

No. 95

---

---

1st Session, 14th Legislature, Alberta  
8 Elizabeth II

---

---

## **BILL 95**

A Bill to Provide for the Taxation of Certain Industries  
and the Distribution to Municipalities of the  
Proceeds thereof.

---

HON. MR. HOOKE

---

## **Explanatory Note**

General. This Bill will enact a new Act, entitled The Industrial Municipal Tax Act, which will provide for the assessment and taxation of certain industrial plants and the distribution of the proceeds of the taxes to site municipalities and supporting municipalities of the plants assessed and taxed. A Commission will undertake the assessment, taxation and distribution hereunder; and municipalities will not hereafter assess and tax such plants in their municipal areas.

### **2. Definitions.**

# BILL

No. 95 of 1960

An Act to Provide for the Taxation of Certain Industries  
and the Distribution to Municipalities of the  
Proceeds thereof.

(Assented to \_\_\_\_\_, 1960)

**H**ER MAJESTY, by and with the advice and consent of  
the Legislative Assembly of the Province of Alberta,  
enacts as follows:

1. This Act may be cited as "*The Industrial Municipal Tax Act*".

## Interpretation

2. In this Act.

- (a) "Appeal Board" means the Alberta Assessment Appeal Board under *The Assessment Appeal Board Act*;
- (b) "assessment year" means the year in which the assessment of a plant is made;
- (c) "assessor" means an assessor appointed pursuant to this Act;
- (d) "chairman" means the chairman of the Commission;
- (e) "Commission" means the Industrial Municipal Tax Commission constituted under this Act;
- (f) "industrial owner" means a person who owns a plant used in an industry, or in one or more industries;
- (g) "industry" means a petroleum refinery works, a petro-chemical works, nitrogen works, gas absorption works, ore refinery works, cement works, lime works, caustic soda works, sulphur works, fertilizer works, sugar beet works, pulp works, salt works or any manufacturing or processing works designated by the Lieutenant Governor in Council under this Act as an industry to which this Act applies;
- (h) "land" means that parcel or parcels of land upon which a plant is situated;
- (i) "municipality" means a city, town, new town, village, county, municipal district, improvement district or special area;
- (j) "plant" means the buildings, structures, machinery, and equipment, whether permanently affixed to the

**3. Commission constituted.**

**4. Appointments to Commission.**

**5. Commission members.**

**6. Commission secretary, other employees and their remuneration.**

land or not, that are necessary to and used in connection with an industry;

- (k) "prescribed" means prescribed by regulations of the Commission or the Lieutenant Governor in Council, as the case may be;
- (l) "secretary" means the secretary of the Commission;
- (m) "site municipality" means a municipality described in section 22;
- (n) "tax notice" means the notice referred to in subsection (3) of section 14;
- (o) "tax year" means the year in which the tax is imposed and within which it is to be paid.

### **Commission**

**3.** (1) There is hereby constituted a body corporate and politic, to be known as the Industrial Municipal Tax Commission, which shall consist of such members not exceeding five as may be appointed thereto by the Lieutenant Governor in Council.

(2) The members shall be appointed during pleasure and shall serve on the Commission for such term as may be fixed by the order appointing them.

(3) The Lieutenant Governor in Council may fix the remuneration which shall be paid to the members.

**4.** In making appointments to the Commission, the Lieutenant Governor in Council shall, so far as may be practicable, ensure that there is a fair representation of rural and urban municipalities on the Commission.

**5.** (1) The members of the Commission shall appoint one of their number to be chairman and fix his term of office.

(2) The chairman shall act as the chief executive officer of the Commission and preside at all meetings thereof.

(3) In the case of the illness, absence or other disability of the chairman, the Commission may appoint one of its members to act in the stead of the chairman, who while so acting has all the powers and shall perform all the duties of the chairman.

**6.** (1) With the approval of the Lieutenant Governor in Council, the Commission may appoint or employ a secretary, who may be a member of the Commission, and may employ such other officers, clerks, assessors or other employees as it may deem necessary.

(2) The secretary and other employees of the Commission shall receive such remuneration as may be determined by the Lieutenant Governor in Council.

**7. Commission expenses and office facilities.**

**8. Commission by-laws.**

**9. Assessment.**

**10. Exemption from assessment.**

**7.** (1) All expenses incurred by the Commission in the performance of its duties, including all salaries for the secretary and other employees, and all reasonable travelling and subsistence expenses of the members and of the secretary and its other employees, incurred in the performance of their duties under this Act, shall be paid out of the moneys appropriated therefor by the Legislature and in the absence of an appropriation out of the General Revenue Fund of the Province.

(2) The Lieutenant Governor in Council shall cause suitable office and meeting facilities to be provided for the Commission.

**8.** (1) The Commission may make such by-laws, not being inconsistent with any provision of this Act, as it may consider necessary to govern the procedure of the Commission and the regulation of its duties and functions.

(2) A by-law made under this section is not effective until approved by the Lieutenant Governor in Council.

(3) A by-law under this section shall be deemed not to be a regulation within the meaning of *The Regulations Act*.

