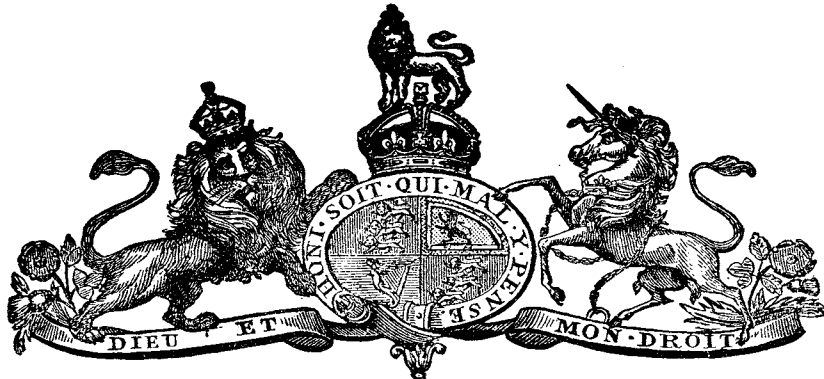


TASMANIA.



1932.

ANNO VICESIMO TERTIO

GEORGII V. REGIS.

No. 28.

ANALYSIS.

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AN ACT to impose a Tax on Retailers of Liquor. A.D. 1932.
[23 December, 1932.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1**—(1) This Act may be cited as “The Liquor Tax Act, 1932.” Short title.
 (2) This Act shall be incorporated and read as one with the Licensing Act, 1932, which is herein called “the Principal Act.”
- 2** The enactments enumerated in the schedule are hereby repealed. Repeal.

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Interpretation.

3 In this Act, unless the contrary intention appears—

“Collector” means the Collector of Liquor Tax appointed by this Act :

“Deputy-Collector” means the Deputy-Collector of Liquor Tax appointed under this Act :

“Licence” means a licence or other authority granted under the Principal Act for the sale of liquor by the grantee :

“Publican” means the holder of a licence in respect of an hotel, a public-house, or a railway refreshment-room :

“Retailer of liquor” means the holder of any licence, other than a wholesale licence or an importer’s licence, and a registered club within the meaning of the Licensing Act, 1932.

Under Treasurer
to be Collector
of Liquor Tax.**4** The collection and recovery of the tax imposed by this Act shall be under the control, direction, and management of the Under Treasurer, who for the purposes of this Act is hereby appointed and styled “The Collector of Liquor Tax.”Appointment of
officers.
13 Geo. V. No.
25.**5**—(1) Subject to the provisions of the Public Service Act, 1923, the Governor may appoint a Deputy-Collector of Liquor Tax.

(2) The Collector may from time to time, by writing under his hand, delegate to the Deputy-Collector all or any of his powers and functions under this Act (except this power of delegation).

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

(4) The Treasurer may assign to any officer in the Treasury Department such duties and functions under this Act as he thinks fit.

Duties and
obligations of
officers.**6**—(1) The Collector, the Deputy-Collector, and all officers to whom any duties or functions are assigned by the Treasurer under this Act shall be bound to secrecy by statutory declaration in the prescribed form.

(2) The Collector may furnish to the Commissioner of Taxes any information obtained by him in the exercise of his duties under this Act, and it shall be lawful for the Commissioner of Taxes to furnish to the Collector any information obtained by him in the exercise of his duties under the Land and Income Taxation Act, 1910, in relation to any retailer of liquor, and the provisions of Section Twelve of that Act shall not apply to any information so furnished.

(3) The Collector shall cause a record to be kept of the amount of liquor tax paid in each case in respect of premises licensed under the Licensing Act, 1932, and information as to such amounts may be given to such persons in such cases, and upon payment of such fees, as may be prescribed.

(4) No person shall divulge any information acquired by him in the exercise of his duties under this Act, except in the performance of such duties, unless he is expressly authorised by or under this Act so to do.

Penalty: Fifty Pounds or three months’ imprisonment.

Liquor Tax.

7—(1) Every retailer of liquor, on or before the thirtieth days of January, April, July, and October respectively in every year, shall lodge with the Collector a return in the prescribed form setting forth particulars of all liquor purchased by him or on his behalf and delivered—

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Returns by
retailers of liquor.

- i. In the case of a publican, for or upon any premises in respect of which he was the holder of a licence, or any premises or place upon or at which he was authorised to sell liquor:
- ii. In the case of the holder of a packet licence, for or upon any vessel in respect of which a packet licence was held by him:
and
- iii. In the case of a registered club, for or upon any premises occupied by the club—

at any time during the period of three months immediately preceding the month in which the return is required to be lodged.

(2) Every such return shall set forth the names and addresses of every person from whom any such liquor was purchased, and the gross amount, including any duty thereon, paid or payable by such retailer to each such person.

