished under this section by any person in respect of any goods shall, subject to this Act, be in lieu of any return required to be furnished by him under any Sales Tax Assessment Act in respect of those goods.

6. In addition to any return required to be furnished under the last preceding section the Commissioner may, by notice in writing, call upon any person to furnish to him, within the time specified in the notice—

Further returns.

- (a) such return, or such further or fuller return, as the Commissioner requires, whether in that person's own behalf or as an agent or trustee ; or
- (b) a return which shall be a return under, subject to the provisions of, and in the form prescribed under, any Sales Tax Assessment Act.

7.—(1.) Any person who—

Offences in relation to returns.

- (a) fails or neglects duly to furnish or lodge any return required in accordance with either of the last two preceding sections, or to furnish information or to comply with any requirement of the Commissioner as and when required by this Act or the Regulations, or by the Commissioner ; or
- (b) without just cause shown by him, refuses or neglects to attend and give evidence or to answer truly and fully any questions put to him, or to produce any books or papers when so required, in pursuance of this Act or the Regulations, by the Commissioner or by any officer duly authorized by him ; or
- (c) makes or delivers a return which is false in any particular or makes any false answer whether verbally or in writing, or
- (d) contravenes any provision of this Act for the contravention of which no penalty is expressly provided,

shall be guilty of an offence.

Penalty : Not less than Two pounds nor more than One hundred pounds.

(2.) Any person who, after conviction for an offence against this section in respect of failure, refusal or neglect to comply with any requirement of, or made in pursuance of, this Act or the Regulations,

continues to fail, refuse or neglect to comply with that requirement, shall be guilty of an offence.

Penalty: Not less than Fifty pounds nor more than Five hundred pounds.

(3.) In any prosecution, for an offence against paragraph (c) of sub-section (1.) of this section, of any person who has not previously been convicted of an offence against this Act or against any Sales Tax Assessment Act, it shall be a defence if the defendant proves—

- (a) that the return or answer to which the prosecution relates was prepared or made by him personally; and
- (b) that the false particulars were given or (as the case may be) the false statement was made through ignorance or inadvertence.

Penalty in  
certain cases.

8.—(1.) Notwithstanding anything contained in the last preceding section, any person who—

- (a) fails or neglects duly to furnish any return or information as and when required by this Act or the Regulations or by the Commissioner;
- (b) fails to include, in accordance with the requirements of this Act and the Regulations, any particulars of goods in any return or includes particulars of goods in respect of which sales tax is payable by him at a particular rate in the space provided in the form of return for particulars of goods in respect of which tax is payable at some lower rate or is not payable; or
- (c) understates in any return, in respect of any goods, the amount specified, in paragraph (a), (b) or (c) (as the case may be) of sub-section (1.) of section eleven of this Act, in respect of those goods,

Amended by  
No. 78, 1936,  
s. 58, and by  
No. 63, 1940,  
s. 3.

shall, if a taxpayer to whom paragraph (a) of this sub-section applies, be liable to pay additional tax at the rate of ten per centum per annum upon the amount of tax assessable to him, under any one or more of the Sales Tax Assessment Acts (such percentage to be calculated for the period commencing on the last day allowed for furnishing the return or information and ending on the day upon which the return or information is furnished or the day upon which the assessment is made, whichever first happens), or the sum of One pound, whichever is the greater, and shall, if a taxpayer to whom paragraph (b) or (c) of this sub-section applies, be liable to pay by way of additional tax the amount of One pound or double the amount of the difference between the tax properly payable and the tax payable upon the basis of the return lodged, whichever is the greater:

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(2.) If action is taken to recover the penalty provided by the last preceding section, or by section eleven of this Act, the additional tax payable under this section shall not be charged in respect of the failure, neglect or understatement in respect of which that action is taken.

9. If any person, in any declaration made under, or authorized or prescribed by, this Act or the Regulations, knowingly or wilfully declares to any matter or thing which is false or untrue, he shall be deemed to be guilty of wilful and corrupt perjury and shall upon conviction be liable to imprisonment for a period not exceeding four years. False declarations.

10.—(1.) Notwithstanding anything contained in any Sales Tax Assessment Act, where, in any proceedings for the recovery of sales tax, the defendant denies liability, it shall not be necessary for the plaintiff to allege or prove under which of the Sales Tax Assessment Acts the sales tax became payable, and, upon the production of a certificate purporting to be signed by the Commissioner, the Second Commissioner or a Deputy Commissioner of Taxation and stating that an amount of sales tax, not exceeding the amount claimed, is due by the defendant in respect of goods and that those goods have been either— Recovery of Tax.

- (a) sold by the defendant ;
- (b) manufactured by the defendant and treated by him as stock for sale by retail ;
- (c) applied by the defendant to his own use ; or
- (d) leased by the defendant to a lessee,

the plaintiff shall be entitled to judgment for the amount of sales tax stated in the certificate except insofar as the defendant proves that the sales tax so stated or any portion thereof is not payable.

(2.) For the purposes of this section " sales tax " includes any additional tax for which the defendant is liable under this Act or under any Sales Tax Assessment Act.

11.—(1.) Notwithstanding anything contained in any Sales Tax Assessment Act, if any person— Offences in respect of avoidance of tax.

- (a) has sold goods in such circumstances that sales tax is payable by him under some one or other of the Sales Tax Assessment Acts, upon the amount for which those goods were sold ;
- (b) has sold by retail goods which he has purchased or imported in such circumstances that sales tax is payable by him under some one or other of the Sales Tax Assessment Acts, upon the amount which would be the fair market value of those goods if sold by him by wholesale ; or Amended by No. 78, 1936, s. 59.



- (c) has applied to his own use goods which he has purchased in such circumstances that sales tax is payable by him under some one or other of the Sales Tax Assessment Acts, upon the amount for which those goods were so purchased,

and that person—

- (d) with intent to defraud understates in any return, whether under this Act or under any Sales Tax Assessment Act, the amount for which those goods were sold, the amount which would be the fair market value of those goods if sold by him by wholesale, or the amount for which those goods were purchased by him, as the case may be ; or

- (e) by some wilful act, default or neglect, or by some fraud, art or contrivance, avoids or attempts to avoid sales tax in respect of goods so sold, sold by retail or applied to his own use, as the case may be,

he shall be guilty of an offence.

Penalty :

- (i) for any offence to which paragraph (d) of this sub-section applies—not less than Fifty pounds and the amount of sales tax which would have been avoided, if the amount stated in the return had been accepted as the correct amount, nor more than Five hundred pounds and treble the amount of sales tax which would have been so avoided ; and
- (ii) for any offence to which paragraph (e) of this sub-section applies—not less than Fifty pounds and the amount of sales tax avoided or attempted to be avoided, nor more than Five hundred pounds and treble the amount of sales tax avoided or attempted to be avoided.

(2.) In any proceedings for an offence against this section it shall not be necessary to allege or prove which of the Sales Tax Assessment Acts applies in respect of the goods in relation to which the offence was committed.

(3.) Without derogating from the generality of the provisions for the facilitation of proof contained in any other Act, a certificate purporting to be signed by the Commissioner, the Second Commissioner or a Deputy Commissioner of Taxation and stating—

(a) that a person named in the certificate—

- (i) has sold goods in such circumstances that sales tax is payable by that person, under some one or other of the Sales Tax Assessment Acts, upon the amount for which those goods were sold ;

- (ii) has sold by retail goods which he has purchased or imported in such circumstances that sales tax



- is payable by that person, under some one or other of the Sales Tax Assessment Acts, upon the amount which would be the fair market value of those goods if sold by him by wholesale ; or
- (iii) has applied to his own use goods which he has purchased in such circumstances that sales tax is payable by that person, under some one or other of the Sales Tax Assessment Acts, upon the amount for which those goods were so purchased ; or

- (b) the amount of sales tax avoided, attempted to be avoided or which would have been avoided if the amount stated in the return had been accepted as the correct amount, as the case may be,

shall, in any proceedings for an offence against this section, be *prima facie* evidence of the matters stated in the certificate.

12. The provisions of Part IX. of the *Sales Tax Assessment Act* (No. 1) 1930-1934 shall, *mutatis mutandis*, apply in relation to offences against this Act.

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

12A.<sup>(a)</sup>—(1.) Notwithstanding the provisions of any Sales Tax Assessment Act (other than provisions relating to objections and appeals) or of any regulations made under any such Act, where any person has paid any amount either as sales tax or for sales tax in respect of any goods, by reason of any transaction, act or operation effected or done in relation to those goods, that person shall not be entitled to any refund of that amount—

Refunds. Inserted by No. 12, 1935, s. 3.

- (a) if the amount was paid prior to the thirteenth day of December, One thousand nine hundred and thirty-four—upon any ground to the effect, expressly or impliedly, that those goods had gone into use or consumption in Australia prior to that transaction, act or operation ; or
- (b) if the amount was paid either before or after that date—upon a prescribed ground as defined in this section, unless that person finally succeeds in an action, upon that ground, brought, in pursuance of this section, for the recovery of that amount :

Provided that where any person has paid any amount either as sales tax or for sales tax by reason of the sale of any goods which prior to that sale had gone into use or consumption in Australia and the Commissioner, upon the production of such evidence (other than, or additional to, the statement, whether by statutory declaration or otherwise, of that person) as the Commissioner considers sufficient, is satisfied—

(a) Held by Rich, Starke and Dixon JJ., to be a valid enactment and that, therefore, a taxpayer who had paid sales tax in respect of certain transactions (concerning which the High Court had later held, in a case between other parties, that tax was not payable) could not recover it. (Latham C.J., and McTiernan J., concurred in the decision on the ground that the money was paid under mistake of law and was, therefore, irrecoverable.) *Werrin v. Commonwealth*, (1938) 59 C.L.R. 150 ; 44 A.L.R. 268 ; 11 A.L.J. 530.

- (a) that the amount was paid within one month after the close of the month in which the sale took place or within such further time as had been allowed by or under the authority of the Commissioner upon a request made by or on behalf of that person during that first mentioned month ; and
  - (b) that the amount has not been passed on by that person to the purchaser of the goods in the total sum paid by the purchaser to the vendor in respect of the sale,
- the Commissioner may refund to that person the amount so paid by him.

(2.) Where any amount has been or is paid as specified in the last preceding sub-section by any person, and that person has paid or pays the amount under protest, as provided in the next succeeding sub-section, upon a prescribed ground as defined in this section, that person may, within six months after the date on which the amount was paid, bring an action upon that ground against the Commonwealth, in any Commonwealth or State Court of competent jurisdiction, for the recovery of the amount so paid.

(3.) A person shall not be deemed to have paid any amount under protest in pursuance of this section unless, at the time of the payment, that person has lodged or lodges, at the office at which the payment is made, a statement in writing bearing the endorsement "Paid under protest", and stating the prescribed ground upon which the protest is made.

(4.) For the purposes of this section—

"goods" includes—

- (a) commodities ; and
- (b) goods or commodities which have gone into use or consumption in Australia ;

"prescribed ground" means—

- (a) in relation to any amount paid by a person either as sales tax or for sales tax payable under the *Sales Tax Assessment Act (No. 1) 1930* or that Act as amended from time to time—any ground to the effect, expressly or impliedly, that the goods in respect of which the amount was paid were not, within the meaning of that Act, or of that Act as amended from time to time, goods manufactured in Australia by that person ; and
- (b) in relation to any amount paid by a person either as sales tax or for sales tax payable under any other Act relating to the imposition, assessment and collection of tax upon the sale value of goods manufactured in Australia—any ground to the effect, expressly or impliedly, that the goods in respect of which the amount was paid were not,

within the meaning of that Act, goods manufactured in Australia ;

“ sale ” includes a lease of goods under a hire purchase agreement.

12B.—(1.) Where tax (not being tax paid prior to the commencement of this section) in respect of any transaction, act or operation effected or done in relation to any goods has not been paid at the expiration of a period of three years from—

Remission of tax unpaid after three years.  
Inserted by No. 78, 1936, s. 60.

(a) where the tax is payable in respect of the importation of those goods—the date of the entry of those goods for home consumption ; or

(b) in any other case—the close of the month in which the transaction, act or operation was effected or done,

the Commissioner may remit that tax unless he—

(c) has required payment of the tax prior to the expiration of that period ; or

(d) is satisfied that the payment of the tax was avoided by fraud or evasion.

(2.) For the purposes of this section, the payment (whether before or after the commencement of this section) of any amount in part satisfaction of tax payable in respect of several transactions, acts or operations shall, unless otherwise appropriated by, or with the concurrence of, the Commissioner, be appropriated in satisfaction of the tax payable in respect of transactions, acts or operations in the order of time in which those transactions, acts or operations were effected or done.

(3.) For the purposes of this section the Commissioner shall be deemed to have required payment of the tax if he, or an officer acting on his behalf, has served upon any person a notice in writing specifying that an amount of tax is payable by that person in respect of—

(a) the transaction, act or operation specified in sub-section (1.) of this section ; or

(b) any transactions, acts or operations which include the transaction, act or operation specified in that sub-section.

(4.) For the purposes of this section “ tax ” includes any further tax payable under any Sales Tax Assessment Act and any additional tax for which the person is liable under this Act or under any Sales Tax Assessment Act.

12C.—(1.) Where the Commissioner finds that any person has made an overpayment of tax, the Commissioner shall not make any refund to that person in respect of that overpayment unless he so finds—

No refund of overpayment after three years.  
Inserted by No. 78, 1936, s. 60.

(a) within a period of three years ; or

(b) on consideration of a claim in writing for that refund lodged with the Commissioner within a period of three years,  
from the date upon which the overpayment was made.

(2.) Nothing in this section shall affect the operation of—

- (a) any provision of any Sales Tax Assessment Act relating to objections and appeals;
- (b) section twelve A of this Act;
- (c) sub-sections (2.), (4.) and (5.) of section twenty-six of the *Sales Tax Assessment Act* (No. 1) 1930-1936;
- (d) section five A and sub-sections (2.) and (3.) of section eleven of the *Sales Tax Assessment Act* (No. 2) 1930-1936;
- (e) section five A and sub-sections (2.) and (3.) of section eleven of the *Sales Tax Assessment Act* (No. 3) 1930-1936;
- (f) sub-sections (2.) and (3.) of section eleven and section eleven A of the *Sales Tax Assessment Act* (No. 5) 1930-1936;
- (g) section five A and sub-sections (2.) and (3.) of section eleven of the *Sales Tax Assessment Act* (No. 6) 1930-1936;
- (h) section five A and sub-sections (2.) and (3.) of section eleven of the *Sales Tax Assessment Act* (No. 7) 1930-1936;
- (i) sub-section (1.) of section eleven of the *Sales Tax Assessment Act* (No. 9) 1930-1936 insofar as it empowers the Commissioner to make any refund consequential upon any reduction in the sale value of goods pursuant to sub-section (1A) of section four of that Act; or
- (j) the amendments effected to the *Sales Tax Exemptions Act* 1935 by the *Sales Tax Exemptions Act* 1936 insofar as those amendments apply to transactions, acts or operations performed or entered into prior to the date of the commencement of the *Sales Tax Exemptions Act* 1935.

(3.) Nothing in this section shall affect any judicial proceedings instituted and pending on or before the nineteenth day of November, One thousand nine hundred and thirty-six, and any proceedings so instituted and pending may be heard and determined as if this section had not been enacted.

Remission of tax where ruling of Commissioner altered.

Inserted by No. 78, 1936, s. 60.

**12D.—(1.)** Where the Commissioner alters a ruling previously given, then notwithstanding anything contained in any Sales Tax Assessment Act, if the Commissioner is satisfied—

- (a) that any person has acted in accordance with that prior ruling and that, by reason of so acting, that person has, in respect of any transaction, act or operation effected



or done by that person between the date upon which the prior ruling was given and the date upon which the Commissioner alters the prior ruling—

- (i) not paid sales tax ; or
- (ii) paid a less amount of sales tax than he would have paid if the ruling as altered had been given at the time of the prior ruling and he had acted in accordance with the ruling as altered ; and

- (b) that that person did not contribute to the giving or to the continuing in force of the prior ruling by any misstatement or by any suppression of material fact,

the Commissioner may remit the amount of tax so unpaid.

(2.) The Commissioner shall be deemed to alter a ruling where the Commissioner, Second Commissioner or a Deputy Commissioner gives any further ruling which expressly or by necessary implication withdraws, amends, modifies or qualifies so much, if any, of any prior ruling as has not been withdrawn, amended, modified or qualified by any intervening ruling :

Provided that where the further ruling relates to or deals with the application of any amendment of the law, the Commissioner shall not, to that extent, be deemed to have altered any ruling given prior to the commencement of that amendment :

Provided further that, for the purposes of this section, where the further ruling is given by letter or other communication addressed to a particular person or to particular persons that further ruling shall be deemed to have altered a prior ruling only in respect of that person or those persons, and this section shall apply in relation to any subsequent further ruling published for general information, to the extent to which it affects any other persons, as if the further ruling given by letter or other communication had not been given.

(3.) For the purposes of this section a ruling shall be deemed to have been given—

- (a) where the ruling is published in a newspaper—on the day next following the date on which the ruling is first published in any newspaper ; or
- (b) where the ruling is published in any book or other publication printed by the Government Printer—on the day next following the date on which that book or publication is first available for sale in the Territory for the Seat of Government ; or
- (c) where the ruling is given by a letter or other communication addressed to the taxpayer at his last known place of address in Australia—on the date on which the letter or communication would, in the ordinary course of the post, be delivered at that address,

or on such later date as may be specified in the ruling.



(4.) In this section "ruling" means any written ruling, decision or advice either given to a particular person or published for general information by the Commissioner, Second Commissioner or a Deputy Commissioner with respect to any law relating to the imposition, assessment or collection of Sales Tax and whether in relation to a particular case or in relation to any matter or class of matter.

**Regulations.**

**13.** The Governor-General may make Regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular\*—

- (a) authorizing the Commissioner to obtain information and evidence ;
- (b) relating to the service of process in any proceedings for the recovery of tax ;
- (c) for defining the liabilities of the executors and administrators of deceased persons in relation to sales tax payable by those persons during their lifetime ;
- (d) for prescribing the times within which prosecutions for offences against this Act or the Regulations may be commenced ;
- (e) relating to the liability under this Act of companies and of liquidators of companies and for defining the liability of any persons who, for the purposes of any Sales Tax Assessment Act, are the public officers of companies ;
- (f) for defining the liabilities of agents and trustees under this Act ;
- (g) for defining, in relation to the liabilities under this Act of persons who are resident out of Australia, the liabilities of persons who have the receipt, control or disposal of money belonging to persons so resident ;
- (h) for prescribing matters relating to the giving of certificates under this Act and the acceptance of any such certificate as proof in legal proceedings ;
- (i) for prescribing penalties for any breach of the Regulations ; and
- (j) for requiring persons who execute or perform, or who have executed or performed, any power or duty under this Act to observe secrecy.

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\* Section 61 of the *Sales Tax Amendment Act 1936* is as follows :—

"61. Statutory Rules 1934, No. 155, being Statutory Rules made under the *Sales Tax Procedure Act 1934*, and Statutory Rules 1935, No. 52, being Statutory Rules made under the *Sales Tax Procedure Act 1934-1935*, shall be deemed to have commenced on the eighteenth day of August, One thousand nine hundred and thirty."

**14.—**(1.) Nothing in this Act shall affect—

Saving.

- (a) any judicial proceeding determined prior to the date upon which this Act receives the Royal Assent ; or
- (b) any judicial proceedings instituted and pending on or before the twenty-ninth day of November, One thousand nine hundred and thirty-four,

and any proceedings so instituted and pending may be heard and determined as if this Act had not been passed.

(2.) Nothing in this Act shall, except where otherwise expressly provided, take away the remedies, or alter the liabilities, provided for in any Sales Tax Assessment Act.

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# SCIENCE AND INDUSTRY ENDOWMENT ACT 1926-1949.<sup>(a)</sup>

## An Act to constitute a Fund to be utilized for the purposes of Scientific and Industrial Research.

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

- Short title  
Short title  
amended, No.  
32, 1918, s. 2.
1. This Act may be cited as the *Science and Industry Endowment Act* 1926-1949.<sup>(a)</sup>
- Definition.
2. In this Act, unless the contrary intention appears, "the Fund" means the Fund established by this Act.
- Appropriation.
3. For the purposes of this Act there is hereby appropriated out of the Consolidated Revenue Fund the sum of One hundred thousand pounds.
- The Fund.
- 4.—(1.) A Fund is hereby established which shall be known as the Science and Industry Endowment Fund.
- (2.) The Fund shall consist of—
- (a) the amount appropriated by this Act and of income derived from the investment of that amount or any part thereof; and
- (b) gifts or bequests given or made for the purposes of the Fund and the income derived from or proceeds of the realization of the property so given or devised.
- Control of Fund.
5. The Fund shall be vested in and placed under the control of the trustees appointed by this Act.
- Trustees of the Science and Industry Endowment Fund.
6. The members for the time being of the Executive of the Commonwealth Scientific and Industrial Research Organization holding office under the *Science and Industry Research Act* 1949 shall be the trustees of the Fund.
- Substituted by  
No. 13, 1949,  
s. 6.