#### **Assessment**

**9.** (1) Except as otherwise provided in this Act or any other Act of the Legislature, the plant and land of an industrial owner situated in any municipality in the Province is subject to assessment under this Act and is not subject to assessment and taxation under any municipal Act or Act providing authority for a municipality to tax real or personal property.

(2) Where the land upon which a plant is situated is exempt from assessment under this Act, the interest of the industrial owner in the plant is assessable unless the owner is himself exempt from assessment under this Act.

(3) Nothing in this Act affects the power of a municipality to assess and tax by way of a local improvement or frontage assessment in the case of the plant and land of an industrial owner situated in the municipality and subject to local improvement or frontage tax.

(4) Where any plant and land of an industrial owner is assessable and taxable under this Act, no business assessment or business tax shall be levied against the industrial owner of the premises that are used by him for the purposes of operating his plant.

**10.** The following property is exempt from assessment:

- (a) plants and lands owned by a municipality and operated for the public use of the municipality;
- (b) plants and lands owned by the Crown.

**11.** Establishment of assessment.

**12.** Assessment notice and appeal re assessment.

**13.** Validity of assessment.

**14.** Computation of tax rate and tax notice.



**11.** (1) In every year the Commission shall establish the assessed value of all assessable plants and lands in every municipality in the Province and shall prepare an assessment and tax roll thereof in such manner as may be prescribed by the Lieutenant Governor in Council.

(2) A plant and the land on which the plant is situated shall be assessed at its fair actual value.

(3) For the purposes of this Act "fair actual value" has the same meaning as is given that expression in *The Assessment Act, 1960*, and the regulations in regard thereto.

**12.** (1) Before the thirty-first day of January in each year the Commission shall send by mail to each industrial owner in the Province who is liable for assessment under this Act an assessment notice in the form prescribed, and a copy of the notice shall be sent to the site municipality.

(2) An industrial owner or site municipality that is dissatisfied with the assessment made by the Commission may, within thirty days after the date of mailing the notice of assessment, appeal therefrom to the Appeal Board on serving upon or sending by registered mail to the Appeal Board and the Commission and, as the case may be, the industrial owner or site municipality, a notice in writing of the appeal.

(3) Unless an appeal is taken from the assessment within the time limited by this section, the assessed value of the plant and land as established by the Commission is the value upon which the tax imposed by this Act is to be determined.

(4) When an appeal is taken from the assessment, the assessed value of the plant and land, as confirmed, varied, modified or altered by the Appeal Board, is the value upon which the tax imposed by this Act is to be determined.

**13.** No assessment of any plant or land shall be held invalid by reason only that the notice of assessment was not received by an industrial owner or municipality to whom it was addressed.

#### The Tax

**14.** (1) As soon as practicable after the preparation of the assessment and tax roll, the Commission shall, with the approval of the Lieutenant Governor in Council, determine the tax rate on plants for the taxation year but in no event shall the tax rate exceed sixty mills on the dollar.

(2) The tax to be paid by an industrial owner shall be computed by the Commission upon the whole or such lesser percentage of the assessed value of the plant and land of the industrial owner assessed under this Act as may be determined by the Commission and authorized by the Lieutenant Governor in Council.

**15.** Persons to receive tax notices.

**16.** Date for payment of tax.

**17.** Where tax payable.

**18.** Tax receipt.

**19.** Penalty for arrears of taxes.

(3) Before the first day of July in the tax year, the Commission shall cause to be mailed to the industrial owner liable to assessment under this Act a notice of the amount of taxes due by the industrial owner in respect of the plant and land for which he is assessed.

(4) The tax notice shall be in the prescribed form and shall show the location of the plant and land assessed, the assessed value of each, the rate of taxation for the tax year, the total taxes levied for the tax year, the arrears of taxes, if any, and the total taxes due.

(5) The entry of the date of mailing of each tax notice followed by the initials of the clerk making the same on the tax roll of the Commission is admissible in evidence as *prima facie* proof of the mailing of the notice on the date entered without proof of the initial or signature or of the official character of the clerk.

**15.** No tax notice need be sent to any person other than the industrial owner as shown on the assessment and tax roll.

**16.** Not later than the first day of September in the tax year, an industrial owner shall pay to the Commission the amount of the tax shown on the tax notice to be due the Commission for that tax year in respect of his plant.

**17.** (1) All taxes imposed under this Act shall be deemed to be due on the first day of January of the tax year.

(2) All taxes imposed under this Act are payable at the office of the Commission.

**18.** The Commission shall cause to be issued, in the prescribed form, a receipt for any taxes paid pursuant to this Act, and shall cause the number of the receipt to be entered upon the assessment and tax roll opposite the name of the plant in respect of which the taxes are paid.

**19.** (1) When any taxes payable under this Act in any year or part thereof are not paid on or before the first day of November in that year, there shall be added by way of penalty a sum equal to six per cent of the amount of the taxes so unpaid, and in the event of any such taxes and added penalties being unpaid on the first day of November next following, there shall be added by way of penalty an additional sum equal to six per cent of the amount thereof unpaid.

