

GOVERNMENT NOTIFICATION.—No. 18.

The following Rules regarding Land Tax in the New Territories are published, in substitution for the Rules published in Government Notification No. 632 of 26th October, 1901.

By Command,

J. H. STEWART LOCKHART,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 9th January, 1902.

LAND TAX.

Rules made by the Governor in Council under section 3 of Ordinance 12 of 1899, this 23rd day of October, 1901.

1. For the period from 18th April, 1900, to the 17th April, 1902, Land Tax shall be paid on land in the Islands of Cheung Chau and Ma Wan in the New Territories, subject to the terms and conditions contained in the following Rules, namely:—

2. Such Land Tax is now due and payable to the Treasurer or such officer as he may depute for that purpose.

3. Such Land Tax shall be recoverable in the manner provided by Rule 8 of these Rules.

4.—(i.) Land Tax shall be payable in respect of land of every description—

(a.) by the person or persons certified by the Land Court to be the owner or owners of such land, except when such land is subject to a customary mortgage, when, until the redemption of that mortgage, Land Tax shall be payable by the person certified by the Land Court to be the customary mortgagee;

(b.) where no person has been certified by the Land Court to be the owner or customary mortgagee of such land, or where the person liable makes default, then by any person or persons who appear to be or who claim to be in actual beneficial occupation of such land, and they may deduct the amount of Land Tax so paid by them from the rent if any due by them in respect of such land to their immediate landlord.

(ii.) Where any land is subject to a perpetual Rent Charge, the person liable for the payment of Land Tax may deduct the whole of the Land Tax payable by him in respect of such land from the amount of such perpetual Rent Charge: Provided always that in the case of land covered by buildings in respect of which Land Tax on the 2nd Class scale shall be payable, the person liable for the payment of Land Tax may deduct an amount not exceeding one half of the Land Tax paid by him in respect of such land from the amount of such perpetual Rent Charge.

5. Such Land Tax shall be paid in accordance with the following scale, namely:—

Agricultural Land.

For 1st Class land,—		
Per acre	\$1.50.	Minimum charge
		\$0.15.
For 2nd Class land,—		
Per acre	\$1.00.	Minimum charge
		\$0.10.
For 3rd Class land,—		
Per acre	\$0.50.	Minimum charge
		\$0.05.

Uncultivated Land.

1st Class land shall pay such Land Tax as shall be fixed as fair and reasonable by the officer appointed by the Governor for that purpose: Provided always that if the person liable for the payment of such Land Tax shall be dissatisfied with the amount thus fixed, he may appeal to the Governor in Council, whose decision shall be final:

2nd Class land, per acre	\$1.00.	Minimum charge	\$0.10.
3rd Class land, per acre	\$0.50.	Minimum charge	\$0.05.

Land covered by Buildings.

1st Class land, as for 1st Class uncultivated land.		
2nd Class land, per acre.....	\$10.00.	Minimum charge
		\$0.10.
3rd Class land, per acre.....	\$ 5.00.	Minimum charge
		\$0.10.

6. The officer appointed by the Governor for the purpose shall decide whether any land in the New Territories is agricultural, building, or uncultivated land, and he shall also decide within which of the above three classes any such land falls; but in the event of any person being dissatisfied with any such decision, an appeal shall lie therefrom to the Governor.

7. The expression "agricultural land" as used in these Rules shall mean land which is used solely and exclusively for purposes of agriculture or fruit-growing.

8. Every sum now due or payable or which shall hereafter become due and payable to the Crown on account of Land Tax may be recovered in the manner hereinafter provided.

A.—(1.) The proper officer shall prepare from the Rent Rolls general notices in the form prescribed in Schedule A specifying the name of each person from whom Tax appears to be due and the amount due by him. The notices shall be exhibited in a Police Station or some other convenient place within each district.