(a) The *Science and Industry Endowment Act* 1926-1949 comprises the *Science and Industry Endowment Act* 1926 as amended. Particulars of the Principal Act and of the amending Act are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Science and Industry Endowment Act</i> 1926	1926, No. 21 ..	21st June, 1926 ..	21st June, 1926
<i>Science and Industry Research Act</i> 1949	1949, No. 13 ..	25th March, 1949 ..	19th May, 1949. See Gazette, 1949, p. 1306A

7. So much of the capital of the Fund as represents the amount <sup>Investment of Fund.</sup> appropriated by this Act shall, and any income derived from the investment of that capital which is not immediately required for the purposes of this Act may, be invested by the trustees in securities of the Commonwealth or of the States or in any other manner for the time being allowed by any Act or State Act for the investment of trust funds in Australia.

8.—(1.) The income derived from the investment of so much <sup>Application of Fund.</sup> of the Fund as represents the amount appropriated by this Act shall be applied to provide assistance—

- (a) to persons engaged in scientific research ; and
- (b) in the training of students in scientific research.

(2.) Assistance provided under the last preceding sub-section shall be provided in such cases and subject to such conditions as the trustees determine.

9. The trustees shall deal with and apply so much of the Fund <sup>Application of gifts or bequests.</sup> as represents gifts or bequests or the income arising from the investment thereof in accordance with the conditions upon which the gift or bequest was given or made, or, where no conditions are attached to a gift or bequest, shall deal with and apply so much of the Fund as represents that gift or bequest, in the manner provided by sections seven and eight of this Act.

10.—(1.) The accounts of the Fund shall be audited from time <sup>Audit of accounts.</sup> to time by the Auditor-General for the Commonwealth.

(2.) A report of each audit shall be made to the Treasurer who shall cause a copy of the report to be laid on the table of each House of the Parliament.

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SCIENCE AND INDUSTRY RESEARCH ACT 1949.<sup>(a)</sup>

## An Act relating to the Commonwealth Scientific and Industrial Research Organization.

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

## PART I.—PRELIMINARY.

- Short title.      1. This Act may be cited as the *Science and Industry Research Act* 1949.<sup>(a)</sup>
- Commence-  
ment.            2. This Act shall come into operation on a date to be fixed by Proclamation.<sup>(a)</sup>
- Parts.            3. This Act is divided into Parts, as follows :—  
                     Part I.—Preliminary.  
                     Part II.—The Commonwealth Scientific and Industrial Research Organization.  
                     Part III.—The Executive of the Organization.  
                     Part IV.—The Advisory Council and State Committees.  
                     Part V.—Staff.  
                     Part VI.—Finance.  
                     Part VII.—Miscellaneous.
- Repeal.          4. The Acts specified in the First Schedule to this Act are repealed.
- Saving.          5.—(1.) Notwithstanding the repeal effected by the last preceding section—  
                     (a) all the right, title and interest of the Council existing immediately prior to the commencement of this Act in and to all property owned by the Council shall, by force of this Act, be transferred to and vested in the Organization ; and  
                     (b) all rights, obligations and liabilities of the Council existing immediately prior to the commencement of this Act shall, by force of this Act, be vested in or imposed on the Organization and, in any contract, agreement or other instrument to which the Council was a party, any reference to the Council shall be read as a reference to the Organization.

(a) No. 13, 1949, assented to on 25th March 1949 ; commenced on 19th May, 1949. See *Gazette*, 1949, p. 1306A.



(2.) All officers and employees of the Council holding office or employed immediately prior to the commencement of this Act shall, subject to the next succeeding sub-section, continue to hold office or to be employed as if they had been appointed or employed, as the case may be, by the Organization under this Act.

(3.) A person who, immediately prior to the commencement of this Act, was an officer or a temporary or casual employee of the Council shall not be continued in employment under this Act unless, when required by the Executive so to do, he makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Second Schedule to this Act.

(4.) An officer of the Council who retained all his existing and accruing rights under section fourteen A of the *Science and Industry Research Act 1920-1945* shall continue to retain those rights.

(5.) An officer of the Council who, immediately prior to the commencement of this Act, was, by virtue of sub-section (4.) of section fourteen A of the *Science and Industry Research Act 1920-1945*, deemed to be an employee within the meaning of section four of the *Superannuation Act 1922-1948* shall not cease to be so deemed by reason of the repeal effected by the last preceding section.

(6.) Any reference in any other Act to the Council shall be read as a reference to the Organization.

6.—(1.) Section six of the *Science and Industry Endowment Act 1926* is repealed and the following section inserted in its stead :—

“ 6. The members for the time being of the Executive of the Commonwealth Scientific and Industrial Research Organization holding office under the *Science and Industry Research Act 1949* shall be the trustees of the Fund.”

Trustees of the  
Science and  
Industry  
Endowment  
Fund.

(2.) The *Science and Industry Endowment Act 1926*, as amended by this section, may be cited as the *Science and Industry Endowment Act 1926-1949*.

7. In this Act, unless the contrary intention appears—

Definitions.

“ employee ” means an employee of the Organization ;

“ officer ” means an officer of the Organization ;

“ State Committee ” means a State Committee appointed under this Act ;

“ the Advisory Council ” means the Advisory Council of the Organization ;

“ the Council ” means the Commonwealth Council for Scientific and Industrial Research constituted under the *Science and Industry Research Act 1920-1945* ;

“ the Executive ” means the Executive of the Organization ;

“ the Organization ” means the Commonwealth Scientific and Industrial Research Organization established under this Act.

PART II.—THE COMMONWEALTH SCIENTIFIC AND INDUSTRIAL  
RESEARCH ORGANIZATION.

Commonwealth  
Scientific and  
Industrial  
Research  
Organization.

8.—(1.) There shall be a Commonwealth Scientific and Industrial Research Organization.

(2.) The Organization shall consist of the members of the Executive, and of the officers, of the Organization and shall be a body corporate with perpetual succession and a common seal.

(3.) The Organization may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(4.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Organization affixed to any document and shall presume that it was duly affixed.

(5.) The Organization shall have power to acquire, by purchase, gift, grant, bequest or devise, any property for the purposes of this Act and to agree to any conditions of purchase, gift, grant, bequest or devise.

(6.) The exercise of any power of the Organization under the last preceding sub-section shall be subject to the regulations and to the approval of the Minister.

Powers and  
functions of the  
Organization.

9.—(1.) The powers and functions of the Organization shall, subject to the regulations and to the approval of the Minister, be—

- (a) the initiation and carrying out of scientific researches and investigations in connexion with, or for the promotion of, primary or secondary industries in the Commonwealth or in any Territory of the Commonwealth or in connexion with any other matter referred to the Organization by the Minister;
- (b) the training of scientific research workers and the establishment and awarding of scientific research studentships and fellowships;
- (c) the making of grants in aid of pure scientific research;
- (d) the recognition or establishment of associations of persons engaged in any industry for the purpose of carrying out industrial scientific research and the co-operation with, and the making of grants to, such organizations when recognized or established;
- (e) the testing and standardization of scientific apparatus and instruments and the carrying out of scientific investigations connected with the standardization of apparatus, machinery, materials and instruments used in industry;
- (f) the collection and dissemination of information relating to scientific and technical matters; and
- (g) the publication of scientific and technical reports, periodicals and papers.

(2.) It shall be the duty of the Organization to exercise its powers and functions under the last preceding sub-section in relation to any matter referred to it by the Minister.

(3.) The Organization shall act as a means of liaison between the Commonwealth and other countries in matters of scientific research.

10. The Organization shall, as far as possible, co-operate with other organizations and authorities in the co-ordination of scientific research, with a view to—

Co-operation  
with other  
organizations.

- (a) the prevention of unnecessary overlapping; and
- (b) the most effective use of available facilities and staffs.

### PART III.—THE EXECUTIVE OF THE ORGANIZATION.

11.—(1.) There shall be an Executive of the Organization, which shall consist of a Chairman and four other members.

Executive  
of Organization.

(2.) The Executive shall be the governing body of the Organization.

(3.) The members of the Executive shall be appointed by the Governor-General and shall hold office for such term (not exceeding seven years) as the Governor-General specifies but shall be eligible for re-appointment.

(4.) At least three members of the Executive shall be persons possessing scientific qualifications.

(5.) The Chairman, and two other members of the Executive specified by the Governor-General, shall devote the whole of their time to the duties of their office.

(6.) The exercise of any power or function by the Executive shall not be affected by any vacancy in the membership of the Executive.

(7.) The Governor-General may at any time remove a member of the Executive from his office for proved misbehaviour or incapacity.

(8.) The Chairman and other members of the Executive shall be paid such remuneration (if any) and expenses as the Governor-General determines.

12. The Executive may make recommendations to the Minister with respect to—

Recommendations  
by  
Executive.

- (a) the policy and work of the Organization;
- (b) the funds required for carrying out the work of the Organization; and
- (c) the allocation of funds made available for carrying out that work.

Meetings of the  
Executive.

**13.—**(1.) Subject to the next succeeding sub-section, meetings of the Executive shall be held at such times and places as the Executive from time to time determines.

(2.) The Chairman of the Executive may, and shall if so directed by the Minister, at any time call a meeting of the Executive.

(3.) At any meeting of the Executive three members shall form a quorum.

(4.) The Chairman of the Executive shall preside at all meetings of the Executive at which he is present.

(5.) In the event of the absence of the Chairman of the Executive from any meeting of the Executive, the members present shall elect one of their number to preside at that meeting.

(6.) All questions arising at any meeting of the Executive shall be decided by a majority of votes.

(7.) In the event of an equality of votes the question shall be decided by the person presiding at the meeting, whose decision shall, in that case, be deemed to be the decision of the Executive.

Delegation.

**14.—**(1.) The Executive may, either generally or in relation to any particular matter, by writing under its seal, delegate to a member of the Executive or to an officer any of its powers or functions under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate in accordance with the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Executive.

(3.) The Executive shall, if so required by the Minister, revoke any delegation under this section.

#### PART IV.—THE ADVISORY COUNCIL AND STATE COMMITTEES.

Advisory  
Council.

**15.—**(1.) There shall be an Advisory Council of the Organization, which shall consist of—

- (a) the members of the Executive ;
- (b) the Chairman of each State Committee appointed under this Part ; and
- (c) such other members as the Advisory Council, with the consent of the Minister on the recommendation of the Executive, co-opts by reason of their scientific knowledge.

(2.) A member of the Advisory Council co-opted in pursuance of paragraph (c) of the last preceding sub-section shall hold office for the period specified at the time of his co-option.

(3.) The functions of the Advisory Council shall be—

- (a) to advise the Executive on the general work of the Organization ;

- (b) to advise the Executive on any particular matter of investigation or research ;
- (c) to advise the Executive with respect to any other matter which the Executive refers to the Council for advice ; and
- (d) to make recommendations to the Executive with respect to the allocation of funds made available for carrying out the work of the Organization.

16.—(1.) The Advisory Council shall meet at least twice in each year on such days and at such places as the Executive determines and shall also meet on such other days and at such places as the Executive determines. Meetings of  
Advisory  
Council.

(2.) At any meeting of the Advisory Council six members shall constitute a quorum.

17.—(1.) The Minister may appoint a member of the Advisory Council to be the Chairman of the Advisory Council. Chairman of  
Advisory  
Council.

(2.) The Chairman of the Advisory Council shall preside at all meetings of the Advisory Council at which he is present.

(3.) In the event of the absence of the Chairman from any meeting of the Advisory Council, the members present shall elect one of their number to preside at that meeting.

18. The members of the Advisory Council shall be paid such remuneration (if any) and expenses as the Governor-General determines. Remuneration.

19.—(1.) The Governor-General may appoint a State Committee in each State consisting of a Chairman and such number of other members as is prescribed. State  
Committees.

(2.) The period of appointment, and the terms and conditions of appointment, of the Chairman and other members of a State Committee shall be as prescribed.

20. The function of each State Committee shall be to advise the Executive or the Advisory Council with respect to— Functions of  
State  
Committees.

- (a) the general work of the Organization ;
- (b) any particular matter of investigation or research ; and
- (c) any matter which the Executive or the Advisory Council refers to the State Committee for advice.

#### PART V.—STAFF.

21.—(1.) Subject to this Part, the Executive may appoint such officers of the Organization as it thinks necessary for the purposes of this Act. Appointment  
of officers.

(2.) The selection of persons for appointment as officers under this section shall be made in accordance with such requirements as the Public Service Board determines.



(3.) A person shall not be appointed as an officer under this section unless—

- (a) he is a British subject ;
- (b) the Executive is satisfied, upon medical examination, as to his health and physical fitness ; and
- (c) he makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Second Schedule to this Act.

(4.) The Executive may, with the approval of the Minister, appoint a person who is not a British subject and has not made and subscribed the oath or affirmation of allegiance.

(5.) The appointment, transfer or promotion of a person to a position the salary, or the maximum salary, of which exceeds One thousand five hundred pounds, or such higher amount as is prescribed, per annum, shall be subject to the approval of the Minister.

(6.) For the purposes of the last preceding sub-section, the salary of a position shall not be deemed to be affected by variations made in accordance with variations in the cost of living and shall not include any allowance.

Terms and conditions of appointment of officers.

**22.**—(1.) Officers shall not be subject to the *Commonwealth Public Service Act 1922-1948*<sup>(a)</sup> but shall hold office on such terms and conditions as are, subject to the approval of the Public Service Board, determined by the Executive.

(2.) Where an officer appointed under this Part was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, his service as an officer of the Organization shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and the last preceding section had been specified in the Schedule to that Act.

Temporary and casual employees.

**23.**—(1.) Subject to this Part, the Executive may employ such temporary or casual employees of the Organization as the Executive thinks necessary for the purposes of this Act.

(2.) The selection of persons for engagement as employees under this section shall be made in accordance with such requirements as the Public Service Board determines.

(3.) A person shall not be employed under this section unless, when required by the Executive so to do, he makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Second Schedule to this Act.

(4.) The terms and conditions of employment of employees shall be such as are, subject to the approval of the Public Service Board, determined by the Executive.

(a) Now the *Public Service Act 1922-1950*, *supra*.

24. The maximum number of officers and employees of each designation whose duties are primarily of an administrative or clerical nature shall be subject to the approval of the Public Service Board. Maximum number of officers and employees of certain designations.

PART VI.—FINANCE.

25.—(1.) For the purposes of this Act there shall be a Trust Account to be known as the Science and Industry Trust Account. Trust Account.

(2.) The Trust Account established by this section shall be a Trust Account within the meaning of section sixty-two A of the *Audit Act 1901-1948*.

(3.) No money shall be expended from the Trust Account established by this section except in accordance with particulars of expenditure set out in an Appropriation Act.

26.—(1.) The accounts of the Organization shall be subject to inspection and audit, at least once yearly, by the Auditor-General for the Commonwealth. Audit.

(2.) The Auditor-General shall report to the Minister the result of each inspection and audit.

PART VII.—MISCELLANEOUS.

27. All discoveries, inventions and improvements in processes, apparatus and machines made by officers and employees in the course of their official duties shall be the property of the Organization and may be made available under such conditions and on payment of such fees or royalties or otherwise as the Executive, with the approval of the Minister, determines. Discoveries, &c., by officers and employees.

28. The Organization may pay to officers and employees, or to persons working on behalf of the Organization, such bonuses as the Executive, with the approval of the Minister, determines in respect of useful discoveries or inventions made by those officers, employees or persons. Bonuses for discoveries by officers and employees.

29. The Organization may charge such fees and may agree to such conditions as it thinks fit for investigations carried out by the Organization at the request of any person. Fees and agreements for investigations.

30.—(1.) The Executive shall, once in each year, prepare and furnish to the Minister a report containing a summary of the work done, the researches and investigations made, and the proceedings taken, by the Organization during the preceding year. Annual report.

(2.) The report shall be laid before each House of the Parliament within fifteen sitting days of that House after its receipt by the Minister.

Official secrecy.

**31.** A member of the Executive, a member of the Advisory Council, a member of a State Committee, an officer or an employee shall not, except in the course of his duty as such a member, officer or employee or with the approval of the Executive, disclose any information concerning the work of the Organization or the contents of any document in the possession of the Organization.

Penalty : Imprisonment for two years.

Exercise of powers and functions affecting Territories.

**32.** Any exercise of a power or function by the Organization which exclusively affects the Territory of Pápua, the Territory of New Guinea and Norfolk Island, or any of those Territories, shall be subject to the approval of the Minister and, before giving any such approval, the Minister shall consult with the Minister of State for External Territories.

Regulations.

**33.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

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## THE SCHEDULES.

Section 4.

### FIRST SCHEDULE.

#### ACTS REPEALED.

*Institute of Science and Industry Act 1920*  
*Science and Industry Research Act 1926*  
*Science and Industry Research Act 1937*  
*Science and Industry Research Act 1939*  
*Science and Industry Research Act 1945*

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### SECOND SCHEDULE.

Sections 5, 21 and 23.

#### OATH AND AFFIRMATION OF ALLEGIANCE.

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth, His heirs and successors according to law. So help me God! *Or,*

I, A.B., do solemnly and sincerely promise and declare that (*&c., as above, omitting the words "So help me God!"*).

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SEA-CARRIAGE OF GOODS ACT 1924.<sup>(a)</sup>

## An Act relating to the Sea-Carriage of Goods.

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

1. This Act may be cited as the *Sea-Carriage of Goods Act* short title. 1924.<sup>(a)</sup>

2. This Act shall commence on a date to be fixed by Procla- Commence-  
mation.<sup>(a)</sup> ment.

3. The *Sea-Carriage of Goods Act* 1904 is hereby repealed. Repeal.

4.—(1.) Subject to the provisions of this Act, the Rules contained in the Schedule to this Act (in this Act referred to as "the Rules") shall have effect in relation to and in connexion with the carriage of goods by sea in ships carrying goods from any port in the Commonwealth to any other port whether in or outside the Commonwealth.<sup>(b)</sup> Application of Rules in Schedule.

(2.) The Rules shall not by virtue of this Act apply to the carriage of goods by sea from a port in any State to any other port in the same State.

5. There shall not be implied in any contract for the carriage of goods by sea to which this Act applies any absolute undertaking by the carrier of the goods to provide a seaworthy ship. Absolute warranty of seaworthiness not implied.

6. Every bill of lading or similar document of title issued in the Commonwealth which contains or is evidence of any contract to which the Rules apply shall contain an express statement that it is to have effect subject to the provisions of the Rules as applied by this Act. Provisions as to bills of lading.

(a) No. 22, 1924; assented to on 17th September, 1924; commenced on 1st January, 1925. See *Gazette*, 1924, p. 2125.

(b) As to the effect on this Act of s. 92 of the Constitution, presuming that that section did bind the Commonwealth (and the High Court held that it did not), see *per* Evatt and McTiernan J.J. *James v. Commonwealth*, (1935) 52 C.L.R. 570, at pp. 599-600. In *James v. Commonwealth*, ([1936] A.C. 578; 55 C.L.R. 1; 42 A.L.R. 333; 10 A.L.J. 162) the Privy Council held that s. 92 of the Constitution did bind the Commonwealth, and cited this Act in illustrating the meaning of the words "absolutely free". Held by the High Court that a clause in a bill of lading relieving a carrier from liability for claims exceeding £5 in respect of each package or parcel carried was inconsistent with Article IV., Rule 5, in the Schedule to the Act and therefore void by virtue of this section. *William Holyman & Sons Pty. Ltd. v. Foy & Gibson Pty. Ltd.*, (1945) 73 C.L.R. 622; 52 A.L.R. 37; 19 A.L.J. 378.

Received-for-shipment bills of lading.

7. A bill of lading issued in accordance with paragraph 3 of Article III. of the Rules shall for all purposes be deemed to be a valid bill of lading with the like effect, and capable of negotiation in all respects and with the like consequences, as if it were a shipped bill of lading.

Bulk cargoes.

8. Where, under the custom of any trade, the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper, and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in the Rules, the bill of lading shall not be deemed to be *prima facie* evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

Construction and jurisdiction.

9.—(1.) All parties to any bill of lading or document relating to the carriage of goods from any place in Australia to any place outside Australia shall be deemed to have intended to contract according to the laws in force at the place of shipment, and any stipulation or agreement to the contrary, or purporting to oust or lessen the jurisdiction of the Courts of the Commonwealth or of a State in respect of the bill of lading or document, shall be illegal, null and void, and of no effect.

