

THE TAX COLLECTION ACT

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TAX COLLECTION

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SCHEDULE [Repealed by Act 31 of 1999.]

THE TAX COLLECTION ACT

[13th August, 1867.]

Cap. 375.
Law
6 of 1960.
Acts
42 of 1969
3rd Sch.,
12 of 1985
Sch.,
12 of 1986,
31 of 1999,
9 of 2013,
5 of 2014
Sch.,
9 of 2014
Sch.

1. This Act may be cited as the Tax Collection Act.

Short title.

2.—(1) In this Act, unless the context otherwise requires—

Interpreta-
tion.

“Commissioner General” means the Commissioner
General of Tax Administration Jamaica;

9/2013
S. 2.
9/2014
Sch.

“penalty” includes interest;

“tax” or “taxes” includes quit rents and all taxes, rates,
duties, and fees payable under any enactment to the
Collector or Assistant Collector of Taxes for any
parish;

“tax debtor” means a person who owes an amount in
respect of any tax, penalty or surcharge.

9/2014
Sch.

(2) All rates levied or imposed, or hereafter to be levied
or imposed under or by virtue of any enactment of this
Island, shall be deemed to be taxes within the meaning of this
Act.

2A.—(1) Subject to subsections (4) and (7), the Minister may
by order published in the *Gazette*, subject to affirmative
resolution of the House of Representatives, prescribe the
interest rate payable in respect of arrears of tax for the first
six months of each calendar year and the second six months
of each calendar year, respectively.

Minister
may
prescribe
interest rate
for arrears
of tax.
9/2014
Sch.

(2) An order made under subsection (1) prescribing the interest rate for the first six months of a calendar year shall be published in the *Gazette* on or before January 31 of that calendar year.

(3) An order made under subsection (1) prescribing the interest rate for the second six months of a calendar year shall be published in the *Gazette* on or before July 31 of that calendar year.

(4) In the calendar year 2014, for the period commencing on October 1, 2014 until December 31, 2014 (hereinafter called the “specified period”)—

(a) subsections (1) and (3) shall apply as if the references in those subsections to the second six months of a calendar year were references to the specified period; and

(b) the words “September 30, 2014” shall be substituted for the words “July 31 of that calendar year” in subsection (3);

(5) If an order is not made under subsection (1) in respect of any period of six months or for the year 2014, in respect of the specified period, the order that was in effect for the preceding period shall remain in effect until a new order comes into effect.

(6) Notwithstanding any provision of law to the contrary, an interest rate prescribed by an order made under subsection (1) shall apply in respect of arrears of tax under any enactment of Jamaica to the exclusion of any rate of interest provided for in any such enactment.

(7) This section does not apply in respect of any interest rate that is provided for in the *Assets Tax (Specified Bodies) Act*, the *Stamp Duty Act* or the *Transfer Tax Act*.

3.—(1) It shall be lawful for the Governor-General at any time to appoint a Collector of Taxes for each or any parish of this Island, and as many assistants to every such Collector, as may be necessary.

Governor-General may appoint Collector of Taxes and Assistants.
5/2014
2nd Sch.

(2) The Commissioner General of Tax Administration Jamaica appointed under the Tax Administration Jamaica Act shall, in addition to the status and powers conferred upon him under that Act, be treated as a Collector of Taxes with all of the powers conferred as if appointed as such under subsection (1) and any person assigned as such under subsection (1) and any person assigned as an assistant to the Commissioner General for the purposes of tax collection, shall be treated as an Assistant Collector of Taxes for the purposes of this Act.

5/2014
2nd Sch.

4. Subject to the orders of the Collector of Taxes, all Assistants to every such Collector of Taxes shall have the powers of the Collector of Taxes, and all such assistants shall perform such duties in the Revenue Department as the Collector, whose Assistants they are, shall subject to the orders of his official superiors, prescribe.

Powers and duties of Assistants to a Collector of Taxes.

5. Every Collector of Taxes, and Assistant Collector of Taxes shall hold his office during pleasure, and that notwithstanding his having been appointed to some other office which under this Act he can hold concurrently with his office of Collector of Taxes, or Assistant Collector of Taxes.

Appointments of Collectors, etc.

6. *[Deleted by Act 12 of 1985, Schedule.]*

Collector of
Taxes or
Assistant
may be Sub-
Collector of
Customs.

12/1985
Sch.
9/2013
S. 3.