(2) In like manner so long as the taxes and penalties or any part thereof remain unpaid, there shall be added thereto by way of penalty on each succeeding first day of November an amount equal to six per cent of the taxes and penalties or part thereof for the time being unpaid, and all amounts so added shall thereupon form part of the tax to which the same are added.

**20.** Remedy for recovery and priority of tax and penalties.

**21.** Determining supporting municipalities.

**22.** Site municipality.

**23.** Site municipality entitled to 30% of tax.

**24.** Supporting municipalities entitled to share remaining 70% of tax.

**20.** (1) The tax and penalties payable by a person pursuant to this Act constitute a debt to the Commission and are recoverable as such in any court of competent jurisdiction by action by the Commission.

(2) The tax and penalties referred to in subsection (1) constitute a charge upon the plant and land of the industrial owner liable therefor and have priority over all mortgages, charges, liens or encumbrances whatsoever.

#### **Distribution of Tax**

**21.** (1) Before the end of the year in which the assessment and tax roll is prepared, the Commission shall, in respect of each plant assessed, determine the municipalities that are to be considered supporting municipalities for that plant in the tax year, in accordance with this section.

(2) A municipality that supplies the plant with any municipal, school or hospital services may be deemed by the Commission to be a supporting municipality.

(3) A municipality that has as a resident therein any employee of the plant of an industrial owner is thereby a supporting municipality of that plant.

**22.** A municipality wherein a plant is located either wholly or in part is a site municipality, but is not thereby precluded from being a supporting municipality if it may be so considered under section 21.

**23.** (1) The site municipality is entitled to thirty per cent of the taxes payable and collected under this Act in respect of a plant and land located in the site municipality.

(2) Where a plant and land are situated in two or more municipalities so that there are two or more site municipalities in respect of that plant, each of the site municipalities shall, in the distribution to the site municipality, share proportionately on the basis of assessment.

**24.** (1) The supporting municipalities are entitled to share the remaining seventy per cent of the taxes payable and collected under this Act in respect of a plant and land.

(2) The supporting municipalities' share of the taxes shall be apportioned by the Commission among the supporting municipalities by a formula, which shall be prepared from time to time by the Commission and adopted thereby with the approval of the Lieutenant Governor in Council.

(3) Any formula prepared under this section shall be based upon the extent to which each of the supporting municipalities contributes toward any of the factors that make it a supporting municipality, and so far as practicable the Commission by the formula shall assign a value to each of the factors.

**25. Statement of assessment.**

**26. Payment of tax to municipalities.**

**27. Levy by distress for recovery of taxes.**

**28. Tax arrear date.**

**25.** (1) In respect of all industrial plants assessed under this Act, the Commission shall, on or before the thirty-first day of January in the tax year, send a statement to each site municipality and each supporting municipality affected thereby.

(2) The statement shall set forth in terms of assessment an amount determined by dividing the tax payable to a municipality pursuant to section 26

(a) in the case of a city, town, new town or village, by the total mill rate in effect in any such municipality during the preceding year, and

(b) in the case of a municipal district, county, improvement district or special area, by the average of the total mill rates employed in any such municipality during the preceding year and as determined by the Commission.

(3) The amount of the total assessment as shown in the statement referred to in subsection (2) shall be included in the assessed value of lands and improvements mentioned in

(a) section 630 of *The City Act*,

(b) section 421 of *The Town and Village Act*,

(c) section 382 of *The Municipal District Act*,

(d) section 21 of *The Municipalities Assessment and Equalization Act*,

(e) sections 284 and 297 of *The School Act*,

(f) section 110 of *The Municipal Hospitals Act*,

(g) section 12 of *The Hospitalization Benefits Act, 1959*.

**26.** As soon as possible in each tax year, the Commission shall apportion and pay the tax moneys collected by it under this Act to the municipalities entitled thereto under the formula established pursuant to this Act.

#### **Tax Recovery**

**27.** (1) Where default is made in the payment of taxes imposed by this Act, the Commission may forthwith levy and collect the taxes with costs by distress upon the goods and chattels, wherever found, of the industrial owner under a warrant, which shall be signed by the Commission and directed to the sheriff of the judicial district in which the industrial owner has any goods or chattels, and in that case the sheriff shall realize the taxes or so much thereof as are in arrear, and all costs, by sale of the goods and chattels or so much thereof as is necessary to satisfy the warrant and costs.

(2) The remedy provided by this section for the recovery of taxes under this Act in arrear is in addition to and not in substitution for the remedy hereinafter provided.

**28.** A tax is in default and arrear for the purposes of this Act when it remains unpaid after the first day of November of the year in which the tax is imposed.

**29.** Tax arrears list.

**30.** Tax recovery notification.



**29.** (1) During the month of March in each year, the Commission shall cause to be prepared in the prescribed form a list of all plants the taxes with respect to which have been in arrear for more than a year, except plants that are for the time being subject to any subsisting tax notification for the recovery of taxes under this Act.

