



# Finance (1909-10) Act 1910

## 1910 CHAPTER 8

### PART I

#### DUTIES ON LAND VALUES.

##### *Supplemental.*

#### **35 Exemption for land held by rating authorities.**

- (1) No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority, or any statutory combination representative of two or more local or rating authorities, and any increment value duty in respect of any such land which would have been collected from the authority (whether on the occasion of the transfer on sale of the land, or any interest in the land, or the grant of a lease of the land, or on the periodical occasions provided in this Act) shall, for the purposes of the provisions of this Act as to the collection of increment value duty, be deemed to have been paid.
- (2) For the purposes of this section the expression "rating authority" means any body who have power to raise a rate or administer money raised by a rate; and the expression "rate" means a rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument, requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

#### **36 Deduction from increment value of sum paid to rating authority in respect of increase in value.**

Where in pursuance of any public general or local Act any capital sum or any instalment of a capital sum has been paid to any rating authority in respect of the increased or enhanced value of any land due to any improvements made or other action taken by the authority, the amount of that capital sum or instalment shall be deducted from any increment value of the land for the purposes of the collection of increment

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value duty and from the site value of the land for the purposes of the collection of undeveloped land duty, and from the value of the benefit accruing to the lessor for the purposes of reversion duty, and in the case of increment value duty the duty on the amount deducted shall be deemed to have been paid.

### **37 Special provision for land held for charitable purposes, &c.**

- (1) No reversion duty or undeveloped land duty under this Part of this Act shall be charged in respect of land or any interest in land held by or on behalf of any governing body constituted for charitable purposes while the land is occupied and used by such a body for the purposes of that body, and increment value duty shall not be collected on any periodical occasion in respect of the fee simple of or any interest in any land held for the purposes of such a body, whether it is occupied or used by that body or not, without prejudice, however, to the collection of the duty on any other occasion.

The expression " governing body constituted for charitable purposes " includes any person or body of persons who have the right of holding, or any power of government of, or management over, any property appropriated for charitable purposes (including property appropriated for the purpose of any of the naval or military forces of the Crown), and includes any corporation sole and all universities, colleges, schools, and other institutions for the promotion of literature, science, or art.

- (2) This section shall apply to the fee simple of, or any interest in, any land held by a registered society or by a company within the meaning of the Companies (Consolidation) Act, 1908, or any body of persons incorporated by special Act, if that company or body are by their memorandum or Act precluded from dividing any profit amongst their members, as if the purposes of the society, company, or body of persons were charitable purposes.

In this provision the expression " registered society " means any society or body of persons who are registered, or whose rules are certified or registered, by a registrar of friendly societies in pursuance of any Act of Parliament, and who by their rules make provision for the benefits set out in section eight, subsection one, of the Friendly Societies Act, 1896, and where the contract between the society and the member is of a permanent character.

### **38 Special provision for statutory companies.**

- (1) Neither increment value duty, reversion duty, nor undeveloped land duty shall be charged in respect of any land whilst it is held by a statutory company for the purposes of their undertaking and cannot be appropriated by the company except to those purposes ; but nothing in this provision shall prevent the collection of increment value duty when any such land is sold or ceases to be so held.

This provision shall not be construed so as to exclude from the benefit thereof land held by a statutory company which is intended to be ultimately appropriated for the purpose of works forming or to form part of the company's undertaking, but, pending the carrying out of those works, is used for other purposes.

- (2) The Commissioners shall not require a statutory company to make any returns with respect to any such land for the purpose of the provisions of this Part of this Act as to valuation other than as to the actual cost to the company of the land, and that cost shall, for the purposes of this Part of this Act, be substituted for the original site value of the land.

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- (3) For the purposes of the Lands Clauses Acts, as incorporated with any special Act, the amount (if any) payable by the transferor as increment value duty shall not be treated as part of the costs or expenses of a conveyance of land, and shall not be taken into account in assessing the compensation to be paid to the transferor.
- (4) For the purposes of this section the expression " statutory company " means any railway company, canal company, dock company, water company, or other company who are for the time being authorised under any special Act to construct, work, or carry on any railway, canal, dock, water, or other public under taking, and includes any person or body of persons so authorised ; and the expression " special Act " includes any Provisional Order or order having the force of an Act of Parliament.