7. A Collector of Taxes, or an Assistant to a Collector of Taxes in any parish, may be appointed by the Governor-General to be a Sub-Collector of Customs in any port within that parish; and, when so appointed, in his capacity of Sub-Collector of Customs, shall be subject to the orders of the Commissioner of Customs or the Commissioner General, as may be appropriate, and a Sub-Collector of Customs may also be appointed by the Governor-General to be the Collector of Taxes, or an Assistant to the Collector of Taxes in that parish.

8. *[Deleted by Act 12 of 1985, Schedule.]*

Minister to
make rules.

31/1999
S. 2.

9. The Minister may prescribe, from time to time, regulations for the guidance of Collectors of Taxes and their Assistants, in every department of their business, and may also fix, for any breach of the said regulations, such penalty as may be thought proper, not exceeding in any one case, the sum of one hundred thousand dollars.

Recovery of
penalties.

10. All penalties under this Act, as well as penalties fixed by regulations prescribed under the authority of the last preceding section, may be recovered in a summary manner in the parish wherein the offence shall be committed; and, in default of immediate payment, by imprisonment for a period not exceeding three months, unless the same be sooner paid.

Collector,
etc., to assist
in filling up
forms.

11. Every Collector of Taxes and every Assistant shall give such reasonable assistance in the filling up of forms under any enactment dealing with licences and registration

duties or under any other enactment under which duties or taxes may be receivable by him as may be required from him by any taxpayer.

12. Collectors of Taxes, or their Assistants shall notify to the Accountant-General the name of every person in arrear for taxes, who shall be the recipient of any salary payable by the Government of this Island, or entitled to any money payable out of the public revenue; and thereupon the Accountant-General shall retain the amount of such taxes, and any surcharge thereon.

Collector, etc., to stop salary or pay to public officer for taxes.

13. For every neglect of duty, for which no other penalty is enforced by this or any other enactment, a Collector of Taxes or his Assistant shall forfeit and pay a fine not exceeding ten dollars; and the Accountant-General shall deduct, from any salary payable to such defaulting officer, the amount of the penalty inflicted for every such neglect or default.

Penalty on neglect of duty.

Collection of Taxes

14.—(1) The Tax Collection Year shall be from the first day of April in one year until the thirty-first day of March in the succeeding year.

Tax collection year 1st April to 31st March.

(2) All taxes shall be due and payable on the first day of April in each financial year.

(3) All returns and in-givings relating thereto shall be made on the first day of April in each financial year.

Payment in Moieties and Instalments

15. Whenever the taxes shall amount to or exceed the sum of one hundred dollars, they may be paid by moieties, the first, on or before the thirtieth day of April, and the second, on or before the last day of October then next succeeding; and upon payment of the first moiety, in the case of licences,

Duties of over one hundred dollars may be paid in moieties. 31/1999 S. 3.

the Collector of Taxes shall grant the licence by this Act required and in respect of which the same is paid and so on in like manner upon the payment of the second moiety.

Exemption
from pay-
ment of
second
moiety in
certain
cases and
after certain
notice.

16. When any person, having under the provisions of section 15, on or before the 30th day of April in any year paid the first moiety of the tax or duty made payable in respect of the possession of any article or thing, shall prior to the 1st day of October next ensuing have assigned such article or thing, and, pursuant to the provisions of this Act, shall have also transferred the licence thereon— and when any person in possession of any house or land on the 1st day of April in any year shall, under the provisions of this Act, have paid the first moiety of the taxes payable in respect thereof, and shall previous to the 1st day of October then next ensuing have discontinued the possession thereof—then if, before the 1st day of October after payment of such first moiety, such person shall give to the Collector notice of such assignment and transfer, or such discontinuance of possession (as the case may be), he shall not be liable to pay the second moiety of the said taxes;— but, save as aforesaid, payment by any person of the first moiety of any taxes payable shall involve and be deemed to be an admission of the obligation to pay the second moiety, and such second moiety shall be payable by such person, although, before the month of October in which the same is payable he shall have ceased to possess the article or thing, or to be in possession of the house or land, in respect of which the tax in question was payable.

As to duties
for second
moiety.

Where such notice of discontinuance of possession of any house or land shall have been given, the Collector shall give ten days' notice to any succeeding occupier of the same before issuing any warrant of distress for enforcement of payment of the second moiety of the taxes payable in respect thereof; but when no such notice of discontinuance

shall have been given no action at the suit of any such succeeding occupier shall lie against any Collector in respect of any distress levied without such notice to such occupier.

17. The duties to be paid by moieties as aforesaid shall be entered and registered by the Collector of Taxes separately, and apart from those paid in full; and the licences issued and granted for moieties shall have the word "moiety" written or printed legibly on the top, and along the margin of the same respectively.