(2) The list shall designate by description of the titles of the lands upon which are situated the plants for which taxes under this Act are in arrear.

(3) Before the first day of April two copies of the list shall be sent to the proper land titles office by the Commission after removing from the list any plant in respect of which the arrears of taxes have been paid and the secretary of the Commission shall initial any such removals.

(4) The Commission shall cause to be posted in the office of the Commission a copy of any tax arrears list that shows therein the industrial owner in arrears and shall be accessible to the public at all times during business hours of the Commission.

**30.** (1) Immediately upon the receipt of the tax arrears list, the Registrar of the proper land titles office shall place upon the certificate of title of each parcel of land a tax recovery notification that the parcel is subject to the provisions of *The Industrial Municipal Tax Act*.

(2) Where a tax recovery notification has been placed upon the title to a parcel of land pursuant to the provisions of this Act for the recovery of taxes, the Registrar, until the notification is removed shall not cancel the certificate of title to the parcel of land or to any part thereof without the consent of the Commission, save and except only upon the devolution of the title thereto by the operation of law.

(3) Immediately upon making the tax recovery notifications the Registrar shall place a certificate upon one of the tax arrears lists to the effect that he duly placed tax recovery notifications in respect of the parcels of land comprised in the list on the proper certificates of title, and shall forthwith return the list to the Commission by registered mail.

(4) The Registrar shall send with the tax arrears list a statement of the fees chargeable in respect of each parcel comprised therein, and the Commission shall pay to the Registrar such fees, and the fees shall be added to the costs chargeable by the Commission against the plant.

(5) After the tax recovery notification has been made, it shall not be removed until

(a) the Commission directs its removal, or

(b) a certificate of title has been issued to the Commission or other person, under the provisions of this Act.

**31. Restrictions while tax recovery notification in existence.**

**32. Notice re tax sale.**

**33. Notice to remove tax recovery notification.**

**31.** (1) As long as any tax recovery notification subsists with respect to any parcel of land, no buildings, machinery, equipment, fixtures or other improvements in or upon the land or plant shall be removed therefrom without the consent of the Commission.

(2) Any person contravening the provisions of this section is guilty of an offence and liable on summary conviction to a fine of not more than one thousand dollars, or to imprisonment for not more than six months, or to both fine and imprisonment.

(3) No person shall acquire any property in any such building, machinery, equipment, fixture or other improvement removed in contravention of this section.

(4) The Commission has a charge upon all moneys payable under any policy of fire insurance upon the occurrence of any damage or loss occasioned by fire to any plant, if at the time of the occurrence there is a subsisting tax notification in respect of that plant.

**32.** (1) Not later than the first day of August following the receipt of the tax arrears list, the Registrar of the land titles office shall cause to be sent by registered mail a notice to the following persons, if their names then appear on the register of titles to land kept in accordance with *The Land Titles Act*, namely, registered owners, caveators, holders of mechanics' liens and mortgagees and other encumbrancees referred to in section 105 of *The Land Titles Act*.

(2) The notice shall be in Form A in the Schedule.

(3) The notice shall be sent to the address registered pursuant to *The Land Titles Act* for service of the person concerned, and if there is no such registered address, to the address of the person given in any instrument registered in the land titles office with reference to the parcel of land.

(4) Notwithstanding subsection (1), the Registrar of the land titles office is not required to send a notice in Form A

- (a) to the Director of Town and Rural Planning in any case where a caveat has been filed under *The Town and Rural Planning Act*,
- (b) to the grantee of an instrument registered under subsection (1) of section 71 of *The Land Titles Act*, or
- (c) to an assignee, mortgagee or encumbrancee who has registered an instrument under subsection (4) of section 71 of *The Land Titles Act*.

**33.** When before the date of the sale payment of all taxes that are shown on the records of the Commission as being due with respect to the plant and land, other than the taxes of the current year, and of the prescribed costs is made by the industrial owner of any plant or on his

**34. Date of tax sale.**

**35. Right of entry to take possession of plant.**

**36. Advertising of tax sale.**

behalf, the Commission shall notify the Registrar of the proper land titles office to remove the tax recovery notification from the certificate of title of the parcel of land and the Registrar shall immediately do so.

**34.** (1) Every plant with respect to which there is a subsisting tax recovery notification shall be offered for sale by public auction before the expiry of three years from the first day of April of the year in which the tax recovery notification was registered, and such public auction shall be held upon a date to be fixed by the Commission.

(2) No plant or land shall be offered for sale until after the expiry of one year from the first day of April of the year in which the tax recovery notification was registered.

(3) In this Act the expression "the date of the sale" or any similar expression shall invariably be taken to mean the date upon which the sale by public auction is actually held.

(4) Every plant and land thereof offered for sale by the Commission shall be so offered upon the express condition that no sale effected shall have any force or effect unless the sale is approved in writing by the Commission.

