

INCOME TAX
(WAR-TIME ARRANGEMENTS).

No. 21 of 1942.

An Act to make provision relating to the collection of taxes during the present war, and for other purposes.

[Assented to 7th June, 1942.]

Preamble.

WHEREAS, with a view to the public safety and defence of the Commonwealth and of the several States and for the more effectual prosecution of the war in which His Majesty is engaged, it is necessary or convenient to provide for the matters hereinafter set out :

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

Short title.

1. This Act may be cited as the *Income Tax (War-time Arrangements) Act 1942*.

Commencement.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Definitions.

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

“State service” means any employment by the Crown in the right of a State, whether permanent or temporary, and whether an employment to which the Act of that State relating to the Public Service applies or not ;

“transferred officer” means any officer of a State Service who is transferred to the Public Service of the Commonwealth under this Act.

4. The Treasurer may, at any time and from time to time, after receipt of a recommendation from the Public Service Board, by notice in writing addressed to the Treasurer of any State, notify him that, as from the date specified in the notice, it is, in his opinion, necessary for the efficient collection of revenue required for the prosecution of the war, for the effective use of manpower, or otherwise for the defence of the Commonwealth, that any officers of the State service specified in the notice who have been engaged on duties which, in the opinion of the Treasurer, are connected with the assessment or collection of taxes upon incomes should be temporarily transferred to the Public Service of the Commonwealth, and any officer so specified shall, by force of the notice, be temporarily transferred to the Public Service of the Commonwealth accordingly as from that date.

Transfer of
State officers to
Commonwealth.

5.—(1.) Unless sooner retransferred, every transferred officer shall be retransferred to the State service immediately after this Act ceases to operate.

Retransfer
of officers
to State.

(2.) Any State to the service of which a transferred officer is retransferred in accordance with this section, shall reinstate that transferred officer to a position in the State service upon such terms and conditions and with such existing and accruing rights as are not less favorable than the terms, conditions and rights to which he would have been entitled if this Act had not been passed and his service as a transferred officer were service with the State.

(3.) Nothing in the last preceding sub-section shall confer on any transferred officer who is dismissed from the Public Service of the Commonwealth a right to be re-employed in the State service, or on any transferred officer who is reduced in status in consequence of inefficiency or misconduct a right to be employed in the State service with a status or right of remuneration greater than that to which he is so reduced.

6.—(1.) Except in relation to any pension, payment or other benefit to be paid or granted on or after the retirement or death of any transferred officer, the terms and conditions of employment of every transferred officer shall, during the period of transfer, be as prescribed :

Terms and
conditions of
employment
of transferred
officers.

Provided that, except where he is reduced in status in consequence of inefficiency or misconduct, the rate of remuneration of a transferred officer shall be not less favorable than that to which he would be entitled if he had been transferred at the rate of remuneration to which he was entitled immediately prior to his transfer and, in the case of an officer entitled to advance to a maximum rate of remuneration by periodical increments, had continued to advance by those increments.

(2.) Subject to the regulations, a transferred officer shall not be subject to the provisions of the *Commonwealth Public Service Act 1922-1941*.

Officer retiring
or dying
during period
of transfer.

7. (1.) Where, during the period of his transfer, a transferred officer reaches the age for retirement fixed by the law of the State concerned, or, in the opinion of the Public Service Board, ought to be retired owing to his being unable efficiently to perform his duties on account of ill-health or other cause, or, in the case of a female officer, marries, that officer shall be retransferred to the State service for the purpose of being retired, and shall be entitled to all rights of pension, payment and other benefits to which he would have been entitled if this Act had not been passed and his service as a transferred officer were service with the State.

(2.) Where, during the period of his transfer, a transferred officer dies or resigns, he shall be deemed to have been retransferred to the State service immediately prior to his death or the acceptance of his resignation by the Public Service Board, as the case may be, and all rights of pension, payment and other benefits arising in respect of the officer's service shall be ascertained as if this Act had not been passed and his service as a transferred officer were service with the State.

Superannuation
contributions.

8.- (1.) Where a transferred officer would, but for his transfer, have been liable to contribute to any State Fund established for the purpose of providing superannuation or other benefits, he shall continue to be liable to contribute to that Fund and to be eligible for those benefits, and the Commonwealth shall, for this purpose, deduct from payments due to that officer and pay to that Fund the contributions which, but for his transfer, he would have been required to make to that Fund.