(2.) Any stipulation or agreement, whether made in the Commonwealth or elsewhere, purporting to oust or lessen the jurisdiction of the Courts of the Commonwealth or of a State in respect of any bill of lading or document relating to the carriage of goods from any place outside Australia to any place in Australia shall be illegal, null and void, and of no effect.

Saving.

10.—(1.) Nothing in this Act shall affect the operation of Division 10 of Part IV. of the *Navigation Act* 1912-1920 or the operation of any other Act for the time being in force limiting the liability of the owners of sea-going vessels.

(2.) The Rules shall not by virtue of this Act apply to any contract for the carriage of goods by sea made before the commencement of this Act.

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## THE SCHEDULE.

## RULES RELATING TO BILLS OF LADING.

## ARTICLE I.

*Definitions.*

In these rules the following expressions have the meanings hereby assigned to them respectively, that is to say—

- (a) "Carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper;
- (b) "Contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charterparty from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same;
- (c) "Goods" includes goods, wares, merchandises, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried;
- (d) "Ship" means any vessel used for the carriage of goods by sea;
- (e) "Carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship.

## ARTICLE II.

*Risks.*

Subject to the provisions of Article VI., under every contract of carriage of goods by sea, the carrier, in relation to the loading, handling, stowage, carriage, custody, care and discharge of such goods, shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.

## ARTICLE III.

*Responsibilities and Liabilities.*

1. The carrier shall be bound before and at the beginning of the voyage,<sup>(a)</sup> to exercise due diligence to—

- (a) make the ship seaworthy;
- (b) properly man, equip and supply the ship; and
- (c) make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.

2. Subject to the provisions of Article IV., the carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.

3. After receiving the goods into his charge, the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things—

(a) Cf., as to the meaning of "beginning of the voyage", the decision of the High Court in interpreting those words in s. 8 of the *Sea Carriage of Goods Act 1904*. *Whybrow and Co. Pty. Ltd. v. Howard Smith and Co. Ltd.*, (1913) 17 C.L.R. 1; 1913 V.L.R. 387; 19 A.L.R. 284.

(b) Held by the Supreme Court of N.S.W. (Owen J.) that in determining whether a ship was seaworthy it was permissible to have regard to the International Convention for the Safety of Life at Sea of 1929 as supplying some evidence of modern standards of seaworthiness even though the ship in question had been built in 1912. *Commonwealth v. Burns Philp & Co. Ltd.*, (1946) 46 S.R. (N.S.W.) 307.

Where a ship is unseaworthy and damage to cargo is partly due to such unseaworthiness and partly to negligent management of the ship and the ship owner fails to show how much of the damage was due to the latter cause he cannot claim the benefit of Rule 2 (a) of Article IV. of the Rules in the Schedule. *Ibid.*

A cargo owner is entitled to say that the fact that his cargo has been damaged by sea-water which has leaked into the ship whilst lying in harbour affords prima facie evidence of damage by unseaworthiness, and calls for an explanation by the ship owner. (*Per Owen J.* in *Commonwealth v. Burns Philp & Co. Ltd.*, (1946) 46 S.R. (N.S.W.) 307.

- (a) the leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage ;
- (b) either the number of packages or pieces, or the quantity or weight, as the case may be, as furnished in writing by the shipper ;
- (c) the apparent order and condition of the goods ;

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received or which he has had no reasonable means of checking.

4. Such a bill of lading shall be *prima facie* evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3 (a), (b), and (c).

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, or, if the loss or damage be not apparent, within three days, such removal shall be *prima facie* evidence of the delivery by the carrier of the goods as described in the bill of lading.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

7. After the goods are loaded the bill of lading to be issued by the carrier, master or agent of the carrier, to the shipper shall, if the shipper so demands, be a "shipped" bill of lading, provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment by the carrier, master or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this Article be deemed to constitute a "shipped" bill of lading.

8. Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connexion with goods arising from negligence, fault or failure in the duties and obligations provided in this Article or lessening such liability otherwise than as provided in these Rules, shall be null and void and of no effect.(a)

A benefit of insurance or similar clause shall be deemed to be a clause relieving the carrier from liability.

#### ARTICLE IV.

##### *Rights and Immunities.*

1. Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship

(a) See footnote (b) to s. 4, *supra*.

is properly manned, equipped and supplied, and to make the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation in accordance with the provisions of paragraph 1 of Article III.

Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this section.

2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

- (a) act, neglect or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship ;(a)
- (b) fire, unless caused by the actual fault or privity of the carrier ;
- (c) perils, dangers and accidents of the sea or other navigable waters ;
- (d) act of God ;
- (e) act of war ;
- (f) act of public enemies ;
- (g) arrest or restraint of princes, rulers or people, or seizure under legal process ;
- (h) quarantine restrictions ;
- (i) act or omission of the shipper or owner of the goods, his agent or representative ;
- (j) strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general ;
- (k) riots and civil commotions ;
- (l) saving or attempting to save life or property at sea ;
- (m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the goods ;
- (n) insufficiency of packing ;
- (o) insufficiency or inadequacy of marks ;
- (p) latent defects not discoverable by due diligence ;
- (q) any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

3. The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault or neglect of the shipper, his agents or his servants.

4. Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5. Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connexion with goods in an amount exceeding One hundred pounds per package or unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.(b)

This declaration if embodied in the bill of lading shall be *prima facie* evidence, but shall not be binding or conclusive on the carrier.

By agreement between the carrier, master or agent of the carrier and the shipper another maximum amount than that mentioned in this paragraph may be fixed, provided that such maximum shall not be less than the figure above named.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connexion with goods if the nature or value thereof has been knowingly misstated by the shipper in the bill of lading.

(a) See footnote (b) to Art. III. Cl. 1, *supra*.

(b) See footnote (b) to s. 4, *supra*.

6. Goods of an inflammable, explosive or dangerous nature to the shipment whereof the carrier, master or agent of the carrier, has not consented, with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

#### ARTICLE V.

##### *Surrender of Rights and Immunities, and Increase of Responsibilities and Liabilities.*

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under the Rules contained in any of these Articles, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of these Rules shall not be applicable to charterparties, but if bills of lading are issued in the case of a ship under a charterparty they shall comply with the terms of these Rules. Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

#### ARTICLE VI.

##### *Special Conditions.*

Notwithstanding the provisions of the preceding Articles, a carrier, master or agent of the carrier, and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this stipulation is not contrary to public policy, or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect:

Provided that this Article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed, are such as reasonably to justify a special agreement.

#### ARTICLE VII.

##### *Limitations on the Application of the Rules.*

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connexion with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea.

#### ARTICLE VIII.

##### *Limitation of Liability.*

The provisions of these Rules shall not affect the rights and obligations of the carrier under any statute for the time being in force relating to the limitation of the liability of owners of sea-going vessels.

#### ARTICLE IX.

The monetary units mentioned in these Rules are to be taken to be gold value.

SEAMEN'S COMPENSATION ACT 1911-1949.<sup>(a)</sup>

An Act relating to Compensation to Seamen for injuries suffered in the course of their employment.<sup>(b)</sup>

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

1. This Act may be cited as the *Seamen's Compensation Act* 1911-1949.<sup>(a)</sup> Short title.  
Short title amended, No. 32, 1918, s. 2.
2. This Act shall commence on a day to be fixed by proclamation.<sup>(a)</sup> Commence-ment.
- 3.—(1.) In this Act, unless the contrary intention appears— Interpretation.  
Substituted by No. 7, 1949, s. 3.
  - "County Court" means a County Court, District Court or Local Court of any State, or any Court exercising in any part of the Commonwealth a limited civil jurisdiction and presided over by a judge or a police, stipendiary or special magistrate ;
  - "dependant", in relation to a deceased seaman, means—
    - (a) a member of the seaman's family ;
    - (b) a person to whom the seaman stood *in loco parentis* or who stood *in loco parentis* to the seaman ;
    - (c) any ex-nuptial child or grand-child of the seaman ; and
    - (d) if the seaman was an ex-nuptial child, any parent or grand-parent of the seaman,

(a) The *Seamen's Compensation Act* 1911-1949 comprises the *Seamen's Compensation Act* 1911, as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Seamen's Compensation Act</i> 1911	1911, No. 13 ..	18th December, 1911	15th February, 1912. <i>See Gazette</i> , 1912, p. 215
<i>Seamen's Compensation Act</i> 1938	1938, No. 56 ..	10th December, 1938	7th January, 1939
<i>Seamen's Compensation Act</i> 1947	1947, No. 18 ..	4th June, 1947 ..	2nd July, 1947
<i>Seamen's Compensation Act</i> 1949	1949, No. 7 ..	25th March, 1949 ..	25th March, 1949

In pursuance of the power conferred by s. 17 of the Act, amendments to the Second Schedule were made by Statutory Rules 1926, No. 135, regulation 113. This regulation was repealed by Statutory Rules 1947, No. 124, regulation 3.

(b) Held by the High Court (Isaacs, Gavan Duffy, Powers and Rich JJ.; Griffith C.J. and Barton J. dissenting) to be a valid exercise of the powers of the Parliament. *Australian Steamships Ltd. v. Malcolm*, (1914) 19 C.L.R. 298; 21 A.L.R. 37. See also footnote (b) on p. 3929.



who was wholly or in part dependent upon his earnings at the date of his death or who would, but for his incapacity due to the injury, have been so dependent ;

“ disease ” includes any physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual development, and also includes the aggravation or acceleration of a disease and the recurrence of a pre-existing disease ;

“ employer ” includes the Crown (whether in right of the Commonwealth or of a State), any authority constituted by or under the law of the Commonwealth or of a State or Territory of the Commonwealth, any body of persons (whether corporate or unincorporate) and the legal personal representative of a deceased employer ;

“ injury ” means any physical or mental injury and includes the aggravation or acceleration of an injury and the recurrence of a pre-existing injury ;

“ Judge of a County Court ” includes the Judge of a County Court, District Court or Local Court and also any police, stipendiary or special magistrate presiding, or having jurisdiction to preside, over a County Court as defined by this Act ;

“ member of the family ”, in relation to a seaman, means the wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child, mother-in-law or any woman who for not less than three years immediately prior to his death or incapacity was wholly or mainly maintained by the seaman and who, although not legally married to him, lived with him as his wife on a permanent and *bona fide* domestic basis and who, at the date of his death or incapacity, is maintaining one or more children under sixteen years of age or is not less than fifty years of age ;

“ port ” includes place and harbour ;

“ seaman ” means an apprentice, a pilot or any other person employed or engaged in any capacity on board a ship in connexion with the navigation or working of the ship, but does not include a master, mate, engineer or radio officer of a ship ;

“ ship ” includes every vessel used in navigation not ordinarily propelled by oars ;

“ vessel ” means any ship or boat and includes any vessel of any other description used for any purpose on the sea or in navigation.

(2.) Any reference to a seaman who has been injured shall, where the seaman has died as the result of the injury, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable.

(3.) In the application of the provisions of this Act to and in relation to a seaman to whom section five c of this Act applies, any reference in those provisions to a personal injury by accident arising out of or in the course of a seaman's employment shall be read as including a reference to a disease due to the nature of the employment in which the seaman was engaged.

(4.) Where a person with whom a seaman has entered into a contract of service or apprenticeship temporarily lends or lets on hire the services of the seaman to another person, the first-mentioned person shall, for the purposes of this Act, be deemed to continue to be the employer of the seaman while he is working for that other person.

4.—(1.) Subject<sup>(a)</sup> to sub-section (2.) of this section, this Act shall apply to the employment of seamen on any of the following ships :—

Application  
of Act.

\* \* \* \* \*

Para. (a)  
omitted by  
No. 56, 1938,  
s. 3.

(b) ships trading with Australia, or engaging in any occupation in Australian waters, and being in the territorial waters of any Territory which is part of the Commonwealth; and

(c) ships engaged in trade and commerce with other countries or among the States.

(2.) In the case of ships not registered in Australia, this Act shall only apply in relation to seamen shipped under articles of agreement entered into in Australia, and then only while the ships are subject to the law of the Commonwealth.<sup>(b)</sup>

Amended by  
No. 56, 1938,  
s. 3.

(a) Section 4 of the *Seamen's Compensation Act* 1909 (which Act in other respects was almost identical with the Act of 1911), was as follows :—

" 4.—(1.) This Act applies in relation to the employment of seamen—

(a) on any ship registered in the Commonwealth when engaged in the coasting trade or in trade with other countries; or

(b) on any ship (whether British or foreign) engaged in the coasting trade, if the seamen have been shipped under articles of agreement entered into in Australia; or

(c) in the service of the Commonwealth, other than the Naval or the Military Service.

" (2.) A ship shall be deemed to be engaged in the coasting trade, within the meaning of this section, if she takes on board passengers or cargo at any port in a State, or in a Territory under the authority of the Commonwealth, to be carried to and landed or delivered at any port in the same State or Territory, or in another State or Territory."

It was held by the High Court that the provisions of that section, in so far as they purported to regulate purely intra-State trade, were *ultra vires* s. 51 (i), of the Constitution, and (Higgins J. dissenting) that the valid and invalid provisions of the Act were inseparable and the whole Act was therefore invalid. *Owners of s.s. "Kalibia" v. Wilson*, (1910) 11 C.L.R. 689; 17 A.L.R. 410. (NOTE.—In consequence of this decision the 1909 Act was repealed during 1911, and the *Seamen's Compensation Act* 1911 passed in its stead.)

(b) Held by the High Court that a ship trading between Sydney and San Francisco is not subject to the provisions of this Act. *Clarke v. Union Steamship Company of New Zealand Ltd.*, (1914) 18 C.L.R. 142; 20 A.L.R. 221.

Compensation  
for personal  
injuries to  
seamen.

Cf. 6 Edw. 7,  
ch. 58, s. 1.

Sub-section (1.)  
amended by  
No. 7, 1949,  
s. 4.

Sub-sec. (2.)  
amended by  
No. 18, 1947,  
s. 3.

Para. (b)  
omitted by  
No. 7, 1949,  
s. 4.

Cf. *ibid.*, s. 7 (1)  
(d).

5.\*—(1.) If personal injury by accident arising out of or in the course of the employment is caused to a seaman, his employer shall, subject to his Act, be liable to pay compensation in accordance with the First Schedule to this Act.<sup>(a)</sup>

(2.) Provided that—

(a) the employer shall not be liable under this Act in respect of any injury which does not disable the seaman from earning full wages :

\* \* \* \* \*

(c) if it is proved that the injury to a seaman is attributable to his serious and wilful misconduct, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed :

(d) in the case of the death of a seaman leaving no dependants, no compensation shall be payable under this Act if the owner of the ship is under any Act, Imperial Act, or State Act liable to pay the expenses of burial :

(e) if it appears that the claimant has a claim for compensation for the injury under any law of the United Kingdom or of any other part of the King's Dominions or of any foreign country, compensation under this Act shall only be allowed upon the claimant undertaking not to claim compensation for the injury under any such law.

(3.) If any question arises, in any proceedings under this Act, as to the liability to pay compensation under this Act (including any question as to whether the person injured is a seaman to whom this Act applies), or as to the amount or duration of compensation under this Act, the question, if not settled by agreement, shall, subject to the provisions of the First Schedule to this Act, be settled by arbitration, in accordance with the Second Schedule to this Act, or by proceedings in a County Court.

(4.) Any undertaking given in pursuance of paragraph (e) of sub-section (2.) of this section shall have effect as a contract between the claimant and the person from whom the compensation is claimed.

\* See footnote \* to First Schedule, *infra*.

(a) Held by the High Court (Isaacs, Gavan Duffy, Powers and Rich JJ. ; Griffith C.J. and Barton J. dissenting) to be a valid exercise of the powers of the Parliament. *Australian Steamships Ltd. v. Malcolm*, (1914) 19 C.L.R. 298 ; 21 A.L.R. 37.

A seaman, while returning to his ship and before reaching the gangway, fell from the wharf into the sea. A fellow-seaman who was at the time on board the ship, but off duty, voluntarily assisted in the attempted rescue and while so engaged fell into the sea and was drowned. During the course of his judgment Latham C.J., expressed the opinion that if the act out of which the injury arose is sufficiently connected with the business of the employer to entitle the employer to direct the particular employee to do the act in question if the emergency arose in the presence of the employer, then the fact that the act is done voluntarily by the employee, without any order or direction from the employer, does not remove the act from the course of employment of the employee. *McKenzie v. William Holman and Sons Pty. Ltd.*, (1939) 61 C.L.R. 584 ; 45 A.L.R. 203 ; 13 A.L.J. 73.

(5.) Any payment to an injured seaman made under an insurance policy privately effected by the seaman or made by a friendly society, by way of compensation or medical or disablement benefits, shall not be deemed to be compensation or payment in respect of the injury within the meaning of sub-section (2.) of this section.

Added by  
No. 18, 1947,  
s. 3.

(6.) Where a dependant dies before a claim under this Act is made, or, if a claim has been made, before an agreement or award has been arrived at or made, the legal personal representative of the dependant shall have no right to payment of compensation, and the amount of compensation shall be calculated and apportioned as if that dependant had died before the seaman.

Added by  
No. 18, 1947,  
s. 3.

5AA\*.—(1.) Where personal injury by accident is caused to a seaman while he is travelling to or from—

Injury while  
travelling to  
or from work.  
Substituted by  
No. 7, 1949,  
s. 5.

- (a) his place of employment ;
- (b) a Mercantile Marine Office ; or
- (c) a place which it is necessary for him to attend to obtain a medical certificate or to receive medical, surgical or hospital treatment or compensation in respect of a previous injury,

the employer shall, subject to this Act, be liable to pay compensation in accordance with this Act as if the accident were an accident arising out of or in the course of his employment.

(2.) In this section, "travelling" means travelling by the shortest convenient route for the journey, and does not include travelling during or after any substantial interruption of the journey or any substantial deviation from the route made for a reason unconnected with the seaman's employment, attendance at the Mercantile Marine Office, or obtaining the certificate, treatment or compensation, as the case may be :

Provided that if it is shown that, in the circumstances of any particular case, the nature, extent, degree and content of the risk of accident were not materially changed or increased by reason only of the interruption or deviation, the injury or accident shall be deemed to have been caused to the seaman while travelling to or from work.

5A.—(1.) Where any compensation is payable by the employer under this Act to, or in respect of, a seaman, or where a seaman suffers injury or disease in circumstances in which compensation would be payable under this Act but for the fact that the seaman is not rendered incapable of earning full wages or but for the operation of clause (i) or (ii) of sub-paragraph (b) of paragraph (2.), of paragraph (4.) or of paragraph (4A.) of the First Schedule to this Act, the employer shall pay the cost, not exceeding in any case One hundred pounds, of such medical, surgical and hospital

Medical  
benefits.  
Inserted by  
No. 56, 1938,  
s. 4.  
Sub-section (1.)  
amended by  
No. 18, 1947,  
s. 5 and by  
No. 7, 1949,  
s. 6.

\* See footnote \* to First Schedule, *infra*.



treatment and ambulance services in relation to the injury, or disease, as the case may be, as are, in the opinion of the Minister administering this Act, reasonably necessary :

Provided that an employer shall not be liable to pay the cost of medical, surgical and hospital treatment and ambulance services both independently of and also under this section :

Provided also that if the seaman is left on shore at any port and there is a public hospital at or convenient to that port and the seaman elects to be treated elsewhere than in that hospital, the liability of the employer in respect of the cost of medical, surgical and hospital treatment and ambulance services shall be limited to the amount that would be payable for the treatment and services if the seaman were treated as an in-patient of that hospital or the sum of One hundred pounds, whichever is the less :

Provided also that, where, in the opinion of the Minister, the exceptional circumstances of any case warrant payment of an amount in excess of One hundred pounds, the employer shall be liable to pay such amount in excess of One hundred pounds as appears to the Minister to be reasonable in those circumstances.

Amended by  
No. 18, 1947,  
s. 5 and by  
No. 7, 1949,  
s. 6.

(2.) For the purposes of this section—

“ ambulance services ” includes any conveyance of an injured seaman to a medical practitioner or to a hospital ;

“ medical treatment ” includes—

- (a) treatment by a duly qualified medical practitioner, a registered dentist, a registered physiotherapist or a masseur ;
- (b) the provision of skiagrams, crutches, artificial members and artificial replacements ; and
- (c) any nursing, medicines, medical or surgical supplies or curative apparatus supplied or provided for an injured seaman otherwise than as a patient at a hospital ; and

“ hospital treatment ” means treatment at any hospital and includes the maintenance of an injured seaman as a patient at the hospital, and the provision or supply by the hospital of nursing, attendance, medicines, medical or surgical supplies or other curative apparatus, and any other ancillary service.