**35.** As and from the date upon which any plant is offered for sale by public auction, the Commission is entitled to the quiet and peaceable possession of the plant, and for the purposes of obtaining such possession the Commission and any persons authorized by it for the purpose are entitled to enter upon the plant and land and take possession thereof for and in the name of the Commission, and if in so doing resistance is encountered, the Commission is entitled to apply for and obtain an order for the possession of the plant and land in proceedings instituted for that purpose in a court of competent civil jurisdiction.

**36.** (1) Every public auction shall be advertised in

(a) one issue of the *Gazette* that is published not less than forty days and not more than ninety days before the date of the sale, and

(b) one issue of a newspaper having general circulation in the municipality and published not less than ten days and not more than twenty days before the date of the sale.

(2) No parcel of land of which a correct description has not been duly advertised in the *Gazette* shall be offered for sale.

(3) Not less than four weeks before the date of the sale, the Commission shall send by registered mail to every industrial owner whose name actually appears on the assessment and tax roll as having any interest in any plant that was set out in the advertisement and that has not been redeemed, a copy of the advertisement that appeared in

**37.** Requirements of advertisement of tax sale.

**38.** Reserve bid and conditions of sale.

**39.** Adjournment of tax sale.

**40.** Exemption from auctioneer's licence.

**41.** Penalty for unlawful purchase at tax sale.

the *Gazette* but deleting therefrom all plants that have been redeemed at the date of mailing the advertisement, together with a statement of the taxes that will have to be paid in order to have the plant withdrawn from the sale.

**37.** (1) Every advertisement of a public auction shall specify the place, day and hour at which the auction will begin, and the conditions of sale, and each plant and land shall be described therein by a reasonable description or by stating the number of the registered instrument or instruments from which a description can be deduced or obtained.

(2) The using of abbreviations in any such description is sufficient if the plant and land so described can be thereby distinguished.

(3) A copy of the advertisement shall be posted up in the office of the Commission and shall be accessible to the public at all times during business hours for a period of ten days before the date of the sale.

**38.** (1) The Commission shall fix

(a) a minimum sale price for each plant and land, which shall be the reserve bid, and

(b) the conditions of sale upon which sales are to be made.

(2) For the purpose of ascertaining the reserve bid of any plant the Commission, or any person duly authorized by it, may enter upon the plant and land and every part of the land and every building, structure and erection thereon.

**39.** (1) The Commission may adjourn the auction from time to time but no such adjournment shall be to a date later than two months from the date of the auction as advertised.

(2) Upon the adjourning of an auction the Commission shall post up in a conspicuous place at the place where the auction was to be held, a notice stating the place, day and hour to which the sale has been adjourned.

**40.** No person offering plants for sale on behalf of the Commission under the provisions of this Act shall be required to obtain an auctioneer's licence for the purpose of sale.

**41.** (1) No auctioneer, member of the Commission or official of the Commission shall, at a sale conducted by the Commission, whether public or private, purchase any plant or act as the agent of any person in the purchase thereof, and any sale made to him personally or to him as an agent is null and void.

(2) Every person who acts in contravention of subsection (1), and every person who procures or attempts

**42.** Disposition of plant not sold at first public auction.

**43.** Rescission of sale.

**44.** Acquisition of plant and land by Commission.



to procure any person to so act, is guilty of an offence and liable on summary conviction to a fine of not less than one hundred dollars and not more than five hundred dollars, for each offence, and in default of payment to imprisonment for a term of not less than one month and not more than six months.

**42.** Any plant that is not sold at the first public auction held by the Commission after a tax recovery notification has been placed upon the certificate of title of the land thereof may be sold either before or after final acquisition by the Commission who shall fix the price, time, terms and conditions of the sale of the plant and land.

**43.** (1) Where the Commission has sold or agreed to sell any plant under the provisions of this Act, whether by public auction or private sale, and the purchaser or any one claiming by, through or under him objects that the Commission is unable to furnish him with a good title to the plant and land by reason of any defect or omission in any proceedings prescribed by this Act with reference to the sale of the plant, the Commission may rescind the sale or agreement for sale upon giving notice thereof to the purchaser, and thereupon the Commission shall pay forthwith to the purchaser all moneys paid by him in respect thereof, and all the rights of the purchaser in respect of the agreement or sale are extinguished.

(2) Notice of rescission shall be in writing under the hand of the secretary of the Commission and may be served personally upon the purchaser or may be sent by registered mail to the purchaser's last known post office address.

**44.** (1) Subject to section 42 every parcel of land with respect to which there is a subsisting tax recovery notification or caveat is finally acquired by the Commission, upon the expiry of one year from the date of the sale, and the Commission may take title to the plant and land and thereupon becomes the owner thereof subject

(a) to such encumbrances against the parcel as are set out in subsection (5) of section 46, and

(b) to any subsisting right under this Act to redeem the plant and land.

(2) The Commission may, upon the final acquisition of a plant, dispose of the plant or any part thereof or any portion of the land thereof.