(3) If any retailer of liquor shall transfer his licence in respect of any premises to any other person, or from any cause, other than death, shall cease to carry on business in or upon such premises, he shall, within seven days after such cessation, lodge with the Collector in respect of the period between the beginning of the then current quarter and the time of such cessation a like return to that prescribed by Subsection (1) hereof.

(4) In the event of the death of any retailer of liquor, the person to whom a permission to continue to sell liquor under the licence held by such retailer is granted shall, within seven days after receiving such permission, lodge with the Collector in respect of the period between the beginning of the quarter in which such retailer died and the date of such death, a like return to that prescribed by Subsection (1) hereof, and also, if no return has been lodged by the deceased retailer in respect of the immediately preceding quarter, a like return in respect of that quarter.

(5) Any tax paid in respect of any period prior to the death of the retailer by the person lodging a return as provided by Subsection (4) hereof shall be recoverable by such person from the estate of such deceased retailer.

8—(1) There shall be payable and paid to the Collector in aid of the consolidated revenue a tax, at the rate per centum hereinafter provided, upon the gross amount paid or payable for all liquor with respect to which a return as prescribed by Section Seven is required to be lodged.

Imposition of tax
on purchaser of
liquor.

(2) Subject to the provisions of Subsection (4) hereof, such tax shall be payable by the person required to make the return in each case at the time at which the return is required to be lodged as aforesaid.

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(3) The gross amount upon which such tax shall be payable shall not include any charge paid or payable in respect of any liquor included in the return—

- i. In respect of any freight from any port or place in this State to any other port or place in this State : or
- ii. In respect of any special packing of such liquor rendered necessary by any circumstance connected with the delivery thereof, such charge being in addition to the price usually charged for such liquor when not so packed.

(4) Any person on whom the liability to pay any tax under this section is imposed shall be entitled to deduct from the tax, which, but for this provision, would be payable by him, an amount equal to the same proportion of the annual licence fee payable by him under the Principal Act as the period for which the return on which such tax is based bears to a full year ; or an amount equal to such tax whichever is the less.

(5) For the year one thousand nine hundred and thirty-three the rate of tax payable in respect of each gross amount shall be Three Pounds Sixteen Shillings and Six Pence per centum.

Provision for adjustments and remissions.

9—(1) If in any case no return is lodged, as required by Subsection (3) of Section Seven, or if any return so lodged is found to be incorrect, the person lodging such return and the holder of the licence in relation to which the same was lodged shall be severally liable for the payment of any unpaid tax payable in respect of the period for which such return was, or should have been, lodged as the case may be.

(2) Any tax paid by any such holder as aforesaid in respect of the period mentioned in Subsection (1) hereof shall be recoverable by him from the person required to lodge such return as aforesaid or, if such person has died, from the estate of such person as money paid to the use of such person.

(3) The Collector, with the approval of the Treasurer, may remit the whole or any part of any tax payable by any person under this Act if in his opinion it is desirable so to do.

Tax payable though no return delivered.

10—(1) The failure by any person to deliver any return required by this Act, or the omission from any return of any particulars which should be included therein, shall not relieve any person by whom the tax under the Act is payable from liability for such payment.

(2) Notwithstanding any such failure or omission such tax shall be due and payable on the date on which such return is required by this Act to be delivered.

Returns to be signed.

11 Every return required to be delivered by any person to the Collector under this Act shall be signed—

- i. Where such person is a company, by the chief executive officer, manager, or secretary of the company :
- ii. Where such person is a registered club, by the secretary of the club : and
- iii. In any other case, by the person required to deliver the same.

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12—(1) The secretary of every club shall be liable for the payment of the tax payable by such club under this Act, and the same may be recovered, at the option of the Collector, from such secretary or from the governing body of such club. A.D. 1932.

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Recovery of tax payable by club.

(2) Any such secretary who has paid any sum by way of tax under this Act may recover the same in any court of competent jurisdiction from any person who was a member of such club when such tax became payable.

13—(1) Where any person has paid any tax under this Act in respect of any period or has been relieved from payment thereof under the provisions of Subsection (4) of Section Eight, he may deduct from any rent payable by him in respect of the premises in relation to which such tax was imposed a sum equal to five seventeenths of such tax or of so much thereof as related to any period during which he was a tenant of such premises; or may recover such sum in any court of competent jurisdiction from the landlord of such premises. Deduction of proportion of tax from rent.

(2) The sum which may be deducted or recovered as hereinbefore provided shall be calculated on the full amount of tax imposed by Section Eight in respect of the relevant period before any deduction is made therefrom as provided by Subsection (4) of that section.

(3) Any such landlord as aforesaid who is himself a tenant of such premises shall be entitled to deduct from any rent payable by him in respect thereof, or to recover from his landlord, any sum which has been deducted, as provided by Subsection (1) hereof, or which has been recovered from him thereunder.

(4) The foregoing provisions of this section shall have effect notwithstanding any agreement, whenever made, to the contrary.