### **39 Power to charge duty on land in certain cases.**

- (1) Where the fee simple of any land, or any interest in land, in respect of which increment value duty or reversion duty is charged, is settled land within the meaning of the Settled Land Act, 1882, or is vested in a trustee, and the tenant for life, or persons having the powers of a tenant for life, or the trustee, is the person who is liable to pay any sums on account of either of these duties, he shall be entitled to charge by deed upon the land or interest in land any amount paid by him, or which he may then be or may thereafter become liable to pay, in respect of either of these duties, and the amount of any expenditure which he may have reasonably incurred in connection with the valuation, and the benefit of any such charge, may be transferred in like manner as a mortgage.
- (2) In the case of settled land a deed executed for the purposes of this section shall not take effect until notice thereof has been given to the trustees of the settlement for the purposes of the Settled Land Act, 1882.
- (3) Sections fifty-nine, sixty, and sixty-two of the Settled Land Act, 1882 (which relate to the exercise of powers on behalf of infants and lunatics), shall apply to the exercise of the power under this section in the same manner as they apply to the exercise of the powers of a tenant for life under that Act.
- (4) Where the fee simple of any land, or any interest in land in respect of which increment value duty or reversion duty is charged, is vested in a mortgagee who is liable to pay any sum on account of either of those duties, he shall be entitled to add to his security the sum for which he is so liable, including any costs or expenses properly incurred by him in respect of the payment of the duty.
- (5) In Scotland, where any person, having a limited interest in the land or interest in land in respect of which any duty under this Part of this Act is charged, is the person who is liable to pay any sums on account of the duty, he shall be entitled to charge such land or such interest in land by means of a bond and disposition or bond and assignation in security in his own favour which he is hereby authorised to grant.

### **40 Application of Part I to copyholds.**

The following provisions shall have effect with respect to the application of this Part of this Act to copyholds, including customary freeholds:—

- (1) In the case of copyholds of inheritance, and copyholds held for a life or lives or for years where the tenant has a right of renewal, and customary freeholds—

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- (a) The total and site values of the land shall be ascertained as if the land were freehold land, subject to a deduction of such an amount as is proved to the Commissioners to be equal to the amount which it would cost to enfranchise the land;
  - (b) References to the fee simple of land shall be treated as references to the whole copyhold or customary interest or estate;
  - (c) In the definition of " owner, " a reference to the person entitled to the rents and profits of the land as tenant by copy of court roll or customary tenure shall be substituted for the reference to the person entitled to the rents and profits of the land in virtue of an estate of freehold :
- (2) In the case of copyhold land held for a life or lives, or for years where the tenant has not a right of renewal, this Part of this Act shall have effect as if the land were freehold land and the copyhold interest were a leasehold interest.

#### **41 Definitions.**

In this Part of this Act, unless the context otherwise requires,—

The expression " land " does not include any incorporeal hereditament issuing or granted out of the land ;

The expression " rentcharge " means tithe or tithe rentcharge, or other periodical payment or rendering in lieu of or in the nature of tithe, or any fee farm rent, rent seek, quit rent, chief rent, rent of assize, or any other perpetual rent or annuity granted out of land;

The expression " rent " has the same meaning as in the Conveyancing and Law of Property Act, 1881, and does not include a rentcharge;

The expression " lease " includes an under-lease and an agreement for a lease or under-lease, but does not include a term of years created solely for the purpose of securing money until the term becomes vested in some person free from any equity of redemption ;

The term of a lease shall, where the lease contains an obligation to renew the lease, be deemed to include the period for which the lease may be renewed, and, in the case of a lease for life or lives, shall be deemed to be a number of years equal to the mean expectation of life of the person for whose life the lease is granted, or, in the case of a lease granted for lives, of the youngest of the persons for whose lives the lease is granted, and a lease renewed in pursuance of such an obligation shall not on its renewal be deemed to be determined ;

The expression " interest " in relation to land includes any undivided share in a fee simple in possession and includes a reversion expectant on the determination of a lease, but does not include any other interest in expectancy or an incumbrance as defined by this Act or any fixed charge as defined by this Act or any purely incorporeal hereditament or any leasehold interest under a lease for a term of years not exceeding fourteen years or any tenancy which is, or is deemed to be, subject to statutory conditions under the Land Law (Ireland) Acts;

The expression " incumbrance " includes a mortgage in fee or for a less estate, and a trust for securing money, and a lien, and a charge of a portion, annuity, or any capital or annual sum, but does not include a fixed charge' as defined by this Act;

The expression " fixed charge " means any rentcharge as defined by this Act, and any burden or charge (other than rates or taxes) arising by operation of law

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or imposed by any Act of Parliament, or imposed in pursuance of the exercise of any powers or the performance of any duties under any such Act, otherwise than by a person interested in the land or in consideration of any advance to any person interested in the land ;

The expression " fee simple " means the fee simple in possession not subject to any lease, but does not include an undivided share in a fee simple in possession;

The expression " owner " means the person entitled in possession, to the rents and profits of the land in virtue of any estate of freehold, except that where land is let on lease for a term of which more than fifty years are unexpired, the lessee under the lease or if there are two or more such leases the lessee under the last created under-lease shall be deemed to be the owner instead of the person entitled to the rents and profits as aforesaid;