Compensation  
for certain  
injuries.

Inserted by  
No. 56, 1938,  
s. 4.

Sub-sec. (1.)  
substituted by  
No. 7, 1949,  
s. 7.

5B.—(1.) Subject to this Act, where a seaman sustains, by accident arising out of or in the course of his employment, any of the injuries specified in the first column of the Third Schedule to this Act, the compensation payable under this Act shall, when the injury results in incapacity other than total and permanent incapacity for work, be the amount specified in the second column



of that Schedule opposite the specification of the injury in the first column.<sup>(a)</sup>

(1A.) Upon payment of an amount under this section the seaman shall not be entitled to any payment in accordance with sub-paragraph (b) or sub-paragraph (c) of paragraph (1.) of the First Schedule to this Act in respect of a period of incapacity for work resulting from the injury, but the amount payable under this section shall not be subject to any deduction in respect of any amount previously paid to the seaman in accordance with either of those sub-paragraphs.<sup>(a)</sup>

Inserted by  
No. 7, 1949,  
s. 7.

(2.) Where a seaman habitually uses his left hand and arm to perform work usually performed by seamen with the right hand and arm, the compensation payable to the seaman under this section shall be—

Added by  
No. 18, 1947,  
s. 6.

(a) for the loss of his left arm or any part of his left arm—the amount which would have been payable to a seaman for a similar loss in respect of his right arm or the corresponding part of his right arm; and

(b) for the loss of his right arm or any part of his right arm—the amount which would have been payable to a seaman for a similar loss in respect of his left arm or the corresponding part of his left arm.

(3.) Where a seaman sustains an injury which causes the loss of the sight of both eyes or of an only useful eye, any compensation previously paid under this Act in respect of loss of sight shall be deducted from the compensation payable under this section.

Added by  
No. 18, 1947,  
s. 6.

(4.) Where a seaman sustains an injury which causes partial and permanent loss of the sight of one eye, there shall be payable an amount of compensation equivalent to such percentage of the amount of compensation payable under this section in respect of the loss of the sight of one eye as is equal to the percentage of the diminution of sight.

Added by  
No. 18, 1947,  
s. 6.

(5.) Where a seaman sustains an injury which causes partial and permanent loss of the efficient use, in and for the purposes of his employment at the date of the injury, of a part of the body (other than an eye) specified in the Third Schedule to this Act, there shall be payable an amount of compensation equivalent to such percentage of the amount of compensation payable under this section in respect of the loss of that part as is equal to the percentage of the diminution of the efficient use of that part.

Added by  
No. 18, 1947,  
s. 6.

(a) A seamen sustained injury by accident arising out of and in the course of his employment and received sums in excess of £600 from his employer for medical attention and maintenance and wages under the *Navigation Act 1912-1942*. The injury was one in respect of which the Compensation provided by the Third Schedule of this Act was £600. Held by the Supreme Court of N.S.W. that as the seaman had received more than £600 in respect of the injuries he was not now entitled to receive compensation under this Act. *Lowry v. Huddart Parker Ltd.*, (1942) 42 S.R. (N.S.W.) 62.

Added by  
No. 18, 1947,  
s. 6.

(6.) For the purposes of this section and of the Third Schedule to this Act, the loss of a part of the body shall be deemed to include—

- (a) the permanent loss of the use of that part; and
- (b) the permanent loss of the efficient use of that part in and for the purposes of his employment at the date of the injury.

Added by  
No. 18, 1947,  
s. 6.

(7.) For the purposes of sub-section (2.) of this section, a seaman who habitually uses his left hand and arm to perform work usually performed by a seaman with his right hand and arm shall notify the prescribed authority of this fact in such manner as is prescribed, and, in the absence of proof to the contrary—

- (a) every such notification shall be evidence that the seaman to whom it relates habitually, prior to the injury, used his left hand and arm to perform that work; and
- (b) failure so to notify the prescribed authority shall be evidence that the seaman concerned habitually, prior to the injury, used his right hand and arm to perform that work.

Compensation  
in respect of  
death or  
incapacity of  
seaman through  
disease due to  
employment.

Inserted by  
No. 56, 1938,  
s. 4.

Sub-section (1.)  
substituted by  
No. 7, 1949,  
s. 8.

5c.\*—(1.) Where—

- (a) a seaman is suffering from a disease and is thereby incapacitated for work; or
- (b) the death of a seaman is caused by a disease,

and the disease is due to the nature of the employment in which the seaman was engaged, the employer shall, subject to this Act, be liable to pay compensation in accordance with this Act as if the disease were a personal injury by accident arising out of or in the course of the seaman's employment.

Amended by  
No. 7, 1949,  
s. 8.

(2.) A claimant for compensation under this section shall if so required furnish to the employer from whom compensation is claimed any information in his possession as to the names and addresses of all the other employers by whom the seaman was employed prior to the date of incapacity or death.

Amended by  
No. 7, 1949,  
s. 8.

(3.) If the disease is of such a nature that it is contracted by a gradual process, any other employers who, prior to the seaman's incapacity, employed the seaman in any employment which caused or contributed towards the contraction of the disease, shall be liable to make to the employer from whom compensation is recoverable such contributions (not exceeding the maximum amounts prescribed under the First Schedule to this Act) as, in default of agreement, are settled by arbitration, in accordance with the Second Schedule to this Act, or by proceedings in a County Court.

Sub-section (4.)  
omitted by  
No. 7, 1949,  
s. 8.

\* \* \* \* \*

\* See footnote \* to First Schedule, *infra*.

5d.\*—(1.) Notwithstanding anything contained in this Act, the amount of compensation payable in respect of an injury or injuries caused by any one accident shall not, except as provided by this section, exceed One thousand two hundred and fifty pounds.

Maximum compensation.

Inserted by No. 56, 1938, s. 4.

Substituted by No. 7, 1949, s. 9.

(2.) Where an injury results in the death or the total and permanent incapacity of the seaman for work, sub-section (1.) of this section shall not apply to limit the total amount of compensation payable under this Act.

(3.) In the application of sub-section (1.) of this section in relation to the total amount of compensation payable to a seaman under section five B of this Act, the total amount of any compensation paid to the seaman in accordance with the First Schedule to this Act before payment to him of the amount specified in the Third Schedule to this Act shall be disregarded.

6.—(1.) Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after it has happened, and before the seaman has voluntarily left the employment in which he was injured, and unless the claim for compensation has been made—

Time for taking proceedings.

6 Edw. 7, ch. 58, s. 2.

- (a) within six months from the occurrence of the accident, or,
- (b) in case of death—within six months after news of the death has been received by the claimant, or,
- (c) in the case of a ship lost with all hands—within eighteen months after the date when she is deemed under section twelve of this Act to have been lost with all hands.

Provided always that—

- (a) where the accident happened and the incapacity commenced on board the ship, it shall not be necessary to give any notice of the accident ;
- (b) the want of or any defect or inaccuracy in the notice shall not be a bar to the maintenance of proceedings if it is found, in the proceedings for settling the claim, that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect, or inaccuracy, or that the want, defect, or inaccuracy was occasioned by mistake, absence from Australia, or other reasonable cause ; and
- (c) the failure to make a claim within the period above specified shall not be a bar to the maintenance of proceedings if it is found that the failure was occasioned by mistake, absence from Australia, or other reasonable cause.

Cf. *ibid.*, s. 7 (1) (a).

\* See footnote \* to First Schedule, *infra*.

(2.) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of the employers.

(3.) The notice may be served by delivering it to the person on whom it is to be served, or by sending it by post in a registered letter addressed to him at his residence or place of business.

(4.) Where the employer is a body of persons, corporate or unincorporate, the notice may be served by delivering it at the office or one of the offices of the employer, or by sending it by post in a registered letter addressed to the employer at one of the offices of the employer.

6 Edw. 7,  
ch. 58, s. 7  
(1) (a).

(5.) Except where the person injured is the master, the notice of accident and the claim for compensation may be served on the master, as if he were the employer.

Sub-  
contracting.  
Ibid., s. 4.

7.—(1.) Where any person (in this section referred to as the principal) in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any seaman employed in the execution of the work any compensation under this Act which he would have been liable to pay if that seaman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then in the application of this Act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the seaman under the employer by whom he is immediately employed.

(2.) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the seaman independently of this section, and all questions as to the right to and amount of any such indemnity shall in default of agreement be settled by arbitration under this Act, or by action in any County Court.

(3.) Nothing in this section shall be construed as preventing a seaman recovering compensation under this Act from the contractor instead of the principal.

Provisions as  
to cases of  
insolvency  
of employer.  
Cf. 6 Edw. 7,  
ch. 58, s. 5.

8.—(1.) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any seaman, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or if the employer is a company, in the event of the company having



commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in the laws relating to bankruptcy, and the winding up of companies, be transferred to and vested in the seaman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, but so that the insurers shall not be under any greater liability to the seaman than they would have been under to the employer.

(2.) If the liability of the insurers to the seaman is less than the liability of the employer to the seaman, the seaman may prove for the balance in the bankruptcy or liquidation.

(3.) There shall be included among the debts which are in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the sequestration order (or any other order corresponding thereto or having the like effect) or the date of the commencement of the winding up and the provisions of any laws relating to preferential payments in relation to bankruptcy and the winding up of companies shall have effect accordingly. Where the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the First Schedule to this Act.

(4.) The provisions of this section with respect to preferences and priorities shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as aforesaid.

(5.) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

9. Subject to this Act, compensation shall be paid in full in all cases, notwithstanding any limitation of liability in any other law; but any limitation of a shipowner's liability imposed by any other law shall apply to the amount recoverable by way of indemnity under the section of this Act relating to remedies both against employer and stranger, as if the indemnity were damages for loss of life or personal injury.

*Compensation to be paid in full.  
Cf. ibid., s. 7 (1) (f).*

10.—(1.) Where an injury in respect of which compensation is payable under this Act is caused under circumstances which create, or appear to create, a legal liability in some person other than the employer to pay damages in respect of the injury (which other person is in this section referred to as "the third party"), the provisions of this section shall apply.

*Remedies both against the employer and a stranger.  
Substituted by No. 7, 1949, s. 10.*



(2.) The seaman may take proceedings both against the third party to recover damages and against the employer for compensation, but shall not be entitled to retain both damages and compensation.

(3.) The employer may request the seaman to take proceedings against the third party and, where the seaman takes such proceedings at the request of the employer, the proceedings shall be conducted on the seaman's behalf at the expense of the employer, but the seaman shall pay to the employer the amount of any costs received by the seaman from the third party in respect of the proceedings.

(4.) Where the seaman receives both compensation under this Act and damages from the third party, the seaman shall repay to the employer such amount of the compensation as does not exceed the amount of damages recovered from the third party.

(5.) Upon notice to the third party, the employer shall have a first charge on moneys payable by the third party to the seaman to the extent of any compensation which the employer has paid to the seaman.

(6.) Where the seaman has received compensation under this Act, but no damages or less than the full amount of damages to which he is entitled, the third party shall be liable to indemnify the employer against so much of the compensation paid to the seaman as does not exceed the damages for which the third party is liable.

(7.) Payment of money by the third party to the employer under the last preceding sub-section shall, to the extent of the amount paid, be a satisfaction of the liability of the third party to the seaman.

(8.) All questions as to the right to and amount of any indemnity for which a third party is liable under this section shall, in default of agreement, be settled by action or, by consent of the parties, by arbitration under this Act.

Liability of  
employer  
independently  
of this Act.  
Inserted by  
No. 7, 1949,  
s. 10.

**10A.<sup>(a)</sup>—**(1.) Except as provided by this Act, a seaman shall not be entitled, in respect of personal injury by accident arising out of or in the course of his employment, to receive compensation or any payment by way of compensation from the employer both independently of and also under this Act.

(2.) Where personal injury is caused to a seaman in circumstances which create, or appear to create, a legal liability in the employer to pay damages in respect of the injury and the seaman has received compensation under this Act, the seaman shall not be entitled to take proceedings against the employer to recover damages unless he commences those proceedings within twelve

(a) As to a similar provision in the *Seamen's Compensation Act 1911*, see *Joyce v. Australian United Steam Navigation Co. Ltd.*, (1939) 62 C.L.R. 160; 45 A.L.R. 442; 13 A.L.J. 295.

months after the date upon which he received payment, or the first payment, of compensation under this Act.

(3.) A seaman who recovers damages from an employer in respect of an injury shall not be entitled to compensation or any payment under this Act in respect of the same injury and any sum received by him under this Act in respect of that injury prior to the award of the damages shall be deducted from the amount of the damages recoverable from the employer.

11.—(1.) Where an injured seaman is discharged or left behind in a British Possession or in a foreign country, depositions respecting the circumstances and nature of the injury may be taken by any Judge or Magistrate in the British Possession or by any British Consular Officer in the foreign country.

Depositions where injured seaman left behind.

Cf. 6 Edw. 7, ch. 58, s. 7 (c).

(2.) Depositions taken in pursuance of this section shall be transmitted by the person by whom they are taken to the Minister.

Amended by No. 56, 1938, s. 5.

(3.) Depositions taken in pursuance of this section or certified copies of them shall be admissible in evidence in proceedings for compensation under this Act.

12.—(1.) In any proceeding for compensation under this Act, if it is shown by some official return produced out of official custody, or by other evidence, that the ship on which the seaman in respect of whom the compensation is claimed was employed has, three months or upwards before the institution of the proceeding, left a port of departure, she shall, unless it is shown that she has been heard of within three months after that departure, be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the Court or arbitrator thinks probable.

Evidence of loss of ship.

Cf. M.S.A. 1894, s. 174 (2), (3).

Sub-section (1.) amended by No. 56, 1938, s. 6.

(2.) A duplicate agreement or list of the crew made out or a statement of a change in the crew delivered under any Act, Imperial Act, or State Act relating to navigation or shipping at the time of the last departure of the ship from Australia, or a certificate purporting to be a certificate from a Consular or other public officer at any port out of Australia, stating that certain seamen were shipped in the ship from the said port, shall, if produced out of official custody, be, in the absence of proof to the contrary, sufficient proof that the seamen therein named as belonging to the ship were on board at the time of the loss.

13.—(1.) If it is alleged that the owner of any ship is liable as such to pay compensation under this Act, and the ship is at any time found in any port or river in Australia or within any territorial waters thereof, a Justice of the High Court or a Judge of the Supreme Court of a State may, upon its being shown to him by any person applying that the owner is probably liable as such to pay compensation under this Act and that the owner does not

Detention of ship.

Cf. 6 Edw. 7, ch. 58, s. 11. M.S.A. 1894, s. 692.

reside in Australia, issue an order,<sup>(a)</sup> directed to any officer of the Department of Trade and Customs or other officer named in the order, requiring him to detain the ship until such time as the owner agent master or consignee thereof has paid the compensation, or has given security to be approved by the Justice or Judge to abide the event of any proceedings that may be instituted to recover compensation under this Act and to pay such compensation and costs (if any) as are awarded.

(2.) The officer to whom the order is directed may detain the ship in accordance with the order.

(3.) In any legal proceeding to recover the compensation, the person giving security may be made the defendant, and the production of the order of the Justice or Judge made in relation to the security shall be conclusive evidence of the liability of the defendant.

(4.) Where the owner of a ship is a corporation, it shall for the purpose of this section be deemed to reside in Australia if it has an office in Australia at which service of process can be effected.

(5.) The master of a ship, after detention in pursuance of this section, or after service on him of any notice of or order for detention, shall not proceed to sea with the ship before she is released by competent authority.

Penalty : One hundred pounds.

(6.) If the master proceeds to sea with the ship in contravention of this section, and takes to sea any person authorized to detain the ship, the owner and master of the ship shall each be liable to pay a further penalty at the rate of Ten pounds per day until the person returns or such time as would enable him after leaving the ship to return to the place from which he was taken.

(7.) An Officer of Customs shall refuse to grant a certificate of clearance to any ship while under detention in pursuance of this section, and may refuse to grant such a certificate if he has had notice that an order for the detention of the ship has been made, or that an application for an order for the detention of the ship is about to be made.

Medical  
referees.

Cf. 6 Edw. 7,  
ch. 58, s. 10 (1).

14.—(1.) The Minister may appoint any duly qualified medical practitioners to be medical referees for the purposes of this Act.

(2.) Medical referees shall be paid such fees as are provided by the regulations.

(3.) The fees of medical referees shall be paid out of moneys provided by Parliament for the purpose.

(4.) A medical referee who has been employed as a medical practitioner in connexion with any case by or on behalf of an

(a) Held by the High Court, under s. 13 of the *Seamen's Compensation Act 1909*, which was identical with this section, that a Judge in chambers has power to set aside an order made *ex parte* by another Judge under that section. Held, further, that an order made for the detention of a ship under that section is a judicial order, from which an appeal lies to the High Court. *Owners of s.s. "Katibia" v. Wilson*, (1910) 11 C.L.R. 689; 17 A.L.R. 410.

employer or seaman, or by any insurers interested, shall not act as a medical referee in that case.

15. Where an arbitrator is appointed by a County Court under this Act, the remuneration of the arbitrator shall be paid out of moneys provided by Parliament for the purpose.

Remuneration of arbitrator appointed by County Court.  
Cf. 6 Edw. 7, ch. 58, s. 10 (2).

16. The owner or master of every ship on which seamen to which this Act applies are employed shall, as prescribed, furnish correct returns specifying—

Returns as to compensation.  
Ibid., s. 12.

- (a) the number of injuries in respect of which compensation has been paid under this Act during the previous year, or in respect of any prescribed period ;
- (b) the amount of compensation paid during that year, or period, and
- (c) such other particulars as are prescribed.

Amended by No. 56, 1938, s. 7.

Penalty : Five pounds.

17. The Governor-General may make Regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act, and in particular for modifying, altering or repealing any of the provisions of the Second Schedule to this Act or adding any additional provisions to that Schedule.<sup>(a)</sup>

Regulations.

18. The *Seamen's Compensation Act 1909* is repealed.<sup>(b)</sup>

Repeal.

## SCHEDULES.

### FIRST SCHEDULE.\*

#### SCALE AND CONDITIONS OF COMPENSATION.

(1.) The amount of compensation under this Act shall be—

(a) See footnote (a) to Second Schedule, *infra*.

(b) See footnote (a) to s. 4, *supra*.

\* Section 14 of the *Seamen's Compensation Act 1949*, which Act amended the *Seamen's Compensation Act 1911-1947*, reads as follows:—

"14.—(1.) Where, at the date of commencement of this Act, a person is receiving or entitled to receive weekly payments in accordance with the First Schedule to the Principal Act, he shall, from and including that date, be entitled to receive weekly payments in accordance with the provisions of the Principal Act, as amended by this Act.

(2.) Where, before the date of commencement of this Act, a seaman sustained an injury or contracted a disease in respect of which weekly payments in accordance with the First Schedule to the Principal Act would have been payable at that date if he had been incapacitated for work at that date, and he is not, at that date, so incapacitated, but after that date he becomes incapacitated for work as a result of the injury or disease, weekly payments in respect of that incapacity shall be in accordance with the provisions of the Principal Act, as amended by this Act.

(3.) Where, after the date of commencement of this Act, death results from an injury or a disease which was sustained or contracted before that date and in respect of which compensation was payable under the Principal Act, compensation shall be paid in respect of that death in accordance with the provisions of the Principal Act, as amended by this Act."

Paragraph (1.) substituted by No. 56, 1938, s. 8 ; amended by No. 18, 1947, s. 8 and by No. 7, 1949, s. 11.



## FIRST SCHEDULE—continued.

- (a) where death results from the injury—
- (i) if the seaman leaves any dependants wholly dependent upon his earnings, the sum of One thousand pounds and, in addition, an amount of Fifty pounds in respect of each child who, being a dependant under the age of sixteen years at the date of either the injury or the death of the seaman, was at the date of the injury wholly or mainly dependent upon the earnings of the seaman ;
  - (ii) if the seaman does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or, in default of agreement, may be determined, on arbitration or proceedings under this Act, to be reasonable and proportionate to the injury to the said dependants ; and
  - (iii) if he leaves no dependants, the reasonable expenses of his burial, not exceeding Twenty-five pounds ;
- (b) where the seaman is totally incapacitated for work by the injury—  
a weekly payment during his incapacity of the sum of Four pounds and, in addition, the sum of—
- (i) One pound five shillings in respect of—
    - (1) the wife of the seaman ; or
    - (2) if he has no wife, or if compensation is not payable in respect of his wife—one female, over the age of sixteen years, who is—
      - (A) caring for a child under the age of sixteen years and wholly or mainly dependent upon the earnings of the seaman ; or
      - (B) a member of the seaman's family, if she was wholly or mainly dependent upon the earnings of the seaman at the date of the injury and remains so dependent ; and
  - (ii) Ten shillings in respect of each child who, at the date of the injury, was under the age of sixteen years and wholly or mainly dependent upon the earnings of the seaman and who, being under the age of sixteen years, remains so dependent ; and
- (c) where the seaman is partially incapacitated for work by the injury—  
a weekly payment during his incapacity—
- (i) of the amount (if any) by which the weekly amount which he is earning, or is able to earn in some suitable employment or business, after the injury is less than his weekly pay at the date of the injury, or of the amount of Four pounds, whichever is the less ; or
  - (ii) of the amount (if any) by which the weekly amount which he is earning, or is able to earn in some suitable employment or business, after the injury is less than the weekly amount which would have been payable to him under sub-paragraph (b) of this paragraph, if he had been totally incapacitated, whichever is the greater.