(2.) When any such sum has fallen due and a written notice of demand for it has been served on any one of the persons liable for it or published in the prescribed manner, and fifteen days, or such further time as may have been allowed by such notice, have elapsed from the time of such service or publication without such sum having been paid or satisfied, such sum shall be deemed to be in arrear and every person liable for it shall be deemed to be a defaulter.

B.—With a view to the recovery of arrears the officer appointed by the Governor in that behalf may issue an attachment and may seize by virtue thereof any personal property of the defaulter and may also seize any live stock or effects or any crops to whomsoever belonging which may be found on the land in respect of which the arrears are due and may after the prescribed notice sell the same by public auction in the prescribed manner.

C.—The attachment may be made by a Land Bailiff who shall publicly notify the attachment in the prescribed manner and shall take an inventory of the property attached.

D.—If the arrears cannot be recovered in the manner aforesaid the proper officer may proceed against the land in respect of which the arrears have accrued as next hereinafter provided.

E.—(1.) The proper officer may by notice of sale (to be served or published in the prescribed manner) declare his intention of selling, at the expiration of three months from the date of such notice of sale, the land in respect of which the arrears have accrued, and, if at the expiration of such period such arrears have not been paid or satisfied, the said officer may sell by public auction the whole of such land or such portion thereof or such interest therein as he may deem sufficient.

(2.) Provided that in case of any auction sale of land held under this section it shall be competent for the proper officer to fix a reserve price below which no such land shall be sold, such reserve price not to exceed the amount of the arrears together with interest thereon at the rate of eight per cent. per annum, and costs: and provided further that in the event of no bid equal to or exceeding the amount of such reserve price being offered at the time of sale, a report to that effect shall be furnished by the proper officer to the Governor who may, at any time after one week from the date of such auction sale, declare by notification in the *Gazette* that such land is resumed by the Crown, and such land shall be and become the property of the Crown from and after the date of such notification.

F.—The proceeds of such sale shall be applied in the first place in satisfaction of the arrears together with interest thereon at the rate of eight per cent. per annum and costs, and in the event of there being any surplus remaining, the said officer shall, if he is satisfied as to the right of any person claiming such surplus, pay the amount thereof to such person, and if he is not so satisfied shall hold the amount in trust for the person who may ultimately succeed in due course of law in establishing his title thereto.

G.—The purchaser at a sale held under the last preceding paragraph shall be deemed to have acquired the right offered for sale free from all incumbrances created over it and from all subordinate interests derived from it except such as are expressly reserved by the said officer at the time of sale.

H.—All costs of any proceedings under these Rules for the recovery of arrears may be recovered in the same way as if they formed part of such arrears.

I.—If any person, having any interest in any property liable to be sold under the provisions of this Ordinance, at any time previous to such sale tenders to the said officer the arrears with interest and costs, the said officer shall thereupon desist from any further proceedings in respect thereof.

J.—If any person whose personal property crop or land has been attached or advertised for sale under the provisions of these Rules disputes the propriety of the attachment or sale he may apply to the Supreme Court in its Summary Jurisdiction for an order to stay the proceedings and the Court after hearing the said officer and making such further enquiry as may be necessary shall make such order in the premises as shall be just.

K.—No application shall be entertained by the Court under the last preceding paragraph unless the applicant has deposited in Court the amount of the arrears and costs, or given security for the same to the satisfaction of the Court.

L.—If a person liable to pay any sum due under these Rules cannot be found, the notice required by Rule 8 A (2) of these Rules shall be published by affixing a copy, in the form prescribed in Schedule B, to his house, or to a temple, or to a police station or other conspicuous building in the vicinity.

M.—Under paragraph B of this Rule the proper officer may, at his own instance, or on the oral application of a Land Bailiff or other officer of his department, issue a warrant of attachment in the form prescribed in Schedule D.

The Land Bailiff or other officer to whom the attachment is addressed shall notify the same by affixing or posting a copy thereof to or upon a conspicuous part of the premises in which the seizure is effected.

N.—The attachment of moveable property shall be effected by an actual seizure, and an inventory shall forthwith be taken of such property by the attaching officer, who shall keep the property in his own custody, or in the custody of one of his subordinates, and shall be responsible for the safety thereof.