(3) As and from the date of final acquisition, whether title has been taken by the Commission or not, the Commission is entitled to the quiet and peaceable possession of the plant and land, and for the purpose of obtaining such possession, the secretary of the Commission and any persons authorized by him for the purpose are entitled to enter upon the plant and land and take possession thereof for the Commission, and if in so doing, resistance is encoun-

**45. Redemption of plant before and after final acquisition by Commission.**

**46. Certificates of Title.**

tered, the Commission is entitled to apply for and obtain an order for the possession of the plant and land in proceedings instituted for that purpose in a court of competent civil jurisdiction.

**45.** (1) When at any time while a plant that has not been finally acquired by the Commission remains unsold

(a) all taxes that are shown on the records of the Commission as being due with respect to the plant, other than the taxes of the current year, and

(b) the prescribed costs,

are duly paid or discharged, the Commission shall notify the Registrar of the proper land titles office to remove the tax recovery notification from the certificate of title of the parcel of land upon which the plant is located and the Registrar shall forthwith do so.

(2) When any plant and land has been finally acquired by the Commission and the plant and land or any portion thereof or any estate or interest therein has not for the time being been disposed of by the Commission, then, at any time within three years after the date of the final acquisition, the plant and land or portion thereof or estate or interest therein may be redeemed by any person upon payment of

(a) all taxes shown on the records of the Commission as being due with respect to the plant, other than the taxes of the current year, and

(b) the prescribed costs.

(3) Where a plant and land is redeemed pursuant to subsection (2), the title thereto is subject to any estate or interest, or mortgage or encumbrance created while the plant and land was held by the Commission.

(4) Upon receipt of the payment for the redemption of the plant, the Commission shall notify the Registrar of the proper land titles office and thereupon the Registrar shall cancel the certificate of title issued to the Commission and shall revive the certificate of title that was cancelled upon the Commission taking title after final acquisition.

(5) A certificate of title renewed pursuant to subsection (4) is subject to the same mortgage, charges and encumbrances to which it would have been subject had no certificate of title been issued to the Commission.

**46.** (1) When any plant has been sold to a purchaser for cash at either a public or private sale, either before or after final acquisition, the Commission shall transfer the plant and land to the purchaser by means of a transfer in the appropriate form as set out in Form B in the Schedule, and shall forward the transfer to the proper land titles office, and the Registrar shall forthwith upon its receipt cancel the existing certificate of title and issue a new certificate of title in the name of the transferee.

**47.** Requirements when certificate of title has issued to Commission.

(2) When any plant and land has been sold to a purchaser upon the mortgage plan, a like procedure shall be followed, except that the new certificate of title shall be retained in the land titles office.

(3) When any plant has been sold to a purchaser upon the instalment payment plan, or has been finally acquired by the Commission, a like procedure shall be followed, except that the new certificate of title shall be made out in the name of, and sent to, the Commission.

(4) Every certificate of title issued under this section is conclusive proof of the compliance with all conditions precedent to the issue of the certificate and the validity of a certificate so issued shall not be questioned in any court of law or equity, except upon the following grounds, or any of them, and no other:

- (a) that the sale was not conducted in a fair, open and proper manner;
- (b) that there were no taxes whatever in arrears for which the plant and land could be sold;
- (c) that the plant and land was not liable to be assessed for taxes.

(5) Every certificate of title issued under this section gives to the person or Commission to whom it is issued an estate in fee simple in the land and plant thereof and named in the certificate, free from all encumbrances except

- (a) encumbrances arising from claims of the Crown in right of Canada,
- (b) irrigation or drainage debentures,
- (c) registered easements and instruments registered pursuant to section 71 of *The Land Titles Act*,
- (d) in the case of a certificate of title issued to the Commission, the rights of any purchaser upon the instalment plan, and
- (e) registered orders of the Board of Arbitration under *The Right of Entry Arbitration Act*.

**47.** When a certificate of title to a plant and land has issued to the Commission then until the period of redemption has expired or the plant has been disposed of

- (a) the Commission shall continue to assess the plant and land and any taxes and penalties payable in respect thereof shall be charged against the property and carried over from year to year,
- (b) the Commission shall be shown on the assessment and tax roll as owner,
- (c) the assessment and tax roll shall also show the name of
  - (i) the former owner, as having a redeemable interest, and
  - (ii) any person whose name properly appeared on the assessment and tax roll with respect to the plant, at the date of final acquisition,

**48. Duties of Registrar.**

**49. Order staying issue of certificate of title.**

**50. Disposition of proceeds of tax sale.**

and

- (d) the persons, other than the Commission, shown by name on the assessment and tax roll
  - (i) shall be sent such assessment and tax notices that they would be entitled to receive had title not been taken by the Commission, and
  - (ii) may appeal an assessment in the manner provided by *The Assessment Act, 1960*.

**48.** (1) The Registrar, before issuing any title under the provisions of this Act, shall satisfy himself that the notice required by section 32 has been given.

(2) When the Registrar finds that there has been an omission to give the notice required by section 32, the Registrar

- (a) shall proceed forthwith to give a notice in the form contained in section 32, substituting for the words "before the.....day of..... 19.....", the words "before the expiration of three months from the date hereof", and
- (b) shall not proceed to issue a title to any person until the expiration of three months from the date of the notice given under this section.