(2.) Where under the law of the State the State also makes contributions to that Fund in respect of that officer, the Commonwealth shall, in respect of the period of the officer's transfer to the Commonwealth, pay to the State an amount equal to the contributions which the State so makes to the Fund.

Payments to
State by
Commonwealth.

9. Where any person who has been a transferred officer is retired from any State service or dies, and he is entitled or eligible on or after retirement, or his dependants are entitled or eligible on or after his death, as the case may be, to receive from the State any pension, payment or other benefit (not being a pension, payment or other benefit payable out of a Fund established for the purpose of providing such pension, payment or other benefit and in respect of which the Commonwealth has made, or is liable to make, payments to the State in accordance with sub-section (2.) of the last preceding section) the Commonwealth shall pay to the State an amount equal to such portion of any such pension or payment paid by the State, or cost to the State of that other benefit, as the Treasurer, having regard to the length of the officer's period of transfer and the length of his service with the State, thinks just.

10.—(1.) Notwithstanding the transfer of any officer to the Commonwealth in accordance with the provisions of this Act, a transferred officer shall be deemed to remain an officer of the State service during the period of his transfer for the purposes—

Officers' rights
in State
during period
of transfer.

- (a) of being considered for any promotion, or of exercising any right of appeal or objection against the promotion of any other person, which, but for the transfer, he would have had under State law; or
- (b) in the case of a transferred officer who was a temporary officer of the State service--of being appointed as a permanent officer of the State service.

(2.) Unless the Public Service Board otherwise directs, any such promotion or appointment of an officer in or to the State service shall not terminate his transfer to the Public Service of the Commonwealth under this Act.

11.—(1.) The Treasurer may at any time and from time to time, by notice in writing addressed to the Treasurer of any State, notify him that, as from the date specified in the notice, it is, in his opinion, necessary for the efficient collection of revenue required for the prosecution of the war, for the effective use of manpower, or otherwise for the defence of the Commonwealth, that the Commonwealth should, during the operation of this Act, have the possession and use of any office accommodation, furniture and equipment specified in the notice (whether specified particularly or in general terms) and the Commonwealth shall have the possession and exclusive use of that office accommodation, furniture and equipment accordingly as from that date.

Transfer of
office
accommodation,
&c.

(2.) The compensation to be paid by the Commonwealth in respect of its possession and use of any such office accommodation, furniture and equipment, and the extent of the obligations of the Commonwealth with respect to that office accommodation, furniture and equipment, whether as to keeping it in good order and repair or otherwise, shall be as agreed between the Commonwealth and the State, or, failing agreement, as determined by an arbitrator appointed by the Governor-General.

(3.) Any arbitration under the last preceding sub-section shall be conducted in accordance with the law of the State concerned.

12. All agreements between the Commonwealth and any State

Suspension
of existing
agreements.

- (a) made under the *Income Tax Collection Act 1923* (or under that Act as amended and in force at any time) relating to the collection of taxes by the Commonwealth on behalf of any State or by any State on behalf of the Commonwealth; or
- (b) under section two hundred and twenty-one of the *Income Tax Assessment Act 1936-1940*, or under that Act as amended and in force at any time,

shall, notwithstanding any provision contained in any such agreement, be suspended as from a date fixed by proclamation until this Act ceases to operate.

Transfer of records.

13. Where any returns or records relating either wholly or partly to the assessment or collection of any tax imposed upon incomes by the Parliament of the Commonwealth are in the possession of a State, those returns and records shall, as from the date of commencement of this Act, be transferred to the possession of the Commonwealth :

Provided that any persons authorized by the Treasurer of a State shall, at all reasonable times, have access to, and may make and take away copies of, any such returns and records which relate to the assessment or collection of any tax imposed upon incomes by or under any law of that State.

Persons not to hinder Commonwealth.

14. Where any returns or records are transferred to the possession of the Commonwealth in accordance with the last preceding section, or the Commonwealth becomes entitled to the possession and use of any office accommodation, furniture or equipment in accordance with section eleven of this Act, a person shall not in any way hinder or obstruct the Commonwealth in taking possession of or using those returns or records, or that office accommodation, furniture or equipment.

Penalty : One hundred pounds or imprisonment for six months or both.

Regulations.

15. 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 exceeding Fifty pounds, for any breach of the regulations.

Duration of Act.

16. This Act shall continue in operation until the last day of the first financial year to commence after the date on which His Majesty ceases to be engaged in the present war, and no longer.