\* \* \* \* \*

Paragraphs  
(1A.) and (1B.)  
omitted by  
No. 7, 1949,  
s. 11.

Substituted by  
No. 7, 1949,  
s. 11.

- (2.) Notwithstanding anything contained in paragraph (1.) of this Schedule—
- (a) where death results from the injury—
- (i) any amount paid or payable before the death of the seaman by way of weekly payments in respect of his total or partial incapacity for work shall not be deducted from the sum payable under clause (i) of sub-paragraph (a) of that paragraph, or shall be disregarded in determining the sum payable



FIRST SCHEDULE—*continued.*

under clause (ii) of that sub-paragraph, as the case may be; but

- (ii) the amount by which any lump sum, paid to a seaman in pursuance of paragraph (18.) of this Schedule or section five B of this Act before the death of the seaman, exceeds the total of all weekly payments which would have been payable under sub-paragraph (b) or sub-paragraph (c) of that paragraph, if they had continued until the date of his death, shall be deducted from the sum payable under clause (i) of sub-paragraph (a) of paragraph (1.) of this Schedule, or shall be taken into account in determining the sum payable under clause (ii) of that sub-paragraph, as the case may be, but the sum so payable shall not be reduced to less than Two hundred pounds; or
- (b) where the employee is totally or partially incapacitated for work by the injury—
  - (i) no payment shall be made under sub-paragraph (b) or sub-paragraph (c) of that paragraph which is in excess of the amount of the weekly pay of the seaman at the date of the injury;
  - (ii) no such payment shall be made in respect of any period during which the owner of the ship is under any Act, Imperial Act or State Act liable to pay full wages to the injured seaman; and
  - (iii) if the seaman is a minor who is not entitled under the terms of any award, order or determination of an industrial authority, any industrial agreement or any law to receive the same rate of pay as an adult, the words "Three pounds" shall be deemed to be substituted for the words "Four pounds" in the application of the provisions of sub-paragraph (b) or sub-paragraph (c) of that paragraph in relation to the seaman while he remains such a minor.

(2A.) The amount of any child endowment paid under Part VI. of the *Social Services Consolidation Act 1947-1948* in respect of a child shall be disregarded in ascertaining, for the purposes of this Schedule, whether or not that child is or was dependent upon the earnings of a seaman. Inserted by  
No. 7, 1949,  
s. 11.

(3.) For the purposes of this Schedule—

- (a) "pay" means the salary or wages of the seaman, and includes— Substituted by  
No. 7, 1949,  
s. 11.
  - (i) where the seaman receives, as a regular condition of his employment, board or board and lodging in addition to wages—such amount, not exceeding Thirty shillings per week, as is assessed as the value of the board or board and lodging; and
  - (ii) unless otherwise prescribed—any allowance payable to the seaman in respect of his employment, but, subject to the regulations, does not include any allowance which is intermittent or any allowance or sum which is payable in respect of special expenses incurred or likely to be incurred by the seaman in respect of his employment; and
- (b) any reference to the weekly pay of the seaman at the date of the injury means, if the rate of pay of seamen of the same class is subsequently varied under the terms of any award, order or determination of an industrial authority, any industrial agreement or any law, the rate of pay as so varied.

(4.) The amount of any weekly payment of compensation payable to a seaman under this Schedule shall be subject to deduction of the amount of any payment, allowance or benefit which the seaman receives from the employer during the period of the seaman's incapacity. Substituted by  
No. 56, 1938,  
s. 11.

(4A.) Where under any Act, Imperial Act or State Act, the employer is liable to defray the expenses of maintenance of the injured seaman, the amount of any weekly payment of compensation payable to the seaman under this Schedule shall be subject to deduction of the amount of the weekly cost of maintenance of the seaman paid by the employer. Inserted by  
No. 56, 1938,  
s. 8.

FIRST SCHEDULE—*continued.*

(5.) Where a seaman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Act in relation to compensation, shall be suspended until such examination has taken place.

Amended by  
No. 56, 1938,  
s. 8.

(6.) The payment in the case of death shall, unless otherwise provided in this Schedule or by the regulations, be paid to a prescribed authority, and the sum so paid shall be dealt with as prescribed for the benefit of the persons entitled thereto :

Provided that, if so agreed, the payment in case of death shall, if the seaman leaves no dependants, be made to his legal personal representative, or, if he has no such representative, to the persons to whom payments in respect of medical, surgical and hospital treatment, ambulance services and burial expenses are due.

(7.) Where a weekly payment is payable under this Act to a person under any legal disability, the weekly payment shall be paid during the disability to a prescribed authority, and dealt with as prescribed for the benefit of the person entitled thereto.

Inserted by  
No. 18, 1947,  
s. 8.

(7A.) Where any person under any legal disability is entitled to any amount of compensation under this Act in the form of a lump sum, that amount may be paid to a trustee or trustees appointed by a committee or by an arbitrator and approved by a prescribed authority, or appointed by a Judge or a County Court, and the amount so paid shall, subject to any general or special direction of a Judge or a County Court, be held and applied by the trustee or trustees for the benefit of the person so entitled.

Substituted by  
No. 56, 1938,  
s. 8.

(8.) Any question as to—

(a) who is a dependant ; or

(b) how the compensation shall be allotted among, or otherwise dealt with for the benefit of, the dependants

shall, in default of agreement, be settled by arbitration under this Act, or by a County Court.

(9.) Where there are both total and partial dependants, nothing in this Schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

(10.) Where, on application being made to a prescribed authority that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of any of the dependants, or for any other sufficient cause, an order of the Court or an award as to the apportionment amongst the several dependants of any sum paid as compensation, or as to the manner in which any sum payable to any dependant is to be dealt with, ought to be varied, the prescribed authority may make an application to a County Court for the variation of the order or the award, and the County Court may make such order thereon as it thinks just.

(11.) Any seaman receiving weekly payments under this Act shall, if so required by the employer, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by the employer. If the seaman refuses to submit himself to such examination, or in any way obstructs the examination, his right to the weekly payments shall be suspended until the examination has taken place.

(12.) A seaman shall not be required to submit himself for examination by a medical practitioner under the provisions of this Schedule otherwise than in accordance with the regulations, or at more frequent intervals than is prescribed by those regulations.

(13.) Where a seaman has submitted himself for examination by a medical practitioner or has been examined by a medical practitioner selected by himself, and the employer or seaman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the seaman's condition, then, in the event of no agreement being come to between the employer and the seaman as to the seaman's condition or fitness for employment, the prescribed authority, on application being made to him by both parties, may,

FIRST SCHEDULE—*continued*.

on payment by the applicants of such fee, not exceeding Two pounds, as is prescribed, refer the matter to a medical referee.

(14.) The medical referee to whom the matter is referred shall examine the seaman, and shall, in accordance with the regulations, give a certificate as to the condition of the seaman and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matters so certified.

(15.) Where no agreement can be come to between the employer and the seaman as to whether or to what extent the incapacity of the seaman is due to the accident, the provisions of this Schedule relating to reference to and examination and certificate by a medical referee shall, subject to the regulations, apply as if the question were a question as to the condition of the seaman.

(16.) If a seaman refuses to submit himself for examination by a medical referee, as provided in this Schedule, or in any way obstructs the examination, his right to compensation and to take or prosecute any proceedings under this Act in relation to compensation, or, in the case of a seaman in receipt of a weekly payment, his right to that weekly payment, shall be suspended until the examination has taken place.

(17.) Any weekly payment may be reviewed in the prescribed manner at the request either of the employer or of the seaman, and on such review may be ended, diminished, or increased, subject to the maximum above provided.

Amended by  
No. 56, 1938,  
s. 8; by No. 18,  
1947, s. 8 and  
by No. 7, 1949,  
s. 11.

(18.) Where any weekly payment has been continued for not less than six months, the liability therefor may, at the option of the employer, but subject to the regulations, be redeemed by the payment of a lump sum of such an amount as, where the incapacity is permanent, would, if invested in the purchase of an immediate life annuity, purchase an annuity for the seaman equal to seventy-five per cent. of the annual value of the weekly payment, and as in any other case is settled by arbitration under this Act, or by a County Court, and such lump sum may be ordered by the committee or arbitrator or Judge of the County Court to be paid to a prescribed authority to be invested or otherwise applied for the benefit of the person entitled thereto:

Provided that nothing in this paragraph shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

(18A.) The last preceding paragraph shall not apply in any case where the incapacity is total and permanent.

Inserted by  
No. 18, 1947,  
s. 8.

(19.) If a seaman receiving a weekly payment ceases to reside in Australia, he shall cease to be entitled to receive any weekly payment, unless a medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the medical referee so certifies, the seaman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as are prescribed, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

(20.) Any amount paid in compensation under this Act, whether by way of weekly payment or sum paid in redemption thereof, or lump sum payment for a specific injury fixed in accordance with the Third Schedule to this Act, shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against it.

Substituted by  
No. 56, 1938,  
s. 8.

(21.) Where under this Schedule a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

## SECOND SCHEDULE.(a)

## PROCEEDINGS FOR COMPENSATION.

(1.) For the purpose of settling any matter which under this Act may be settled by arbitration, if any committee, representative of an employer and his seamen, exists with power to settle matters under this Act in the case of the

(a) In pursuance of the power conferred by s. 17 of the Act, amendments to the Second Schedule were made by Statutory Rules 1926, No. 135, regulation 113. This regulation was repealed by Statutory Rules 1947, No. 124, regulation 3.

SECOND SCHEDULE—*continued*.

employer and seamen, the matter may, unless either party objects by notice in writing sent to the other party before the committee meet to consider the matter, be settled by the arbitration of the committee, or be referred by it to arbitration as hereinafter provided.

Amended by  
No. 7, 1949,  
s. 12.

(2.) If there is no such committee, or if either party objects to the settlement of the matter by the committee, or if the committee refers the matter to arbitration or fails to settle it within six months from the making of the claim, the matter may be settled by a single arbitrator agreed on by the parties, or, in the absence of agreement, appointed by a County Court or by arbitration before a Judge of a County Court.

(3.) The provisions of any Act or State Act relating to arbitration shall not apply to any arbitration under this Act; but a committee or an arbitrator may, if they or he think fit, submit any question of law for the decision of a County Court, and the decision of the County Court on any question of law, either on such submission, or in any case where a County Court settles the matter under this Act, or where it gives any decision or makes any order under this Act, shall be final, unless within the time and in accordance with the conditions prescribed by the regulations either party appeals to the High Court or to the Supreme Court of the State in which the County Court is situated.

(4.) Any arbitrator appointed by a County Court shall, for the purpose of proceedings under this Act, have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings before him were an action in the County Court.

(5.) In any arbitration under this Act, any party to the proceedings may appear personally or by any other person appointed to represent him.

Amended by  
No. 7, 1949,  
s. 12.

(6.) The costs of and incidental to the arbitration and proceedings connected therewith shall, subject to the regulations, be in the discretion of the committee, a Judge or arbitrator. The costs, whether before a committee, a Judge or an arbitrator, shall not exceed the limit prescribed by the regulations.

(7.) In the case of the death or refusal or inability to act of an arbitrator, the County Court may, on the application of any party, appoint a new arbitrator.

(8.) Where the amount of compensation under this Act has been ascertained, or any weekly payment varied, or any other matter decided under this Act, either by a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by the regulations, by the committee or arbitrator, or by any party interested, to the prescribed authority, who shall, subject to the regulations, on being satisfied as to its genuineness, record the memorandum, and thereupon the memorandum shall for all purposes be enforceable as if it were a judgment of a County Court:

Provided that—

- (a) no such memorandum shall be recorded before seven days after the despatch by the prescribed authority of notice to the parties interested;
- (b) where a seaman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this Act, and the employer, in accordance with the regulations, objects to the recording of the memorandum, and proves that the seaman has in fact returned to work and is earning the same wages as he did before the accident, the memorandum shall only be recorded, if at all, on such terms as the prescribed authority, under the circumstances, thinks just;
- (c) a County Court may at any time make such order in relation to the recording of the memorandum, including the removal of such record, as it thinks just; (a)

(a) A seaman alleged that the hernia from which he was suffering was caused by an accident in the course of his employment. The shipping company agreed to pay a specified sum, with a denial of liability, in full settlement of all liability whether under the Navigation Act, the award or this Schedule. The Director of Navigation refused to record the memorandum on the grounds that it referred primarily to s. 132 of the Navigation Act and was not proper to be recorded. The Supreme Court of Victoria, pursuant to the power conferred by this paragraph, ordered the Director to record the memorandum. *In re Slater and McIlwraith and McEachern Ltd.*, (1937) 43 A.L.R. (C.N.) 659.



## SECOND SCHEDULE—continued.

- (d) where it appears to a prescribed authority, on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, ought not to be recorded by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement, and refer the matter to a County Court, which may, in accordance with the regulations, make such order (including an order as to any sum already paid under the agreement) as under the circumstances it thinks just;
- (e) a County Court may, within six months after the recording of a memorandum of an agreement as to the redemption of a weekly payment by a lump sum or of an agreement as to the amount of compensation payable to a person under any legal disability or to dependants, order that the record be removed on proof to its satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances it thinks just.

(9.) An agreement as to the redemption of a weekly payment by a lump sum, if not recorded in accordance with this Act, shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment, and an agreement as to the amount of compensation to be paid to a person under a legal disability or to dependants, if not so recorded, shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the compensation is payable from liability to pay compensation, unless, in either case, he proves that the failure to register was not due to any neglect or default on his part.

(10.) Where any matter under this Act is to be done in a County Court, it may be done in any County Court, but if the Judge of the County Court in which the proceedings are taken, is satisfied that the matter can be more conveniently dealt with in some other County Court, he may order the transfer of the proceedings to that Court, and upon such transfer that Court shall have the like jurisdiction in relation to the proceedings as if they had been commenced in that Court.

(11.) Any sum awarded as compensation shall, unless paid to a prescribed authority, be paid on the receipt of the person to whom it is payable under any agreement or award, and the solicitor or agent of a person claiming compensation under this Act shall not be entitled to recover from him any costs in respect of any proceedings in an arbitration under this Act, or to claim a lien in respect of such costs on, or deduct such costs from, the sum awarded or agreed as compensation.

(12.) Any committee, arbitrator, Judge or County Court may, subject to the regulations, submit to a medical referee for report any matter which seems material to any question arising in the proceedings. Amended by  
No. 7, 1949,  
s. 12.

(13.) The Minister may, by order, either unconditionally or subject to such conditions or modifications as he thinks fit, confer on any committee representative of an employer and his seamen, as respects any matter in which the committee acts as arbitrator, or which is settled by agreement submitted to and approved by the committee, all or any of the powers conferred by this Act on a County Court, and may by the order modify any of the provisions of this Schedule, and may provide for such incidental, consequential, or supplemental provisions as may appear to the Minister to be necessary or proper for the purposes of the order.

(14.) A Judge of a County Court may, in relation to any proceedings in the Court, exercise all the jurisdiction and powers of a County Court under this Schedule.<sup>(a)</sup>

<sup>(a)</sup> Held by the District Court of New South Wales that this clause should be read "A Judge of a County Court, under this schedule, may, etc." and that the Judge of the District Court of New South Wales may therefore make an order directing the examination of witnesses on commission. *Jonas v. Commonwealth of Australia*, (1923) 40 W.N. (N.S.W.) 109.



Substituted by  
No. 7, 1949,  
s. 13.

## THIRD SCHEDULE.(a)

Section 5B.

## COMPENSATION FOR SPECIFIED INJURIES.

Nature of Injury.	Amount Payable.
	£ s. d.
Loss of both eyes .. .. .	1,250 0 0
Loss of an only useful eye, the other being blind or absent ..	1,250 0 0
Loss of one eye, with serious diminution of the sight of the other	937 10 0
Loss of one eye .. .. .	500 0 0
Loss of hearing .. .. .	875 0 0
Complete deafness of one ear .. .. .	250 0 0
Loss of both hands .. .. .	1,250 0 0
Loss of right arm or greater part thereof .. .. .	1,000 0 0
Loss of left arm or greater part thereof .. .. .	900 0 0
Loss of lower part of right arm, right hand or five fingers of right hand .. .. .	875 0 0
Loss of lower part of left arm, left hand or five fingers of left hand .. .. .	787 10 0
Loss of right thumb .. .. .	375 0 0
Loss of left thumb .. .. .	337 10 0
Loss of right forefinger .. .. .	250 0 0
Loss of left forefinger .. .. .	225 0 0
Loss of right middle finger .. .. .	200 0 0
Loss of left middle finger .. .. .	187 10 0
Loss of right ring finger .. .. .	175 0 0
Loss of left ring finger .. .. .	162 10 0
Loss of right little finger .. .. .	162 10 0
Loss of left little finger .. .. .	150 0 0
Loss of total movement of joint of right thumb .. .. .	175 0 0
Loss of total movement of joint of left thumb .. .. .	162 10 0
Loss of distal phalanx or joint of right thumb .. .. .	200 0 0
Loss of distal phalanx or joint of left thumb .. .. .	187 10 0
Loss of portion of terminal segment of right thumb involving one-third of its flexor surface without loss of distal phalanx or joint .. .. .	175 0 0
Loss of portion of terminal segment of left thumb involving one-third of its flexor surface without loss of distal phalanx or joint .. .. .	162 10 0
Loss of two phalanges or joints of right forefinger .. .. .	150 0 0
Loss of two phalanges or joints of left forefinger .. .. .	137 10 0
Loss of two phalanges or joints of right middle or ring fingers	137 10 0
Loss of two phalanges or joints of left middle or ring fingers	125 0 0
Loss of two phalanges or joints of right little finger .. .. .	125 0 0
Loss of two phalanges or joints of left little finger .. .. .	112 10 0
Loss of distal phalanx or joint of right forefinger .. .. .	125 0 0
Loss of distal phalanx or joint of left forefinger .. .. .	112 10 0
Loss of distal phalanx or joint of other finger of right hand ..	100 0 0
Loss of distal phalanx or joint of other finger of left hand ..	90 0 0
Loss of hand and foot .. .. .	1,250 0 0
Loss of both feet .. .. .	1,250 0 0
Loss of leg above knee .. .. .	937 10 0
Loss of leg below knee .. .. .	812 10 0
Loss of foot .. .. .	750 0 0
Loss of great toe .. .. .	250 0 0
Loss of any other toe .. .. .	100 0 0
Loss of two phalanges or joints of any other toe .. .. .	80 0 0
Loss of phalanx or joint of great toe .. .. .	125 0 0
Loss of phalanx or joint of any other toe .. .. .	75 0 0

Fourth  
Schedule  
omitted by  
No. 7, 1949,  
s. 13.

(a) See footnote (a) to s. 5B., on p. 3933, *supra*.

# SEAMEN'S WAR PENSIONS AND ALLOWANCES ACT 1940-1950.<sup>(a)</sup>

An Act to make provision for Payment of Pensions and for the making of other Payments in respect of Australian Mariners who suffer Death, Disablement, Detention or Loss as a result of the Present War, and for other purposes.

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

## PART I.—PRELIMINARY.

1. This Act may be cited as the *Seamen's War Pensions and Allowances Act 1940-1950.*<sup>(a)</sup>

Short title.  
Short title  
amended,  
No. 32, 1918,  
s. 2.

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

Parts.

Part I.—Preliminary.

Part II.—Administration.

Part III.—Pensions and Gratuities in respect of Death or Incapacity.

Part IV.—Allowances in respect of Detention.

Part V.—Compensation for War Damage to Effects.

Part VI.—Miscellaneous.

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

Definitions.

“ Australian mariner ” means—

(a) any master, officer or seaman employed under agreement, or any apprentice employed under indenture, in sea-going service on any ship registered in Australia which is engaged in trading between a port of a State or Territory of the Commonwealth and any other port whatsoever ;

(a) The *Seamen's War Pensions and Allowances Act 1940-1950* comprises the *Seamen's War Pensions and Allowances Act 1940* as amended. Particulars of the Principal Act and of the amending Acts are set out in the following table :—

Act.	Year and Number.	Date of Assent.	Date of Commencement.
<i>Seamen's War Pensions and Allowances Act 1940</i>	1940, No. 60	24th August, 1940 . .	21st September, 1940
<i>Defence (Transitional Provisions) Act 1946</i>	1946, No. 77	14th December, 1946	1st January, 1947
<i>Statute Law Revision Act 1950</i>	1950, No. 80	16th December, 1950	31st December, 1950

Amended by  
No. 77, 1946,  
s. 11.