He shall not enter any dwellinghouse after sunset or before sunrise, nor shall he break open the outer door of a dwelling house. But when he has duly gained access to any dwelling house, he may unfasten or break open the door of any room in which he has reason to believe there is any property liable to attachment.

O.—The attachment of crops shall be effected by notice prohibiting the person in possession from removing or dealing with the same. Such notice (Schedule E) shall be posted up on the land on which the crops are growing, and a copy thereof shall be posted at a temple, police station or other conspicuous building in the vicinity.

The attaching officer shall immediately after seizure proclaim, by beat of gong or other manner, that if the amount due is not paid within ten days, or cause shewn why the property should not be sold, such property will be sold by public auction.

P.—On the expiration of ten days, if no good cause to the contrary has been shown and the arrears and costs are still unpaid, the property may be sold.

Provided that when the property seized is of a perishable nature, or when the expense of keeping it in custody appears likely to exceed its value, it may be sold at once. The expense of the maintenance of live-stock and the custody of moveable property, while under attachment, shall form part of and be recoverable in the same way as the other costs of the attachment.

No officer having any duty to perform in connection with any sale under these Rules shall, either directly or indirectly, bid for, acquire, or attempt to acquire any interest in any property sold at such sale.

Q.—Any sale under these Rules may be adjourned from time to time if the said officer shall see good reason for such adjournment. Every such sale shall be stopped if, before the lot is knocked down, the arrears and costs (including the costs of sale) are tendered to the officer conducting the sale.

R.—Where it becomes necessary to take proceedings against the land under paragraph D of this Rule, the proper officer shall record in his office a statement of the case, giving the reason for the process adopted and the area and boundaries of the land, and the nature of the interest sold. He shall, excepting in cases in which he considers it to be unnecessary to do so, annex a plan of the land. A copy of such statement, authenticated by the signature of the said officer, shall, on application, be given to the purchaser.

The notice under paragraph E shall be in the form in Schedule F and shall be served personally on the person named therein or, if that be impracticable, shall be published, by beat of gong or other manner, at some place on or adjacent to the land to be sold. A copy of the notice shall also be posted up on the land itself and at a temple, police station or other conspicuous building in the vicinity.

S.—In the case of moveable property and crops, the price of each lot shall be paid at the time of sale, or as soon after as the officer holding the sale directs; in default of payment, the property shall be again put up and sold. On payment of the purchase-money, the officer conducting the sale shall give a receipt for the same.

On every sale of immoveable property under these Rules, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per centum on the amount of his purchase-money to the officer conducting the sale, and in default of such deposit, the property shall forthwith be put up again for sale.

The balance of the purchase-money shall be paid by the purchaser on or before the fifteenth day after the sale of the property, or, if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.

In default of payment within the period mentioned above, the deposit shall be forfeited to Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claim to the property, and to the whole or any part of the sum for which it may subsequently be sold.

T.—On payment of the purchase-money, the purchaser shall receive from the proper officer a certificate of title to the land or interest in land, as the case may be, sold to him; and the land or interest in land so sold shall forthwith vest in the purchaser absolutely, and he shall be forthwith put in possession of the purchased property, the aid of the Police being afforded if needful.

The sums to be deducted from the proceeds of the sale, besides the arrears originally due to Government, shall be:—

- (a.) any further arrears that have accrued up to the day of sale;
- (b.) the costs incurred by the process and sale.

FEES.

The following fees may be demanded under these Rules:—

- Service or publication of any notice\$0.25.
- Warrant of Attachment,\$1.00.

A charge, calculated at a rate not exceeding 40 cents a day for each man, may be made when it is necessary to place a person or persons in charge of property attached.

SCHEDULES.