14—(1) Every holder of a wholesale licence or importer's licence shall, on or before the fifteenth days of January, April, July, and October, respectively in every year, furnish to the Collector a return in the prescribed form, setting forth the name and address of every retailer of liquor to whom such holder sold and delivered any liquor during the period of three months immediately preceding the month in which such return is to be furnished, and the total amount paid or payable by such retailer of liquor therefor. Returns by wholesale dealers.

(2) Such total amount shall include any duty paid or payable in respect of such liquor, but shall be exclusive of any such special charge as is mentioned in Subsection (3) of Section Eight.

15—(1) The Collector, in relation to any matter arising under this Act, by notice in writing, served by post, may require any person, whether liable to the payment of any tax hereunder or not— Powers of Collector.

- I. To furnish him with such information as he may require;
- II. To attend and give evidence before him or before any officer authorised by him in that behalf; and
- III. To produce all books, documents, and other papers whatsoever in his custody or under his control.

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(2) The Collector may require the information or evidence to be given on oath, and either verbally or in writing, and for that purpose he or the officer so authorised by him may administer an oath.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend before the Collector.

(4) The Collector, or any officer authorised by him in that behalf, shall at all times have full and free access to all buildings, places, books, documents, and other papers for any of the purposes of this Act, and may make extracts from or copies of any such books, documents, or papers for any of the purposes aforesaid.

Recovery of tax.

16 The amount of any tax payable under this Act shall be deemed to be a debt due to His Majesty, and may be sued for and recovered under the Crown Remedies Act, 1891; or the Collector, at his option, may sue for and recover the same in any court of competent jurisdiction by action in his official name.

Offences.

17—(1) No person shall—

- i. Fail or neglect to deliver any return or furnish any information, or to comply with any requirement of the Collector, as and when required by this Act or by the Collector: or
- ii. Without just cause shown by him, refuse or neglect to attend and give evidence when required by the Collector, or to answer truly and fully any questions put to him, or to produce any book, document, or paper required of him by the Collector: or
- iii. Deliver a return which is false in any particular, or give any false information or answer, whether verbally or in writing: or
- iv. Obstruct or hinder the Collector, or any person acting under his direction, in the execution of his duties under this Act:

Penalty: Minimum, One Pound; maximum, One hundred Pounds.

(2) If any person convicted under Paragraph i. or Paragraph ii. of Subsection (1) hereof for failure to comply with any requirement of this Act or of the Collector fails, within seven days after such conviction, to comply with such requirement, such continued failure shall constitute a new offence thereunder, and he may be prosecuted accordingly.

(3) Proceedings in respect of an offence against Paragraph i. of Subsection (1) hereof may commence at any time.

(4) It shall be a defence in any proceedings under Paragraph iii. of Subsection (1) hereof to prove that the particulars were delivered or the information given, as the case may be, in good faith and without negligence.

Fraudulent offences.

18—(1) No person shall—

- i. With intent to defraud—

(a) Deliver any return required by this Act which is false in any particular; or

(b) Omit from any return any information or particulars required by this Act to be included therein: or

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ii. By any wilful act, default, or neglect, or by any fraudulent act, contrivance, or device, evade, or attempt to evade, taxation under this Act. A.D. 1932.

Penalty : Minimum, Fifty Pounds; maximum, Five hundred Pounds.

(2) Any person convicted of an offence against this section, in addition to the penalty hereinbefore prescribed, may be ordered to pay an amount not exceeding three times the amount of tax payment whereof he has evaded or attempted to evade.

(3) Proceedings in respect of an offence against this section may be commenced at any time within three years after the commission of such offence.

19 Payment of any penalty, other than a penalty imposed as provided by Subsection (2) of Section Eighteen, shall not relieve any person from payment of any tax payable by him under this Act. Tax payable though penalty imposed.

20 All penalties recovered under this Act shall be paid into and form part of the Consolidated Revenue. Appropriation of penalties.

21 In any proceedings in respect of offences against this Act, or for the recovery of any tax payable thereunder, the allegations contained in any declaration, plaint, or complaint shall be *prima facie* evidence of the matters alleged, except— Procedure.

- i. Any allegation of the intent of the defendant : or
- ii. In proceedings in respect of an offence for which the defendant is punishable by imprisonment.

22 The Governor may make regulations under and for the purposes of this Act. Regulations.

SCHEDULE.

Regnal Year and No.	Title of Act.
14 Geo. V. No. 34	The Liquor Tax Act, 1924
15 Geo. V. No. 15	The Liquor Tax Act, (No. 2), 1924
16 Geo. V. No. 23	The Liquor Tax Act, 1925
17 Geo. V. No. 23 ..	The Liquor Tax Act, 1926
18 Geo. V. No. 43	The Liquor Tax Act, 1927
19 Geo. V. No. 11	The Liquor Tax Act, 1928
20 Geo. V. No. 26	The Liquor Tax Act, 1929
21 Geo. V. No. 62	The Liquor Tax Act, 1930
22 Geo. V. No. 12	The Liquor Tax Act, 1931