Paras. (d),  
(e) and (f)  
inserted by  
No. 77, 1946,  
s. 11.

- (b) any master, officer, seaman or apprentice employed in a lighthouse tender or pilot ship of the Commonwealth or of a State ;
- (c) any pilot employed or licensed by the Commonwealth or a State or by an authority of the Commonwealth or of a State ;
- (d) any master, officer, seaman or apprentice employed in sea-going service on any ship owned in Australia and operating from an Australian port, which is a hospital ship, troop transport, tug, cable ship, salvage ship, dredge, fishing vessel or fisheries investigation vessel ;
- (e) any member or employee of the Commonwealth Salvage Board engaged in sea-going service under the direction of that Board ; and
- (f) any master, officer, seaman or apprentice employed in sea-going service on any ship registered in the dominion of New Zealand, who the Minister is satisfied was engaged in Australia and is not entitled to compensation under any law of any part of the King's dominions, other than Australia, providing for the payment of pensions and other payments to seamen who suffer death, disablement, detention or loss as a result of the present war,

and, except in so far as the expression is used in relation to the happening of any event in respect of which a benefit under this Act may be granted, includes a person who has been an Australian mariner within the meaning of the foregoing provisions of this definition ;

“ capture ” includes seizure, arrest or other restraint ;

“ certificated officer ” means an officer who is duly certificated within the meaning of the *Navigation Act 1912-1935* ;

“ child ” means a dependant under the age of sixteen years who is—

- (a) a son or daughter born to the Australian mariner of a marriage which took place before the relevant date ;
- (b) a step-son, step-daughter, adopted son or adopted daughter who became dependent on him before the relevant date ; or
- (c) an ex-nuptial son or ex-nuptial daughter of the Australian mariner born before, or within nine months after, the relevant date ;

“ *de facto* wife ”, in relation to an Australian mariner, means a woman who, though not legally married to him, has been wholly or substantially maintained by and has lived

with the Australian mariner as his wife on a permanent and *bona fide* domestic basis continuously from a date not less than six months prior to the relevant date and who, at the relevant date—

- (a) had in her charge a child of the Australian mariner ;
- (b) was over forty years of age ; or
- (c) was incapable of supporting herself by reason of her mental or physical incapacity of long standing ;

“ dependant ” means any member of an Australian mariner's family who at the time of his death or the commencement of his incapacity or period of detention (as the case may be) was dependent upon his earnings or, in the case of a person specified in paragraph (a) or (c) of the definition of “ child ”, who would, but for the death, incapacity or detention, be so dependent, and includes—

- (a) where the Australian mariner is the grandparent of an ex-nuptial child who was so dependent—that child ; and
- (b) where the Australian mariner is an ex-nuptial child and his parent or grandparent was so dependent—that parent or grandparent ;

“ dependent ” means wholly or substantially dependent ;

“ Deputy Commissioner for Repatriation ” means a Deputy Commissioner for Repatriation appointed under the *Australian Soldiers' Repatriation Act 1920-1940* ;<sup>(a)</sup>

“ detained person ” means an Australian mariner who suffers detention ;

“ detention ”, in relation to an Australian mariner, means detention consequent on his capture, or the capture of his ship, effected by reason of war operations during the present war ;

“ detention allowance ” means an allowance granted under Part IV. of this Act in respect of the detention of an Australian mariner ;

“ effects ”, in relation to an Australian mariner, means any of his property carried on his person or in the ship in which he is serving or in the ship or other conveyance in which he is travelling, or otherwise accompanying him, at the time when the war damage occurs ;

“ fishing vessel ” means any ship owned in Australia and operating from an Australian port which is employed in or in connexion with the occupation of sea fishing for profit ;

Definition of  
“ fishing  
vessel ”  
inserted by  
No. 77, 1946,  
s. 11.

“ member of an Australian mariner's family ” means the wife or husband, parent, brother, sister, grandparent,

(a) Now the *Repatriation Act 1920-1950*, *supra*.

grand-child, step-parent, step-brother, step-sister, half-brother, half-sister, or a person specified in paragraph (a), (b) or (c) of the definition of "child";

"passenger ship" means a ship in respect of which there is in force a passenger steamship's certificate granted under Part IV. of the *Navigation Act 1912-1935* or a certificate which in pursuance of that Part has the same force as if it had been granted under that Part;

"pension" means a pension under this Act;

"Pensions Committee" means a Seamen's Pensions and Allowances Committee established under this Act;

"period of detention" means the period beginning on the date on which the detention commences and ending on—  
(a) the date of the death of the detained person; or  
(b) the earliest date after the commencement of the detention on which it was practicable for the detained person to have arrived back in Australia, whichever is the earlier date, or such other period as the Commission, in relation to any particular detained person or particular class of detained persons, directs;

"pilot duty" includes the proceeding by sea to a ship for the purpose of performing pilotage duty and the returning by sea after having performed that duty;

"rate of pay" in relation to an Australian mariner means the rate of the salary or wages which he was receiving or was entitled to receive in respect of his occupation as an Australian mariner on the relevant date or, in the case of a licensed pilot not employed at a monthly or annual rate, an amount equal to the monthly rate prescribed at the relevant date by an award of the Commonwealth Court of Conciliation and Arbitration in respect of the master of a sea-going passenger vessel of over six thousand tons but not over eight thousand tons gross registered tonnage;

"rate of pay per day", in relation to a monthly or annual rate of pay, means one-thirtieth of that monthly rate or one three hundred and sixty-fifth of that annual rate as the case may be;

"rate of pay per fortnight" means fourteen times the rate of pay per day;

"relevant date" means—

- (a) in a case where a claim is made for a pension—the date on which the Australian mariner—
  - (i) sustained the war injury; or
  - (ii) commenced the period of detention, to which his death or incapacity is directly attributable; or



(b) in a case where a claim is made for a detention allowance—the date of the commencement of the Australian mariner's period of detention ;

“ Schedule ” means a Schedule to this Act ;

“ separated wife ” means the wife of an Australian mariner who is living apart from him either in pursuance of a decree, judgment, order or deed of separation or by reason of her having been deserted by the Australian mariner or in circumstances which, in the opinion of the Commission, are analogous thereto, and “ separated widow ” means the widow of an Australian mariner who was so living apart from him immediately prior to his death ;

“ Superintendent ” means the Superintendent at a Mercantile Marine Office under the *Navigation Act 1912-1935* or his duly appointed deputy ;

“ the Commission ” means the Repatriation Commission appointed under the *Australian Soldiers' Repatriation Act 1920-1940* ;<sup>(a)</sup>

“ the enemy ” means the forces, or any part thereof, of a State at war with His Majesty during the present war ;

“ the present war ” means the war in which His Majesty is engaged and which commenced on the third day of September, One thousand nine hundred and thirty-nine ;

“ war damage ”, in relation to the effects of an Australian mariner, means the loss of or damage to those effects—

(a) caused by—

(i) the discharge of any missile, liquid or gas ;

(ii) the use of any weapon, explosive or other noxious thing ; or

(iii) the doing of any other injurious act, either by the enemy or in combating the enemy or in relation to any expected or suspected attack by the enemy or any expected attack upon the enemy ;

(b) caused by the action of any enemy aircraft or any aircraft in the service of His Majesty or of any Ally of His Majesty during the present war or by the impact of, or of any part of, or of anything dropped from, any such aircraft ; or

(c) caused by, or in consequence of, the capture by the enemy of the Australian mariner or of his effects ;

“ war injury ” means a personal injury—

(a) caused by—

(i) the discharge of any missile, liquid or gas ;

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<sup>(a)</sup> Now the *Repatriation Act 1920-1950*, *supra*.

- (ii) the use of any weapon, explosive or other noxious thing ; or
- (iii) the doing of any other injurious act, either by the enemy or in combating the enemy or in relation to any expected or suspected attack by the enemy or any expected attack upon the enemy ;
- (b) caused by the action of any enemy aircraft or any aircraft in the service of His Majesty or of any Ally of His Majesty during the present war or by the impact of, or of any part of, or of anything dropped from, any such aircraft ; or
- (c) caused by, or in consequence of, the capture or detention of the Australian mariner by the enemy ;

“ wife ” and “ widow ” do not include a woman whose marriage to the Australian mariner takes place after the relevant date, or, except as otherwise expressly provided in this Act, a separated wife or separated widow.

(2.) Where any provision of this Act is expressed to be dependent upon the opinion of the Commission or a Pensions Committee, the reference to the opinion of the Pensions Committee shall be construed as applying to the opinion of the Pensions Committee only where the Commission has not formed an opinion on the matter.

## PART II.—ADMINISTRATION.

Seamen's  
Pensions  
and Allowances  
Committees.

4.—(1.) The Governor-General may establish Seamen's Pensions and Allowances Committees for such States and Territories of the Commonwealth as he thinks fit.

(2.) Each Pensions Committee shall consist of not less than three or more than five members who shall be appointed by the Governor-General and who shall hold office for such time, under such conditions and with such remuneration, as are prescribed.

(3.) The Governor-General shall appoint one member of each Pensions Committee to be Chairman of that Committee.

(4.) In the case of a Pensions Committee consisting of three members, two members, and, in any other case, three members, shall form a quorum.

(5.) At all meetings of a Pensions Committee the Chairman shall have a deliberative vote and, in the case of an equality of voting, a casting vote.

Duties of  
Pensions  
Committees.

5. The duties of a Pensions Committee shall be—

- (a) to determine, in case of the death or incapacity of an Australian mariner in respect of which a claim for pension is made—

- (i) whether the death or incapacity is directly attributable to a war injury sustained by the Australian mariner ;
- (ii) whether that war injury was due to the Australian mariner's own serious negligence or serious misconduct ;
- (iii) whether, in the case of the death of an Australian mariner, that death was in any substantial manner due to or hastened by his own serious negligence or serious misconduct ; and
- (iv) in the case of the incapacity of the Australian mariner, the nature and degree of the incapacity ;
- (b) to determine, in case of the detention of an Australian mariner in respect of which a claim for detention allowance is made—
  - (i) whether the detention is or was due to the serious negligence or serious misconduct of the Australian mariner ; and
  - (ii) the date of the commencement of the period of detention ;
- (c) to determine the extent (if any) to which persons alleged to be or to have been dependent upon an Australian mariner are or were so dependent ;
- (d) to assess, from time to time, the rates of pensions and detention allowances of Australian mariners and their dependants, and to determine the dates of commencement and cessation of those pensions and allowances ;
- (e) to determine, in such cases as the Pensions Committee thinks fit—
  - (i) that payment of a pension or detention allowance be suspended and the date of the suspension ; or
  - (ii) that payment of a pension or detention allowance which has been suspended be recommenced and the date of recommencement ; and
- (f) such other duties as are prescribed.

6. Notwithstanding anything contained in the last preceding section, the Commission may, in such cases as it thinks fit, make any determination or assessment specified in paragraph (a), (b), (c), (d) or (e) of that section, and may, at any time, direct that any particular case or class of cases be referred to it for determination or assessment.

Determinations and assessments by Commission.

7. Any person affected by any determination or assessment of a Pensions Committee may, within such time (if any) as is prescribed, appeal to the Commission and the Commission may affirm, vary or annul the determination or assessment.

Appeal to Commission.

Review by  
Commission.

8. Wherever it appears to the Commission that sufficient reason exists for reviewing any determination or assessment of a Pensions Committee it may review and may affirm, vary or annul the determination or assessment.

Special  
Magistrates  
and Registrars.

9.—(1.) The Governor-General may appoint such Special Magistrates and such Registrars of Seamen's War Pensions as are necessary for the purposes of this Act who shall have such powers, duties and functions as are prescribed.

Amended by  
No. 80, 1950,  
s. 3 and  
First Schedule.

(2.) The persons for the time being holding the offices of Special Magistrate and of Registrar of Social Services under the *Social Services Consolidation Act 1947-1950* shall be deemed to have been appointed under this Act to the offices of Special Magistrate and Registrar of Seamen's Pensions respectively.

Power to  
summon  
witnesses,  
take evidence,  
&c.

10.—(1.) The Chairman of the Commission, the Chairman of a Pensions Committee (or any person authorized in writing by the Chairman of the Commission or of the Pensions Committee, as the case may be), a Special Magistrate or a Registrar of Seamen's Pensions, for the purpose of any inquiry which the Commission, Pensions Committee, Special Magistrate or Registrar of Seamen's Pensions (as the case may be) has power to make, may summon any person to appear before the Commission, Pensions Committee, Special Magistrate or Registrar of Seamen's Pensions (as the case may be) and require that person to answer questions and to produce documents and, for any such purpose, may administer oaths.

(2.) Any person who has been lawfully summoned to appear before the Commission, a Pensions Committee, a Special Magistrate or a Registrar of Seamen's Pensions who fails to appear and any person who appears, whether summoned or not, who—

(a) refuses to be sworn as a witness ;

(b) fails to answer any question which he is lawfully required to answer ; or

(c) fails to produce any documents which he is lawfully required to produce,

shall be guilty of an offence.

Penalty : Fifty pounds.

Officers of  
Commission.

11. The officers of the Commission shall perform such duties as are prescribed or as the Minister or Commission directs.

### PART III.—PENSIONS AND GRATUITIES IN RESPECT OF DEATH OR INCAPACITY.

Grant of  
pensions.

12. Where any Australian mariner, not being a pilot, dies or becomes incapacitated as a direct result of having sustained a war injury in the course of his employment as an Australian mariner, or, being a pilot, dies or becomes incapacitated as a direct result of having sustained a war injury while on pilot duty, the Common-

wealth shall, subject to this Act, pay to his dependants, or to him, or to both, pensions in accordance with this Act.

**13.** A pension or allowance in respect of the death or incapacity of an Australian mariner shall not be granted if, in the opinion of the Commission or a Pensions Committee—

Limitation on grant of pensions where due to negligence or misconduct.

- (a) in the case of death—the Australian mariner in any substantial measure contributed to or hastened his death by his own serious negligence or serious misconduct ; or
- (b) in the case of incapacity—the war injury to which the incapacity of the Australian mariner is attributable was in any substantial measure due to his own serious negligence or serious misconduct.

**14.** A pension or allowance shall not be granted in respect of the incapacity of an Australian mariner unless a duly qualified medical officer or practitioner nominated by the Commission or a Pensions Committee certifies that the incapacity is directly attributable to a war injury sustained by the Australian mariner.

Incapacity must be due to war injury.

**15.**—(1.) For the purposes of this Act, the degree of incapacity of an Australian mariner shall be that degree which the Australian mariner's incapacitated condition bears to the condition of a normal and healthy person of the same age and sex without taking into account—

Degree of incapacity.

- (a) the earning capacity of the Australian mariner in his incapacitated condition in his own or any other specific trade or calling ; or
- (b) the effect of any individual factors or extraneous circumstances.

(2.) Total incapacity shall be expressed as one hundred degrees of incapacity and any lesser degree shall be expressed by way of percentage.

**16.**—(1.) Subject to sub-section (2.) of this section, a pension shall not be granted or continued to any person unless that person is, in the opinion of the Commission, or of a Pensions Committee, without adequate means of support and incapable of earning a livelihood.

Pensions to dependants.

(2.) The last preceding sub-section shall not apply to—

- (a) the Australian mariner or his widow, wife, separated widow, separated wife, *de facto* wife or child ; or
- (b) in the case of a deceased unmarried Australian mariner—
  - (i) his widowed mother if he was brought up by her and if she became a widow either prior to or within three years after his death ; or
  - (ii) his unmarried mother if he was brought up by her.



(3.) Except in the case of a mother of an Australian mariner, a pension discontinued in pursuance of sub-section (1.) of this section shall not afterwards be renewed.

Pension after death of incapacitated Australian mariner.

17. Where an Australian mariner has suffered a war injury involving, as a direct result, some appreciable degree of incapacity, and he subsequently dies from a cause or causes other than that injury, a dependant of the Australian mariner shall, subject to this Act, be entitled to receive or to continue to receive, as the case may be, such pension (if any) as—

- (a) was being paid ;
- (b) was payable ;
- (c) would, but for the fact that a claim which had been lodged had not been determined, have been payable ; or
- (d) would, if a claim for a pension had been lodged prior to the death of the Australian mariner, have been payable, to that dependant, immediately prior to the death of the Australian mariner.

Rates of pension on death or total incapacity.

18.—(1.) Subject to this Act the rates of pension payable—

- (a) to the widow of an Australian mariner in the case of his death—shall be the rate specified in column 2 of the First Schedule opposite the rate of pay per day specified in column 1 of that Schedule which corresponds to the rate of pay per day of the Australian mariner :

Provided that where that rate of pension is less than Four pounds four shillings per fortnight and the widow has in her charge a child of the Australian mariner or her circumstances are such as, in the opinion of the Commission, to justify an increase beyond the rate prescribed by this paragraph, the Commission may, for such period as it thinks fit, increase the rate of pension to an amount not exceeding Four pounds four shillings per fortnight.

Amended by No. 77, 1946, s. 11.

- (b) to dependants, other than children, in the case of the death of an Australian mariner where no pension is payable to his widow, separated widow or *de facto* wife—shall be such rates as are assessed by the Commission or a Pensions Committee but so that the aggregate of the pensions payable to those dependants shall not exceed the amount specified in column 3 of the First Schedule opposite the rate of pay specified in column 1 of that Schedule which corresponds to the rate of pay of the Australian mariner ;
- (c) to the Australian mariner in the case of his total incapacity—shall be the rate specified in column 4 of the First Schedule opposite the rate of pay per day specified in column 1 of that Schedule which corresponds to the rate of pay per day of the Australian mariner ;

- (d) to the wife of an Australian mariner in the case of his total incapacity—shall be One pound sixteen shillings per fortnight ;
- (e) to dependants, other than children, in the case of the total incapacity of an Australian mariner where no pension is payable to his wife, separated wife or *de facto* wife—shall be such rates as are assessed by the Commission or a Pensions Committee but so that the aggregate of the pensions payable to those dependants shall not exceed the amount of Two pounds eleven shillings per fortnight ; and
- (f) to each child of the Australian mariner in the case of the death or total incapacity of the Australian mariner—shall be Fifteen shillings per fortnight.

Amended by  
No. 77, 1946,  
s. 11.

Amended by  
No. 77, 1946,  
s. 11.

(2.) For the purposes of any provision of this Act under which any rate of pension is determined by reference to a rate of pay per day specified in column 1 of the First Schedule, if the rate of pay per day of the Australian mariner is higher than a rate so specified but lower than the next higher rate so specified, the rate of pension shall be determined by adding to the lower of the two specified rates of pension an amount which bears to their difference the same proportion as the excess of the rate of pay per day of the Australian mariner over the lower of the two specified rates of pay bears to their difference.

19. The Commission may, in its discretion, in the case of the death or total incapacity of an Australian mariner to which section twelve of this Act applies, grant to his *de facto* wife a pension at a rate not exceeding the rate of pension prescribed by the last preceding section in respect of his widow or wife :

Pension to  
*de facto*  
wife.

Provided that if a pension is also payable to the widow, wife, separated widow or separated wife, the pension granted to the *de facto* wife shall not in any case be at such a rate that the sum of those pensions would exceed the maximum rate payable in respect of the widow or wife.

Amended by  
No. 77, 1946,  
s. 11.

20.—(1.) The Commission may, in its discretion, in the case of the death or total incapacity of an Australian mariner to which section twelve of this Act applies, grant a pension to his separated widow or separated wife if she satisfies the Commission that the Australian mariner, in the case of a separated wife is, or, in the case of a separated widow, was, immediately prior to his death, contributing, or liable to contribute, to her support, or that the separation was caused through the mental instability of the Australian mariner which resulted from a war injury.

Pension of  
separated wife  
or widow.

(2.) The rate of any pension payable by reason of the last preceding sub-section shall be in the discretion of the Commission but shall not exceed—

- (a) where the separated wife or separated widow is eligible for pension by reason of her having satisfied the Commission that the Australian mariner is or was contributing or liable to contribute to her support—the amount which the Australian mariner was contributing, or was liable to contribute, to her support immediately prior to the separation or the commencement of his incapacity (whichever is the later date), in the case of a separated wife, or immediately prior to his death, in the case of a separated widow; or
- (b) in any case—the rate to which she would have been entitled but for the separation.

Allowance  
for attendant.