**49.** (1) At any time prior to the sale of any plant, or its final acquisition by the Commission, whichever event first happens, any person interested in any plant may apply in chambers to the judge of the district court of the judicial district in which the plant is situated to stay the issue of a certificate of title or the sale of the plant.

(2) Upon the application a judge of the district court, if he is of the opinion that the provisions of this Act have not been complied with, may summarily make an order directed to the Registrar, staying the issue of any certificate of title with respect to the parcel of land upon which the plant is located, or the sale of land, as the case may be, until the respective rights of the applicant and of the Commission have been determined by a declaratory order of the judge or until after the expiration of a period of thirty days or less, as fixed by his order.

(3) If the rights of the applicant and of the Commission are not so determined prior to the expiry of thirty days from the date of the staying order, or upon the expiry of the period fixed by the order, as the case may be, the order ceases to be of any effect and no further order shall be made.

**50.** (1) The proceeds of the sale of any plant directed by this Act, whether sold at a public or private sale, or whether sold before or after the final acquisition thereof by the Commission, shall, notwithstanding the provisions of any other Act be distributed in the following order:

- (a) in the discharge of the prescribed costs and all other expenses lawfully incurred by the Commis-

**51.** Deposit of surplus proceeds of tax sale in tax sale trust account.



- sion in respect of the plant and land, including a commission to the Commission of five per cent of the surplus moneys referred to in section 51;
- (b) in the discharge, or where necessary the *pro rata* discharge, of all taxes due in respect of the plant and land, other than taxes for the current year and arrears that ought to have been reported and have not been reported;
  - (c) in the discharge, or where necessary the *pro rata* discharge, of all other taxes in respect of the plant and land;
  - (d) in the discharge of all money due to the Crown in the right of the Province and charged upon the plant or land.
- (2) Any taxes that any plant or land has been sold for and that have not been discharged under subsection (1) shall be cancelled upon the books of the Commission.
- (3) Where a plant or land is sold after the expiry of the redemption period
- (a) the Commission shall calculate the taxes for each year that they were not levied and for such calculation shall use
    - (i) the last assessed value of the plant and land as shown on the assessment and tax roll,
    - (ii) the valuation on exempt property established for each year, and
    - (iii) the mill rate set for each year,
 and
  - (b) the amount calculated under clause (a) shall be added to the assessment and tax roll and shall be deemed to be a part of the taxes due in respect of the plant and land for the purposes of clause (b) of subsection (1).

**51.** (1) Any surplus moneys that may remain and any money accruing thereto after distribution of the proceeds of sale as directed by section 50 shall be paid into a separate tax sale trust account.

(2) The moneys paid into the tax sale trust account shall be paid out to the person or persons who

- (a) apply to a district court judge within ten years from
    - (i) the date of final acquisition, or
    - (ii) the date of sale, if the plant is sold prior to final acquisition,
 and
  - (b) are declared by the district court judge to be entitled to the surplus moneys paid into the tax sale trust account.
- (3) The declaration of the district court judge may be made upon notice to such persons as the judge may direct

**52.** Lease, licence or permit of plant.

and shall be disposed of summarily and any order so made has the same force and effect as an order of the district court.

(4) In making a declaration under this section the district court judge shall have regard to the priorities in which sale moneys would be distributed in a foreclosure action.

(5) Upon the expiration of the period of time fixed by clause (a) of subsection (2) all surplus moneys paid into the tax sale trust account and in respect of which no declaration has been made by a district court under subsection (2) shall be distributed as though they were part of the tax levied and collected upon that plant under this Act.

(6) When, upon the sale or leasing of a plant, it appears to the Commission that surplus money will accrue, it shall notify by registered mail, the former owner and any other person whose name appears on the assessment and tax roll

- (a) that the plant has been sold or leased,
- (b) that it appears that surplus money will accrue from the sale or leasing,
- (c) of the probable amount of the surplus, and
- (d) that an application may be made within the time prescribed by subsection (2) for any surplus money.

**52.** (1) Prior to the acquisition of any plant that is not sold at the first public auction held by the Commission after a tax recovery notification has been placed on the certificate of title thereto, the Commission may grant a lease, licence or permit of the plant for a period of not more than one year, or for periods of not more than three years after final acquisition.

(2) Either before or after final acquisition of a plant, if an application is made to the Commission for a way for a railway, pipe line, transmission line, pole line, conduit, irrigation or drainage ditch, or other similar purpose, by an applicant entitled to expropriate for such purpose under the provisions of any Act, the Commission may grant the way through the parcel of land upon which the plant is located to the same extent as the applicant would be entitled to acquire under the Act authorizing the expropriation, as the case may be.

(3) Notwithstanding subsection (1), the Commission may after final acquisition grant a lease of any minerals or any interest therein in or under the land upon which the plant is located, on such terms and conditions as are prescribed by the Commission.

(4) All proceeds arising and profits accruing from any such lease, licence or permit shall be distributed as if they were proceeds of a sale thereof.

(5) Any lease, licence or permit entered into under this section is good and valid for the term mentioned therein.