The expressions " lessor " and " lessee " include an under-lessor and under-lessee; and the expression " lessor " includes the person for the time being entitled to the reversion, whether freehold or leasehold, expectant on the determination of the lease ; and the expression " lessee " includes executors, administrators, and assigns of the lessee;

The expressions " transferor " and " lessor " do not include any persons who join in the execution of the instrument by which the transfer or lease is effected, or agreed to be effected, for the purpose only of conveying any estate vested in them as trustees or incumbrancers, or of acknowledging the receipt of the consideration money, or of giving consent, and sections fifty-nine, sixty, and sixty-two of the Settled Land Act, 1882 (which relate to the exercise of powers on behalf of infants and lunatics), shall apply to the exercise of the powers of an owner under this Part of this Act in the same manner as they apply to the exercise of the powers of a tenant for life under that Act ;

The expression " agriculture " includes the use of land as meadow or pasture land or orchard or osier or woodland, or for market gardens, nursery grounds, or allotments; and the expression " agricultural land " shall be construed accordingly.

## **42 Application of Part I to Scotland.**

In the application of this Part of this Act to Scotland, unless the context otherwise requires,—

- (1) The expression " land " does not include teinds, titles or offices of honour, or any servitude, superiority, casualty, feu duty, or ground annual, or any incorporeal heritable right;

The expression " rent " includes yearly or other rent, toll, duty, royalty, or other reservation by the acre, the ton, or otherwise ; and, for the purpose of section thirty-one of this Act, includes feu-duty and ground annual;

The expression " rent charge " includes feu duty and ground annual;

The expression " interest " in relation to land includes the landlord's right of reversion to the subjects let on the determination of the lease, but does not include teinds, servitudes, superiorities, any interest in expectancy, whether vested or not, heritable securities, bonds of provision, jointures, annuities, or other capital or annual sums, or other debts secured upon heritage, or any sporting right, or any lease thereof ;

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The expression "owner" means the fiar of the land, except that where land is let on lease for a term of which more than fifty years are unexpired, the tenant under the lease shall be deemed to be the owner, and includes an institute or heir of entail in possession;

The expression "freeholder" includes "fiar," "life-renter" of land settled within the meaning of the Finance Act, 1894, and "institute or heir of entail in possession," and the expression "freehold" shall be construed accordingly;

The expression "incumbrance" includes any heritable security, or other debt or payment secured upon heritage, and the expression "incumbrancer" shall be construed accordingly;

"Servitudes" shall be substituted for "easements" and shall be deemed to include public rights;

"Local Government Board for Scotland" shall be substituted for "Local Government Board";

The expression "borough or urban district" means a royal, parliamentary or police burgh;

A reference to an appeal to quarter sessions shall not apply;

"Court of Session" shall be substituted for "High Court": Provided that, for the purposes of appeals from the decisions of referees, the judges of the Court of Session named for the purpose of hearing appeals under the Valuation of Lands (Scotland) Acts shall be substituted for the High Court, subject to such regulations as may be prescribed by Act of Sederunt, and the appeal from such judges shall be to the House of Lords, and in subsections (2), (3), and (4) of section ten of the Finance Act, 1894, as applied with reference to any such appeal the said judges shall be substituted for the High Court. "Sheriff Court" shall be substituted for "County Court," and there shall be an appeal from the sheriff court to the said judges, whose decision in such case shall be final.

- (2) Any order of a referee as to expenses shall be enforceable as a recorded decree arbitral.
- (3) Subsection (2) of section two of this Act shall be construed as if after paragraph (d) thereof the following paragraph were added (that is to say):—
- “(e) where the occasion is the grant of any feu of the land or the creation of any ground annual thereon, the value of the fee simple of the land calculated on the basis of the value of the consideration for such grant or creation, by way of feu duty, ground annual, or otherwise.”

Where increment value duty falls to be collected on a feu contract or feu charter or a contract of ground annual, it shall be paid by the person by whom or on whose behalf the feu is granted or the ground annual is created, and, for the purposes of this Part of this Act, that person shall be deemed to be the transferor or the transferor on sale and the contract or charter to be the instrument, and the expressions "transfer" and "transfer on sale" shall be construed accordingly.

The expressions "lessor" and "lessee" include a sublessor and sub-lessee and the heirs, executors, administrators, and assigns of a lessor and lessee respectively.

- (4) Where arrangements are made under section four of this Act for dispensing with the presentation of any instrument or particulars thereof, it shall be the duty of the keeper of the general register of sasines, and of the respective keepers of burgh or other local registers, to furnish to the Commissioners particulars of instruments presented for registration or registered in their respective registers as may be prescribed by

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regulations of the Commissioners, and in such case the provisions of subsection (3) of section four shall not apply.