**21.**—(1.) Where an Australian mariner entitled to a pension is incapacitated by reason of a disability described in column 1 of the Second Schedule which is directly attributable to a war injury and the Commission is of the opinion that he is in need of an attendant, there shall be payable to him the fortnightly allowance for an attendant specified in column 2 of that Schedule opposite the description of that disability:

Provided that no such allowance shall be payable in respect of any period during which the Australian mariner is maintained in an institution at the public expense.

(2.) For the purposes of this section, a leg or arm shall be deemed to be lost if it has been rendered permanently and wholly useless.

Permanent  
pensions  
for specified  
major injuries.

**22.**—(1.) Where an Australian mariner entitled to a pension is incapacitated by reason of a disability described in column 1 of the Third Schedule he shall be paid a permanent pension at a rate equal to that percentage of the rate of pension to which he would be entitled if his incapacity were total which is specified in column 2 of that Schedule opposite the description of that disability.

(2.) For the purposes of this section, a leg, foot, arm, hand or eye shall be deemed to be lost if it has been rendered permanently and wholly useless.

Rates of  
pension in  
respect of  
partial  
incapacity.

**23.**—(1.) Except as provided in the foregoing provisions of this Part or in sub-sections (2.) and (3.) of this section, the rates of pension payable in respect of the partial incapacity of an Australian mariner shall, in respect of the degree of incapacity specified in column 1 of the Fourth Schedule, be such percentage of the rates specified in the First Schedule in respect of total incapacity as is specified in column 2 of the Fourth Schedule opposite that degree of incapacity.

(2.) Where, as the result of a minor war injury specified in column 1 of the Fifth Schedule, an Australian mariner is incapacitated to a degree of less than twenty per centum, there shall be payable to him in lieu of any pension or pensions otherwise payable

under this Act in respect of that injury, a gratuity of the amount specified in column 2 of that Schedule opposite the description of the injury.

(3.) Where, as the result of a war injury other than a minor injury specified in column 1 of the Fifth Schedule, an Australian mariner is incapacitated to a degree of less than twenty per centum, and a duly qualified medical officer or practitioner certifies that the condition of incapacity is final and stationary, the Commission may assess the lump sum which would, in its opinion, be equivalent to the payment, or continued payment, as the case may be, of any pension or pensions otherwise payable under this Act in respect of that injury, and the lump sum so assessed shall be payable to him in lieu of that pension or those pensions.

(4.) For the purposes of sub-section (2.) of this section—

- (a) a finger shall be deemed lost if it is fixed and cannot be flexed and extended ; and
- (b) where the amount of gratuity payable is dependent upon whether the loss of a thumb or finger, or part thereof, is lost from the right or the left hand, the words " right " and " left " in the Fifth Schedule shall, in the case of a left-handed person, be read as " left " and " right " respectively.

24. Notwithstanding anything contained in this Part—

- (a) the fortnightly pensions payable under this Part in respect of the death or incapacity of an Australian mariner shall not in the aggregate exceed the rate of pay per fortnight of that Australian mariner :

Limit of  
payments in  
certain cases.

Provided that, in the case of a pension to the widow of an Australian mariner whose rate of pay was less than Four pounds four shillings per fortnight, who has in her charge a child of the Australian mariner or whose circumstances are such as, in the opinion of the Commission, to justify an increase beyond the limit prescribed by this paragraph, the Commission may, for such period as it thinks fit, increase the pension to the widow but the aggregate of the pensions payable in respect of that Australian mariner shall not exceed Four pounds four shillings per fortnight ;

Amended by  
No. 77, 1946,  
s. 11.

- (b) the aggregate of the payments under this Part to an Australian mariner (exclusive of an allowance for an attendant) shall not in any case exceed the amount which would be payable to that Australian mariner in accordance with section eighteen of this Act if he were totally incapacitated ;
- (c) the rate of pension to a dependant under the age of sixteen years shall not exceed Fifteen shillings per fortnight ; and



(d) if the Australian mariner, or any of his dependants, has received, or is entitled to receive, any other payment from the public funds of the Commonwealth or of a State or of a Territory of the Commonwealth by way of compensation in respect of the incapacity or death of the Australian mariner—

(i) if that other payment exceeds the amount otherwise payable under this part to the Australian mariner or his dependant—no amount under this Part shall be payable ;

(ii) if that other payment does not exceed the amount otherwise payable under this Part—the amount otherwise payable under this Part shall be reduced by the amount of that other payment, unless the Commission otherwise directs.

Payment  
of pension.

**25.**—(1.) Pensions granted under this Act shall be payable by fortnightly instalments which may be paid in advance.

(2.) The amount of any instalment in respect of a period of less than a fortnight shall be an amount which bears the same proportion to a fortnightly instalment as that lesser period bears to a fortnight.

Claim  
for pension.

**26.**—(1.) A claimant for a pension shall forward the claim in accordance with the prescribed form, or a form approved by the Commission, to the Registrar for Seamen's Pensions in, or the Deputy Commissioner for Repatriation for, the State in which the claimant resides.

(2.) Unless the Commission otherwise directs, a pension shall not be granted in respect of a claim which is not made and delivered in accordance with the last preceding sub-section.

(3.) Unless the Commission in exceptional circumstances otherwise directs, a pension in respect of the death or incapacity of an Australian mariner shall not be paid in respect of any period prior to the date of the commencement of the period of three months immediately preceding the date on which the claim for the pension is made.

Pensions for  
limited periods  
in certain  
cases.

**27.**—(1.) A pension payable to a child as such shall cease upon his attaining the age of sixteen years.

(2.) Notwithstanding anything contained in the last preceding sub-section, where a person under the age of twenty-one years is a child in respect of whom a pension might have been granted under this Act if he had not attained the age of sixteen years and the Commission is satisfied—

(a) that his pecuniary circumstances or those of his family are such that a pension in respect of that person ought to be paid ; and



- (b) that he is incapable of supporting himself by reason of an infirmity from which he has been suffering since a date prior to that on which he attained the age of sixteen years,

the Commission may make or continue a grant of pension in respect of that person at the same rate as would have been applicable if that person had not attained the age of sixteen years, but in no case shall any such pension continue after the person has attained the age of twenty-one years.

28. A pension payable to any female dependant of an Australian mariner shall not be continued after her marriage or re-marriage :

Provided that the marriage of a *de facto* wife of an Australian mariner to that Australian mariner shall not be deemed to be marriage or re-marriage for the purposes of this section.

29. Any female dependant of an Australian mariner to whom a pension is payable who marries or obtains a *decree nisi* in divorce, or against whom a *decree nisi* in divorce is obtained, shall forthwith send a written notification of that fact to the Deputy Commissioner of Repatriation for the State in which she resides.

Penalty : Twenty-five pounds and, in addition, any person convicted of an offence against this section may be ordered to repay to the Commonwealth any moneys received by her in consequence of her failure to comply with the provisions of this section.

30. The Commission may reject any claim for a pension by, or terminate any pension granted to, a dependant of an Australian mariner if it is satisfied that the grant or continuance of the grant of the pension would be undesirable.

31.—(1.) If any person in receipt of a pension is convicted of an offence and sentenced to any term of imprisonment, the Commission or a Pensions Committee may, in respect of the time during which that person is serving the term of imprisonment or in respect of any portion of that time, suspend the pension or cancel any instalment thereof.

(2.) The Commission or a Pensions Committee may, if it thinks fit, in lieu of suspending a pension or cancelling any instalment thereof under the last preceding sub-section, order that, during the term of imprisonment or any portion thereof, the pension shall be paid to such of the person's dependants as the Commission or Committee determines and the pension shall thereupon be payable accordingly during that term or portion.

32.—(1.) Any medical certificate given for the purposes of this Act shall be given by a duly qualified medical officer or practitioner nominated by the Commission or a Pensions Committee and shall be in a form approved by the Commission.

(2.) The duly qualified medical officer or practitioner shall not certify that the incapacity of an Australian mariner is directly attributable to a war injury sustained by him or to detention undergone by him unless the medical officer or practitioner is satisfied from evidence in contemporary records or other definite evidence, or by such evidence as the Commission may direct or prescribe in any special case, or class of case, that the Australian mariner has sustained a war injury or has sustained or contracted a wound, injury or disease directly attributable to his detention.

Periodical  
examination  
of pensioner.

**33.**—(1.) The Commission or a Pensions Committee or any person authorized in that behalf by the Commission or a Pensions Committee may, from time to time, require any person receiving a pension to submit himself for medical examination by a duly qualified medical officer or practitioner nominated by the Commission, a Pensions Committee or authorized person :

Provided that, unless he consents, a person shall not be so required to submit himself for medical examination more often than—

- (a) during the second month after receiving the first instalment of pension—once a week ;
- (b) during the third, fourth, fifth and sixth months after receiving the first instalment of pension—once a month ; and
- (c) during any period thereafter—once every two months.

(2.) The right to payment of instalments of pension of any person refusing or failing to submit himself to medical examination as and when required in accordance with this section, or in any way obstructing the examination, shall be suspended until the examination has taken place without any obstruction.

#### PART IV.—ALLOWANCES IN RESPECT OF DETENTION.

Grant of  
allowances  
in respect  
of detention.

**34.** Where any Australian mariner, not being a pilot, suffers detention by reason of his employment as an Australian mariner or, being a pilot, suffers detention by reason of his employment on pilot duty, the Commonwealth shall, subject to this Act, pay a detention allowance in accordance with this Part.

Claim for  
detention  
allowance.

**35.**—(1.) A claimant for a detention allowance shall forward the claim in accordance with the prescribed form, or a form approved by the Commission, to the Registrar for Seamen's Pensions in, or the Deputy Commissioner for Repatriation for, the State in which the claimant resides, and within the time (if any) prescribed.

(2.) Unless the Commission otherwise directs, a detention allowance shall not be granted in respect of a claim which is not made and delivered in accordance with the last preceding sub-section.

- 36.—(1.) The amount of detention allowance payable shall be— Amount of detention allowance.
- (a) in respect of a period of detention or any part thereof during which the detained person has a dependent wife—the amount per fortnight specified in sub-column (i) of column 2 of the Sixth Schedule ;
  - (b) in respect of a period of detention or any part thereof during which the detained person has no dependent wife but has other dependants (not being his children)—the amount per fortnight specified in sub-column (i) of column 3 of the Sixth Schedule ; and
  - (c) in respect of a period of detention or any part thereof during which the detained person has either no dependants or no dependants other than his children—the amount per fortnight specified in sub-column (i) of column 3 of the Sixth Schedule,

opposite the rate of pay per day specified in column 1 of that Schedule which corresponds to the rate of pay per day of the detained person.

(2.) For the purposes of the last preceding sub-section, the Commission may determine that the separated wife or *de facto* wife of an Australian mariner shall be deemed to be his wife in which case any reference to “ wife ” in that sub-section shall be read as a reference to the separated wife or *de facto* wife, as the case may be.

37.—(1.) That portion of the detention allowance specified in sub-column (ii) of column 2, 3 or 4 of the Sixth Schedule opposite the total amount of the detention allowance shall be paid to the detained person or his personal representative after the end of the period in respect of which, or part of which, that detention allowance is granted. Application of reserved parts.

(2.) The whole or any part of that portion of the detention allowance specified in sub-column (iii) of column 2, 3 or 4 of the Sixth Schedule opposite the total amount of the detention allowance shall be—

- (a) expended for the personal benefit of the detained person ;
- (b) paid or expended to or for the benefit of the wife, separated wife, *de facto* wife or other dependants (if any) of the detained person or any of them ; or
- (c) paid to the detained person or his personal representative after the end of the period in respect of which, or part of which, the detention allowance is granted,

as the Commission directs.

38.—(1.) The whole or any part of that portion of the detention allowance specified in sub-column (iv) of column 2 or 3 of the Sixth Schedule opposite the total amount of the detention allowance (which portion is in this Act referred to as the available part) may, during the period in respect of which that detention allowance is Payment of available part.

granted, be paid to the wife, separated wife, *de facto* wife or other dependants of the detained person (not being his children) or any of them, as the Commission directs :

Provided that the payments out of the available part to a dependant, other than the wife, separated wife, *de facto* wife or child of the detained person, shall not exceed—

- (a) if the dependant is not under the age of sixteen years—  
Two pounds per fortnight ; or
- (b) if the dependant is under the age of sixteen years—  
Fifteen shillings per fortnight.

(2.) So much of the available part of a detention allowance (if any) as is not paid under the last preceding sub-section may, during the period in respect of which the detention allowance is granted, or during any subsequent period during the detention of the detained person, be applied for the benefit of the detained person to such extent and in such manner as the Commission directs.

Application of  
balance of  
available part.

**39.**—(1.) If at the end of a period of detention the available part of a detention allowance granted in respect of that period or any part thereof has not been wholly paid or applied in accordance with the last preceding section, the Commission may direct the whole or such part of the balance as it thinks fit to be paid to the detained person or his personal representative and that balance or part shall be paid accordingly.

(2.) In giving any direction under the last preceding sub-section the Commission shall, so far as possible, ensure that the detained person, in respect of any period during which the available part was not wholly paid or applied, shall not be in a worse position than if throughout that period he had been a detained person with no dependants or with dependent children only.

Detention  
allowances  
in respect  
of children.

**40.**—(1.) Where the detained person has dependent children there may be granted to each of those children, in addition to any other detention allowance prescribed by this Part, a detention allowance at a rate not exceeding Fifteen shillings per fortnight.

(2.) Where a person under the age of twenty-one years is a child in respect of whom a detention allowance might have been granted under the last preceding sub-section if he had not attained the age of sixteen years and the Commission is satisfied—

- (a) that his pecuniary circumstances or those of his family are such that a detention allowance in respect of that person ought to be granted or continued ; and
- (b) that he is incapable of supporting himself by reason of an infirmity from which he has been suffering since a date prior to that on which he attained the age of sixteen years,



the Commission may grant or continue a grant of a detention allowance in respect of that person at the same rate as would have been applicable if he had not attained the age of sixteen years, but in no case shall any such detention allowance continue after the person attains the age of twenty-one years.

41.—(1.) Without prejudice to any other provision of this Act, any detention allowance granted to a child of the detained person may, in the discretion of the Commission, be paid to a parent or guardian of that child, or to the child, or the whole or any part may be paid to such person as the Commission thinks fit to be used for the benefit or education of the child.

Payment of allowances for children.

(2.) A receipt given by any parent, guardian or child, or person to whom the allowance is paid for the benefit or education of the child, for any amount paid to him by the Commission under this section, shall be a good and sufficient discharge to the Commission in respect of that amount.

42. The aggregate of any detention allowances granted under the foregoing provisions of this Part in respect of any fortnight shall not in any case exceed the rate of pay per fortnight of the detained person in respect of whose detention the allowances are granted.

Detention allowances not to exceed rate of pay.

43. Notwithstanding anything contained in the foregoing provisions of this Part—

General provisions relating to detention allowances.

- (a) a detention allowance shall not be granted in respect of any period of detention of a detained person which, in the opinion of the Commission or a Pensions Committee, is or was due to the serious negligence or serious misconduct of that person ;
- (b) where the Commission is satisfied that, in respect of or in connexion with the period of detention, any amount has been paid or will become payable to the detained person, his wife, separated wife, *de facto* wife, child or other dependant by way of, or in lieu of, the salary or wages of the detained person, or in fulfilment of any contract of service entered into by that detained person, there may be deducted from any detention allowance otherwise payable under this Part such amount as the Commission, having regard to all the circumstances of the case, thinks fit ; and
- (c) until the Commission is satisfied that any period of detention has come to an end, it may continue to make any payment which it is authorized to make under this Part in respect of that detention, but if any overpayment thereby occurs the Commission may deduct the amount of the overpayment from any reserved part of the detention allowance or from any other amount which is



or becomes payable under this Act in respect of the person in respect of whose detention the overpayment was made.

Other disability allowances to be taken into account.

44. Notwithstanding anything contained in this Part, where the Commission is satisfied that, in respect of any period in respect of which a detention allowance is or may be payable, any person has received or is entitled to receive some other allowance, whether under this Act or otherwise, out of the public funds of the Commonwealth or of a State or of a Territory of the Commonwealth—

- (a) in respect of the wife, separated wife, *de facto* wife, child or other dependant of the detained person as part of any grant or award made in respect of the incapacity of the detained person ; or
- (b) to the wife, separated wife, *de facto* wife, child or other dependant of the detained person in respect of any disablement or invalidity of that wife, separated wife, *de facto* wife, child or other dependant,

it may deduct the whole or such part of that other allowance as it thinks fit from any detention allowance which otherwise would or might be payable under this Part in respect of the same period :

Provided that the amount so deducted shall not be such as would reduce the total amount of detention allowance in respect of that period below the total amount which might have been granted if the detained person had no dependants or no dependants other than children.

#### PART V.—COMPENSATION FOR WAR DAMAGE TO EFFECTS.

Grant of compensation for war damage to effects.

45. Subject to this Act, the Commonwealth may pay to any Australian mariner, not being a pilot, whose effects suffer war damage during his employment as an Australian mariner or, being a pilot, whose effects suffer war damage during his employment on pilot duty, an amount of compensation based—

- (a) in the case of the loss of effects—on the value of the effects at the time of their loss ; or
- (b) in the case of damage to effects—on the amount by which the value of the effects at the time of the damage was depreciated as a result of the damage,

but not in any case exceeding—

- (i) the maximum amount specified in the Seventh Schedule ; or
- (ii) where the Australian mariner has received, or is entitled to receive, any other payment out of the public funds of the Commonwealth or of a State or of a Territory of the Commonwealth by way of compensation for the loss of or damage to his effects or for the replacement of any or all of those effects—the amount by which that other

payment falls short of the amount which would be payable under this Part but for that other payment, whichever is the lesser amount.

46.—(1.) An Australian mariner making a claim for compensation under this Part shall, within one year after the date on which the war damage occurred, forward to a Superintendent a claim in accordance with the Form in the Eighth Schedule.

Claim for compensation.

(2.) Unless the Minister otherwise directs, compensation shall not be paid in respect of a claim which is not made and delivered in accordance with the last preceding sub-section.

47.—(1.) If a Superintendent is satisfied that the Australian mariner—

Advance in necessitous cases.

- (a) has lost the whole or a substantial part of his effects as a result of war damage and is entitled to compensation under this Part in respect of that loss ; and
- (b) is unable because of his financial position immediately to purchase the necessary replacements,

the Superintendent may, in his discretion, advance to the Australian mariner in order to enable him to purchase the necessary replacements such amount, not exceeding Ten pounds, as the Superintendent thinks fit.

(2.) Any amount advanced to an Australian mariner under the last preceding sub-section shall be as on account of the compensation payable by the Commonwealth and shall be deducted from the amount of compensation to which he would, but for the advance, be entitled under this Part.

48.—(1.) In the event of the death of an Australian mariner who, but for his death, might have made a claim for compensation under this Part, a claim may be made—

Payment of compensation to estate of deceased Australian mariner.

- (a) by his legal personal representative ; or
- (b) where the amount of compensation claimed, together with the value of other property in the hands of the Minister administering the *Navigation Act* 1912-1935 by virtue of the provisions of that Act relating to the property of deceased seamen, does not exceed One hundred pounds—by any person who is proved to the satisfaction of the Minister to be—
  - (i) the widow or child of the deceased Australian mariner ;
  - (ii) the person legally entitled to the personalty of the deceased Australian mariner ; or
  - (iii) the person entitled to take out representation although no representation has been taken out.

(2.) If more than one person is enabled by the last preceding sub-section to make a claim for compensation the Minister may determine which of those persons may make the claim.

(3.) Where any amount of compensation is granted in consequence of a claim made in pursuance of this section, that amount shall be paid to the estate of the deceased Australian mariner and shall be deemed to be property in the hands of the Minister administering the *Navigation Act 1912-1935* within the meaning of section one hundred and fifty-six of that Act and may be disposed of by that Minister in accordance with the provisions of that section.

#### PART VI.—MISCELLANEOUS.

Pensions, &c.  
to be  
inalienable.

**49.**—(1.) Any pension, allowance, gratuity or compensation payable under this Act shall be absolutely inalienable whether by way of or in consequence of sale, assignment, charge, execution, insolvency or otherwise howsoever.

(2.) A person shall not advance money or goods, or offer or promise to advance money or goods, to any person in receipt of or having a claim to receive any pension, allowance, gratuity or compensation, or to any person on his behalf, on the security (whether sole or collateral) of his pension, allowance, gratuity or compensation, or of any instalment thereof, and shall not purport to accept any transfer or assignment, or to create any charge on, any pension, allowance, gratuity or compensation or any instalment thereof.

(3.) A person shall not obtain an advance of money or goods upon the security of, or purport to transfer or assign, or create any charge on, his pension, allowance, gratuity or compensation, or any instalment thereof.

Penalty : Twenty-five pounds.