**53.** Limitation on action against Commission for return of moneys.

**54.** Powers of Commission re recovery of arrears of taxes.

**55.** Commission may make regulations and prescribe forms.

**56.** Land titles office fees.

**57.** Regulations by Lieutenant Governor in Council.

**58.** Extension of time.

**53.** (1) No action, suit or other proceedings for the return by the Commission of any moneys paid to the Commission, whether under protest or otherwise, on account of a claim, whether valid or invalid, made by the Commission for taxes, shall be commenced after the expiration of six months after the payment of the moneys.

(2) After the expiration of the period of six months without any such action, suit or other proceedings having been commenced, the payment made to the Commission shall be deemed to have been a voluntary payment.

**54.** The Commission at any time before selling or agreeing to sell any plant, or becoming the registered owner thereof, as the case may be, may exercise such powers to recover all the arrears of taxes due in respect thereof as are given to it by this Act.

#### **Miscellaneous**

**55.** The Commission may make such regulations and from time to time prescribe such forms in lieu of or in addition to the forms in the Schedule to this Act as it may deem necessary for the proper carrying into effect of the provisions of this Act.

**56.** The Lieutenant Governor in Council may fix the fees to be paid to the Registrar in connection with all matters or proceedings in the land titles office under this Act.

**57.** The Lieutenant Governor in Council may make regulations

- (a) designating any works of a manufacturing or processing nature as an industry within the meaning of this Act,
- (b) prescribing forms for use under this Act,
- (c) designating any municipal or utility services as a service constituting support to a plant, and
- (d) providing for any matter or thing, not inconsistent with this Act, required in the opinion of the Lieutenant Governor in Council to carry out the provisions of this Act according to the intent of the Act.

**58.** (1) If any thing that is to be done within a number of days or at a time fixed by this Act cannot be or is not so done, the Commission may by order from time to time appoint a further or other time for doing it, whether the time at or within which it ought to have been done, has or has not arrived or expired, as the case may be.

(2) Any thing done at or within the time specified in an order under this section is as valid as if it had been done at or within the time fixed by or under this Act.

**59. Commencement.**

59. (1) Sections 1 to 8, subsection (2) of section 9, sections 10 to 13 and 55, 57 and 58 and this section come into force on the day upon which this Act is assented to.

(2) Subsections (1), (3) and (4) of section 9, sections 14 to 54 and 56 come into force on the day or days fixed by proclamation of the Lieutenant Governor in Council.

SCHEDULE

FORM A

(Section 32)

THE INDUSTRIAL MUNICIPAL TAX ACT

Notice is hereby given that a tax recovery notification has been placed on the certificate of title to a certain parcel of land (or as the case may be) situated in the municipal district (or as the case may be) of..... namely (here insert description of parcel) in which you appear according to the records of this office, to be interested;

And further take notice that unless before the..... day of ..... 19..... (here insert the first day of April in the year after) you pay to..... at..... (here insert name and address of the Industrial Municipal Tax Commission as given in the Tax Arrears List), all taxes which are shown on his records as being due with respect to the said parcel, other than the taxes for current year, the said parcel may be offered for sale by public auction and a certificate of title thereto may issue to the purchaser upon cancellation of the existing certificate.

By applying to the Commission at the address given above you can learn the amount of the taxes and costs, as at the time of your application.

Dated at ..... this ..... day of ..... 19.....

Registrar

FORM B

(Section 46)

THE INDUSTRIAL MUNICIPAL TAX ACT

The Industrial Municipal Tax Commission, pursuant to the powers vested in it by *The Industrial Municipal Tax Act*, hereby transfers to..... of....., free from all encumbrances save those arising from claims of the Crown in the right of Canada, and save irrigation or drainage debentures, and registered easements, all that parcel (here insert a sufficient description of the parcel) which was duly offered





for sale by public auction under the provisions of *The Industrial Municipal Tax Act* on the ..... day of ..... 19....., and which was duly sold to ..... for \$..... upon the ..... day of ..... 19......

*Where the parcel was sold upon the mortgage plan, add to the above Form:*

“upon the condition among others that he would execute a mortgage thereof to the said municipality”;

*Where the parcel was sold upon the instalment plan, add to the above Form:*

“subject, however, to the rights of the said..... as a purchaser of the said parcel, upon the instalment plan”;

*Where the parcel has been finally acquired, insert in lieu of the last clause of Form:*

“which was finally acquired by the said..... upon the ..... day of ..... 19.....”.

Attested by.....  
*Secretary, Industrial Municipal Tax Commission*

SEAL OF COMMISSION

Signed by .....  
*Chairman of Industrial Municipal Tax Commission*

The consideration paid for this transfer is covered by receipts numbered as follows:

.....  
*Secretary*

No. 95

---

---

FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

---

---

**BILL**

An Act to Provide for the Taxation  
of Certain Industries and the  
Distribution to Municipalities  
of the Proceeds thereof

---

---

Received and read the

First time.....

Second time.....

Third time.....

---

---

HON. MR. HOOKE

---

---