- A.*—General notice of demand. Rule 8 paragraph *A* (1).
- B.*—Notice under Rule 8 paragraph *A* (2).
- C.*—Receipt.
- D.*—Attachment. Rule 8 paragraphs *B.*, *C.* and *M.*
- E.*—Notice attaching crops. Rule 8 paragraph *O.*
- F.*—Notice under Rule 8 paragraph *E.*

Schedule A.

Rule 8 Paragraph A (1.)

General Notice of Demand under Rules made by the Governor in Council under section 3 of Ordinance 12 of 1899. The following statement showing the land tax demand for the district of _____ for the year _____, is published for the information of those concerned. The amounts will be payable at the Office of the _____ at once. The persons named in the schedule hereto which can be inspected in the Office of _____ are informed that, for a special notice of demand, a fee of twenty-five cents will be payable, and that arrears will be summarily levied according to law.

Schedule B.

District of	No.	
To	or present occupant.	
Take notice that you are hereby required to pay at the		Land Tax due by you for _____ year
amounting to \$ _____	within 15 days from the date of the service hereof on you;	in default of payment within the period
specified, the amount of all arrears due, together with the costs of process, will be recovered under the powers contained in the Land Tax Rules made by the Governor in Council.		
Dated at _____	this _____	day of _____
	Current Tax for\$ _____
	Arrears for,, _____
	Notice Fee,, _____
	Total,\$ _____

Schedule C.

Receipt	No.		Land Tax on
Received from			
Lot	District of	Division of	
Current Tax for			\$
Arrears for	years, viz.,	to	,
Notice Fee			,
Total,			\$

(Counterfoil.)

No.			
Received from			
Division			
District			
Current Tax for			\$ cts.
Arrears for	years, viz.,	to	
Notice Fee			
Total,			\$

Schedule D.

Warrant of Attachment.

Land Tax Rules. Rule 8 paragraphs *B.*, *C.* and *M.*

To Whereas by a notice of demand served or published on the _____ day of _____ was required to pay Current Land Tax \$ _____ at _____ the sum of \$ _____ (being arrears and costs recoverable for _____ years \$ _____ under The Land Tax Rules) as noted in the margin, and whereas the said sum Arrears for _____ years \$ _____ of \$ _____ has not been paid: These are to Command you to attach the per- viz., to _____ sonal property of the said _____ wherever the same may be Notice Fee found and also the live-stock and effects or any crops to whomsoever belonging which Attachment Fee may be found on the land Lot No. _____ of _____ in the Costs district of _____, and, unless the said sum of \$ _____ together with Total,.....\$ _____ \$ _____, the costs of this Attachment, be paid, to hold the same until further orders.

You are further commanded to return this Warrant on or before the _____ of _____ with an endorsement certifying the date and manner in which it has been executed, or the reason why it has not been executed. Given under my hand and seal this _____ day of _____

Schedule E.

Whereas _____ has failed to satisfy an arrear of Land Tax amounting, with costs, to \$ _____: Notice is hereby given that the property specified at the foot hereof has been attached under a Warrant of Attachment issued by the _____, dated the _____ day of _____, and the said _____ and all persons are hereby prohibited from disposing or removing the said property, and all persons are prohibited from receiving the same by purchase, gift, or otherwise.

The _____ day of _____

Schedule F.

Land Tax Rules. Rule 8 paragraph *E.*

Whereas by a notice of demand served or published on the _____ day of _____, _____ was required to pay at _____ the sum of \$ _____ being arrears and costs recoverable under "The Land Tax Rules" and whereas the said sum has not been paid and cannot be recovered in the manner prescribed in Rule 8 paragraph *B* of the said Rules:

Notice is hereby given that, at the expiration of three months from the date of this notice, the _____ will proceed to sell by public auction the land described at the foot hereof (being the land in respect of which the arrears have accrued), and all persons are hereby warned against alienating the land so described, by sale, gift, or otherwise, and from receiving the same by purchase, gift, or otherwise.

Given under my hand and seal this _____ day of _____

COUNCIL CHAMBER,
HONGKONG.

C. CLEMENTI,
Acting Clerk of Councils.