Provisional  
grant of  
pensions or  
allowances.

**50.**—(1.) A grant of pension or allowance under this Act may be made provisionally for such period and at such rates (not exceeding the period or rate authorized by this Act) as the Commission thinks fit.

(2.) Except in cases where the disablement of an Australian mariner has reached its final condition, the grant of any pension in respect of incapacity consequent on that disablement shall be provisional and subject to review from time to time until a permanent assessment can be made or the grant ceases.

Pension or  
allowance  
granted on  
appeal or  
re-application.

**51.** Where a claim for pension or allowance has been made under Part III. or Part IV. of this Act and has been rejected and, upon a subsequent application or upon appeal to the Commission, a pension or allowance is granted to the claimant, the pension or allowance shall not be payable in respect of any period prior to the period of three months immediately preceding the date of the application or appeal upon which the pension or allowance is granted.

**52.**—(1.) Where a pension or allowance has been cancelled and the person concerned, upon an application for re-instatement of his pension or allowance, is again granted a pension or allowance payment of the pension or allowance so granted shall not be made in respect of any period prior to the date of the commencement of the period of three months immediately preceding the date on which the application for re-instatement was made.

Re-grant of cancelled or relinquished pension or allowance.

(2.) Where a pension or allowance has been voluntarily relinquished, either wholly or in part, and the person concerned applies for the re-instatement of the pension or allowance or part thereof so relinquished, the pension or allowance or part thereof shall, subject to this Act, be re-instated, but the re-instatement shall not operate in respect of any period prior to the date of the commencement of the period of three months immediately preceding the date on which the application for re-instatement was made.

**53.** Where under this Act a pension or allowance may be granted to, for, or in respect of, a person only if some condition or requirement is fulfilled or complied with, a grant so made shall, unless the Commission otherwise determines, cease to have effect if and when that condition or requirement ceases to be fulfilled or complied with.

Conditions of grant to be fulfilled.

**54.**—(1.) When the Commission or a Deputy Commissioner for Repatriation considers it desirable so to do in the interests of the person to, for, or in respect of whom any pension, allowance or gratuity is payable under this Act, the Commission or Deputy Commissioner may administer that pension, allowance or gratuity in such manner as appears to it or him to be in the best interests of that person or may appoint a trustee of that pension, allowance or gratuity and pay the pension, allowance or gratuity to him to be administered by him for the benefit of that person, and a receipt given by the trustee for any amount of pension, allowance or gratuity shall be a good and sufficient discharge to the Commission in respect of that amount.

Administration of pensions, &c.

(2.) Subject to any directions of the Commission or Deputy Commissioner, a trustee so appointed shall collect and disburse the pension, allowance or gratuity for the person to, for, or in respect of whom the pension, allowance or gratuity is payable.

**55.**—(1.) If it appears to the Commission that by reason of any mis-statement or mistake of fact, or of any change in circumstances, or for any other reason whatsoever, it is expedient so to do the Commission may at any time review any grant of pension, allowance, gratuity or compensation made under this Act, and may vary or may cancel that grant and either make or refrain from making a new grant :

Commission may review pensions, &c.



Provided that no such pension, allowance, gratuity or compensation shall be increased to a rate or amount exceeding the rate or amount authorized by this Act.

(2.) Where any person in receipt of or entitled to receive any pension, allowance, gratuity or compensation under this Act refuses or fails to attend at the time and place fixed by the Commission for any review, or impedes or hinders the review, the Commission may cancel the pension, allowance, gratuity or compensation.

(3.) On the cancellation under the last preceding sub-section of a pension or allowance to an Australian mariner, any pensions or allowances payable to his dependants shall not be continued for more than twelve months from the date fixed for the review :

Provided that if the Commission is satisfied that the incapacity of the Australian mariner in respect of which a pension has been granted is of a permanent nature, it may continue any pension, or any part thereof, to a dependant for such period as it thinks proper.

Payments to  
be made from  
moneys  
appropriated.

**56.** Pensions, allowances, gratuities and amounts of compensation granted in pursuance of this Act shall be payable out of moneys from time to time appropriated by the Parliament for the purpose.

Delegation of  
powers by  
Minister or the  
Commission.

**57.—(1.)** In relation to any matters or class of matters, or in relation to any particular State or Territory of the Commonwealth or any part of a State or Territory of the Commonwealth, the Minister or the Commission may, by writing under his hand or its seal, delegate all or any of his or its powers and functions under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matters or class of matters or the State or Territory of the Commonwealth, or part of the State or Territory of the Commonwealth, specified in the instrument of delegation.

(2.) Where under this Act the exercise of any power or function by the Minister or the Commission is dependent upon the opinion, belief or state of mind of the Minister or the Commission in relation to any matter, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of that delegate.

(3.) A delegation under this section shall not prevent the exercise of any power or function under this Act by the Minister or by the Commission, as the case may be.

Offences.

**58.—(1.)** Any person who—

(a) makes, either orally or in writing, a false or misleading statement in, or in connexion with, or in support of, any application for pension, allowance or gratuity, or in any claim for compensation, either for himself or for any other person ;



- (b) obtains any pension, allowance, gratuity or compensation or any instalment thereof which is not payable ;
- (c) obtains payment of any pension, allowance, gratuity or compensation or any instalment thereof by means of any false or misleading statement ; or
- (d) makes or presents to the Commission, a Pensions Committee or to any officer doing duty in relation to this Act or the Regulations, any statement or document which is false in any particular,

shall be guilty of an offence.

Penalty : Fifty pounds or imprisonment for six months.

(2.) Any person convicted of an offence against this section may, in addition to the penalty imposed for the offence, be ordered to repay to the Commonwealth any amount received by him by way of pension, allowance, gratuity or compensation in consequence of the act in respect of which he was convicted.

(3.) In any proceedings for an offence against this section the burden of proving the truth of the statement in respect of which the proceedings have been instituted, or the genuineness of the document presented, shall rest on the person accused.

(4.) Proceedings under this section may be taken before a Court of summary jurisdiction, and may be commenced at any time within three years after the commission of the offence.

**59.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, but without limiting the generality of the foregoing, prescribing—

- (a) the manner and form of any claim for a pension, allowance, gratuity or compensation, the person by whom and to whom and the time within which such claims shall be made and the information and evidence which may be required and accepted in connexion with any such claim ;
- (b) the manner and form in which, and the person or class of persons by whom, any certificate relating to the death or incapacity of any person is to be given for the purposes of this Act ;
- (c) the general conditions governing the grant and administration of pensions, allowances, gratuities and compensation under this Act to Australian mariners and their dependants ;
- (d) the manner in which any pension, allowance, gratuity or compensation may be paid or applied ; and
- (e) penalties not exceeding Twenty-five pounds or imprisonment for three months for any breach of the Regulations.

## THE SCHEDULES.

## FIRST SCHEDULE.

Amended by  
No. 77, 1946,  
s. 11.

Section 18.

## GENERAL PENSIONS RATES—DEATH OR TOTAL INCAPACITY.

Column 1.	Column 2.	Column 3.	Column 4.
Rate of Pay per Day of the Australian Mariner.	Pension to Widow on death of Australian Mariner.	Total of Pensions to Dependants, other than children (when no Pension payable to Widow, Separated Widow or <i>de facto</i> Wife) on death of Australian Mariner.	Pension to Australian Mariner, upon Total Incapacity.
<i>s. d.</i>	£ <i>s. d.</i> per fortnight.	£ <i>s. d.</i> per fortnight.	£ <i>s. d.</i> per fortnight.
6 0 or under ..	2 7 0	4 4 0	4 4 0
7 0 .. .. .	2 7 0	4 4 0	
9 0 .. .. .	2 9 0	4 4 0	
10 0 .. .. .	2 12 3	4 4 0	
10 6 .. .. .	2 13 9	4 4 0	
11 6 .. .. .	2 16 0	4 4 0	
12 0 .. .. .	2 17 3	4 4 0	
13 0 .. .. .	2 19 6	4 4 0	4 5 0
17 6 .. .. .	3 10 0	4 4 0	
22 6 .. .. .	3 17 6	4 4 0	
26 9 .. .. .	4 4 0	4 4 0	
30 0 .. .. .	4 9 0	4 9 0	
37 6 .. .. .	5 0 9	5 0 9	
45 0 .. .. .	5 12 3	5 12 3	
50 0 or over ..	6 0 0	6 0 0	6 0 0

## SECOND SCHEDULE.

Section 21.

## ALLOWANCE FOR ATTENDANT.

Column 1.	Column 2.
Description of Disability.	Fortnightly Allowance for Attendant.
Blind or with eyesight so defective as to have no useful sight	40s.
An injury affecting the cerebro-spinal system or causing incapacity similar in effect and severity .. .. .	40s.
Loss of two arms .. .. .	80s.
Loss of two legs and one arm .. .. .	40s.
Loss of one leg at the hip and of the other either at the hip or in the upper third .. .. .	40s.

## THIRD SCHEDULE.

Section 22.

## PERMANENT PENSIONS FOR SPECIFIED MAJOR INJURIES.

Column 1.	Column 2.
Description of Disability.	Rate of Permanent Pension payable, being percentage of rate prescribed for totally incapacitated Australian Mariner.
	Per centum.
Loss of two or more limbs .. .. .	100
Loss of both eyes .. .. .	100
Loss of one eye, together with loss of leg, foot, hand or arm .. .. .	100
Loss of both feet .. .. .	100
Loss of both hands .. .. .	100
Loss of hand and foot .. .. .	100
Loss of all fingers and thumbs .. .. .	100
Lunacy .. .. .	100
Wounds, injuries or disease, involving total permanent disabling effects .. .. .	100
Very severe facial disfigurement .. .. .	100
Loss of leg at hip, or of right arm at shoulder joint (if right handed), or of left arm at shoulder joint (if left handed) .. .. .	100 for first six months ; 80 thereafter
Severe facial disfigurement .. .. .	80
Total loss of speech .. .. .	80
Loss of leg or foot .. .. .	100 for first six months ; 75 thereafter
Loss of arm or hand .. .. .	100 for first six months ; 75 thereafter
Total deafness .. .. .	70
Loss of one eye .. .. .	50

## FOURTH SCHEDULE.

Section 23 (1.).

## RATES OF PENSION IN RESPECT OF PARTIAL INCAPACITY.

Column 1.	Column 2.
Degree of Incapacity.	Percentage of Rate prescribed for Total Incapacity payable in respect of the Partial Incapacity.
Not less than 90 per centum .. .. .	90
Less than 90 per centum but not less than 80 per centum .. .. .	80
Less than 80 per centum but not less than 70 per centum .. .. .	70
Less than 70 per centum but not less than 60 per centum .. .. .	60
Less than 60 per centum but not less than 50 per centum .. .. .	50
Less than 50 per centum but not less than 40 per centum .. .. .	40
Less than 40 per centum but not less than 30 per centum .. .. .	30
Less than 30 per centum but not less than 20 per centum .. .. .	20
Less than 20 per centum .. .. .	The same percentage as the degree of incapacity

## FIFTH SCHEDULE.

## Section 23 (2.).

GRATUITIES PAYABLE TO AN AUSTRALIAN MARINER IN RESPECT OF SPECIFIED MINOR WAR INJURIES, INVOLVING LESS THAN 20 PER CENTUM OF TOTAL INCAPACITY.

Column 1.	Column 2.
For the loss of—	Amount of Gratuity.
	£ s.
1. Left thumb, terminal phalanx .. .. .	112 10
2. Fingers—	
Right index finger—	
Whole .. .. .	150 0
2 phalanges .. .. .	125 0
1 phalanx .. .. .	100 0
Tip and nail, no bone .. .. .	60 0
Left index finger—	
Whole .. .. .	100 0
2 phalanges .. .. .	80 0
1 phalanx .. .. .	60 0
Tip and nail, no bone .. .. .	50 0
Right or left middle finger—	
Whole .. .. .	80 0
2 phalanges .. .. .	60 0
1 phalanx .. .. .	50 0
Tip and nail, no bone .. .. .	40 0
Right or left ring or little finger—	
Whole .. .. .	50 0
2 phalanges .. .. .	40 0
1 phalanx .. .. .	30 0
Tip and nail, no bone .. .. .	20 0
3. Toes (whether from left or right foot)—	
Whole of great toe .. .. .	100 0
1 joint of great toe .. .. .	40 0
Other than great toes—	
Whole of 1 toe .. .. .	40 0
Whole of 2 toes from one foot .. .. .	60 0
Whole of 3 toes from one foot .. .. .	70 0
Whole of 4 toes from one foot .. .. .	100 0
1 joint of one toe .. .. .	20 0
1 joint from each of two toes of one foot .. .. .	30 0
1 joint from each of three toes of one foot .. .. .	35 0
1 joint from each of four toes of one foot .. .. .	40 0
4. Ear (hearing not affected) .. .. .	80 0

Sections 36-38.

# SIXTH SCHEDULE.

## DETENTION ALLOWANCES.

Column 1.				Column 2.				Column 3.				Column 4.			
Rate of Pay per Day of Detained Person.				Fortnightly Allowance payable in respect of Detained Person having a Dependent Wife.				Fortnightly Allowance payable in respect of Detained Person without Dependent Wife, but having other Dependants (not being children).				Fortnightly Allowance payable in respect of Detained Person without Dependants or with Children only.			
				Total Amount of Allowance. (i)	Amounts of Reserved Parts.		Amount of Available Part. (iv)	Total Amount of Allowance. (i)	Amounts of Reserved Parts.		Amount of Available Part. (iv)	Total Amount of Allowance. (i)	Amounts of Reserved Parts.		
					(ii)	(iii)			(ii)	(iii)			(ii)	(iii)	
				£ s. d.	s. d.	s. d.	£ s. d.	£ s. d.	s. d.	s. d.	£ s. d.	£ s. d.	s. d.	s. d.	
6 0 and under .. ..				5 4 0	10 0	10 0	4 4 0	4 14 0	10 0	40 0	2 4 0	2 10 0	10 0	40 0	
Exceeding 6 0 but not exceeding 7 6 ..				5 6 10	10 6	10 6	4 5 10	4 16 4	10 6	40 6	2 5 4	2 11 0	10 2	40 10	
" 7 6 " " " 9 0 ..				5 9 7	11 0	11 0	4 7 7	4 18 7	11 0	41 0	2 6 7	2 12 0	10 5	41 7	
" 9 0 " " " 10 6 ..				5 12 5	11 6	11 6	4 9 5	5 0 11	11 6	41 6	2 7 11	2 13 0	10 7	42 5	
" 10 6 " " " 12 6 ..				5 15 2	12 0	12 0	4 11 2	5 3 2	12 0	42 0	2 9 2	2 14 0	10 10	43 2	
" 12 6 " " " 15 0 ..				5 18 0	12 6	12 6	4 13 2	5 5 6	12 6	42 6	2 10 6	2 15 0	11 0	44 0	
" 15 0 " " " 17 6 ..				6 0 10	13 0	13 0	4 14 10	5 7 10	13 0	43 0	2 11 10	2 16 0	11 2	44 10	
" 17 6 " " " 20 0 ..				6 3 7	13 6	13 6	4 16 7	5 10 1	13 6	43 6	2 13 1	2 17 0	11 5	45 7	
" 20 0 " " " 22 6 ..				6 6 5	14 0	14 0	4 18 5	5 12 5	14 0	44 0	2 14 5	2 18 0	11 7	46 5	
" 22 6 " " " 25 0 ..				6 9 2	14 6	14 6	5 0 2	5 14 8	14 6	44 6	2 15 8	2 19 0	11 10	47 2	
" 25 0 " " " 27 6 ..				6 12 0	15 0	15 0	5 2 0	5 17 0	15 0	45 0	2 17 0	3 0 0	12 0	48 0	
" 27 6 " " " 30 0 ..				6 14 10	15 6	15 6	5 3 10	5 19 4	15 6	45 6	2 18 4	3 1 0	12 2	48 10	
" 30 0 " " " 32 6 ..				6 17 7	16 0	16 0	5 5 7	6 1 7	16 0	46 0	2 19 7	3 2 0	12 5	49 7	
" 32 6 " " " 35 0 ..				7 0 5	16 6	16 6	5 7 5	6 3 11	16 6	46 6	3 0 11	3 3 0	12 7	50 5	
" 35 0 " " " 37 6 ..				7 3 2	17 0	17 0	5 9 2	6 6 2	17 0	47 0	3 2 2	3 4 0	12 10	51 2	
" 37 6 " " " 40 0 ..				7 6 0	17 6	17 6	5 11 0	6 8 6	17 6	47 6	3 3 6	3 5 0	13 0	52 0	
" 40 0 " " " 42 6 ..				7 8 10	18 0	18 0	5 12 10	6 10 10	18 0	48 0	3 4 10	3 6 0	13 2	52 10	
" 42 6 " " " 45 0 ..				7 11 7	18 6	18 6	5 14 7	6 13 1	18 6	48 6	3 6 1	3 7 0	13 5	53 7	
" 45 0 " " " 47 6 ..				7 14 5	19 0	19 0	5 16 5	6 15 5	19 0	49 0	3 7 5	3 8 0	13 7	54 5	
" 47 6 " " " 50 0 ..				7 17 2	19 6	19 6	5 18 2	6 17 8	19 6	49 6	3 8 8	3 9 0	13 10	55 2	
Exceeding 50 0 .. ..				8 0 0	20 0	20 0	6 0 0	7 0 0	20 0	50 0	3 10 0	3 10 0	14 0	56 0	



Amended by  
No. 77, 1946,  
s. 11.

## SEVENTH SCHEDULE.

## Section 45.

MAXIMUM AMOUNT OF COMPENSATION PAYABLE TO AN AUSTRALIAN MARINER IN  
RESPECT OF DAMAGE TO, OR LOSS OF, HIS EFFECTS BY WAR DAMAGE.

Column 1.	Column 2.
Rank or Rating.	Maximum Amount Payable.
	£ s. d.
Master .. .. .	133 6 8
Chief Engineer .. .. .	100 0 0
Other Certificated Officers, Surgeons, Pursers .. .. .	66 13 4
Uncertificated Officers, Pilots, Wireless Operators, Chief Stewards (Passenger Ships) and Apprentices .. .. .	53 6 8
Carpenters, in respect of—	
(i) tools .. .. £26 13 4 }	53 6 8
(ii) other effects .. .. £26 13 4 }	53 6 8
All other Ratings .. .. .	26 13 4

## EIGHTH SCHEDULE.

## Section 46.

(Front of Form.)

COMMONWEALTH OF AUSTRALIA.

Seamen's War Pensions and Allowances Act 1940.

CLAIM FOR COMPENSATION FOR WAR DAMAGE TO SEAMAN'S EFFECTS.

1. Name of Applicant	Surname (in block letters) _____ Christian Names (in full) _____
2. Postal Address	_____ _____ _____
3. Age and Place of Birth . . . .	Age _____ Place of Birth _____
4. Ship in which serving when Loss or Damage occurred	Name _____ Port of Registry _____ Owners _____
5. Rank or Rating and Wages	Rank or Rating _____ Wages, per month _____
6. Place and Date of Engage- ment	Place _____ Date _____
7. Whether Claim is for Total Loss, Partial Loss, or Damage	_____ _____ _____
8. Date and Place of Occurrence	_____ _____
9. Cause of Loss or Damage ..	_____
10. Particulars of Effects lost or damaged	(See back.)
11. Amount of Compensation claimed	Loss £ : :      Damage £ : :
12. Whether entitled to Com- pensation from any other source. (If so, give parti- culars.)	_____ _____ _____

## DECLARATION BY APPLICANT.

I declare that, to the best of my knowledge and belief, the above particulars, as also the particulars as to Effects lost or damaged and their values, set out on the back hereof, are true and correct in every particular.

Signature of Applicant \_\_\_\_\_

Declared before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 194 \_\_\_\_\_

\_\_\_\_\_  
*Commissioner for Declarations.*

## CERTIFICATE BY OWNER OR MASTER OF SHIP.

I certify that the above-named Applicant was employed in the above-mentioned Ship in the Rank specified, and that his Effects were <sup>lost</sup> ~~damaged~~ at the time and place and from the cause set out.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Capacity in which signed \_\_\_\_\_

(Back of Form.)

Item No.	Particulars of Effects Lost or Damaged.					For Office Use Only.	
	Articles Lost or Damaged (describe fully).	Original Cost.	Date of Purchase.	Whether Lost or Damaged. If latter, give Nature and Extent.	Compensation Claimed.	Remarks.	£ s. d.
1		£ s. d.			£ s. d.		
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
Total	£		Total	£			

NOTE.—Care should be taken that the particulars required above are furnished accurately and in detail, in order that delay in settlement of the claim may be avoided. If actual date of purchase cannot be stated, give approximate date, e.g., "About September, 1938."