How to be entered by Collector.

18. In any case in which the taxes payable by any person on the first day of April for the ensuing financial year shall exceed the sum of two hundred dollars, the same may be paid in four equal quarterly payments on the first day of April, and on or before the first day of July, the first day of October, and the first day of January in each year:

Taxes exceeding two hundred dollars payable quarterly. 31/1999 S. 4.

Provided, however, that if the first quarterly instalment is not paid within the month of April, the whole sum due for taxes for the financial year shall be thereupon payable, and may be enforced under the provisions of this Act:

Non-payment of quarterly instalments.

Provided also, that if the instalments due on the first day of July and the first day of October are not respectively paid within those months, the whole amount of the unpaid taxes for the current financial year shall thereupon become payable, and may be enforced under the provisions of this Act.

19. When any person has, on or before the thirtieth day of April in any year paid the first quarter of the tax made payable in respect of the possession of any article or thing, and shall prior to the first day of July or the first day of October or the first day of January next ensuing have assigned such article or thing, and pursuant to the provi-

Assignment of property after payment of instalment of taxes thereon.

sions of this Act shall have also transferred the licence thereon; and when any person in occupation or possession of any house, or possession of any land on the first day of April in any year shall, under the provisions of this Act, have paid the first quarter of the taxes payable in respect thereof, and shall previous to the first day of July or the first day of October or the first day of January, as the case may be, have discontinued the occupation or possession of such house or the possession of such land; then, if before the first day of July, the first day of October, or first day of January after payment of such first, second, or third quarterly payment, such person shall give to the Collector notice of such assignment or transfer, or such discontinuance of occupation or possession, as the case may be, he shall not be liable to pay the remaining quarterly payments or payment of the said taxes, but, save as aforesaid, payment by any person of the first quarterly payment of any taxes payable shall involve and be deemed to be an admission of the obligation to pay the remaining quarterly payments, and such quarterly payments shall be payable by such persons, although before the first day of July, first day of October, or first day of January, as the case may be, he shall have ceased to possess the article or thing, or to be in occupation or possession of the house, or in possession of the land in respect of which the tax in question was payable. Where such notice of discontinuance or occupation or possession of any house or land shall have been given, the Collector shall give ten days' notice to any succeeding occupier or possessor of the same, before issuing any warrant of distress for enforcement of payment of the second, third, or fourth quarterly payment of the taxes payable in respect thereof, but when no such notice shall have been given, no action at the suit of any succeeding occupier or possessor shall lie against any Collector in respect of any distress levied without such notice to such occupier or possessor.

20. Any person who shall obtain from a Collector of Taxes, Assistant Collector of Taxes or other officer of the Inland Revenue Department or any other Revenue Department, a receipt on payment of any duty, rates, taxes or other moneys applicable for public purposes, is hereby required to produce, at his residence or place of business, such receipt at any time or times within two years from the issue thereof, whenever it is demanded by the Collector of Taxes or any authorized officer of any Revenue Department, or any one specially appointed by him in writing; and if any such person shall, without reasonable excuse, refuse to produce such receipt, to be read and examined by the Collector of Taxes or any authorized officer of any Revenue Department or any person so appointed as aforesaid, within a reasonable time after production thereof shall have been demanded, such person shall for each and every such offence forfeit and pay any sum not exceeding five hundred dollars.

Duty to
produce
receipts for
taxes, etc.,
31/1999
S. 5(a).

31/1999
S. 5(b).

31/1999
S. 5(b).

31/1999
S. 5(c).

21.—(1) All duties, rates and taxes on houses or lands in the Island are hereby declared to be a first charge and lien on such houses and lands, and on the properties on which such houses are respectively situated, subject nevertheless, to any preferential charges or liens thereon existing on the seventeenth day of May, 1905.

Duties,
rates, etc.,
on houses
charged
upon
the lands.
31/1999
S. 6(b).

(2) The charge and lien for duties, rates and taxes created by this section and by the Property Tax, Kingston and St. Andrew Corporation and Parochial Rates and Finance Acts shall be in force until the duty, rate or tax in respect of the same shall be paid, and may be proceeded for and realized at any time, at the discretion of the Minister, notwithstanding that on account of the poverty of the person primarily liable to pay such duty, rate or tax, the same shall have been remitted under any enactment granting power of remission thereof, or shall not have been levied for in pursuance of this Act.

31/1999
S. 6(c).

(3) Provided that, notwithstanding anything to the contrary contained in this or any other enactment, no such duties, rates or taxes shall (whether the collection of the same shall or shall not have been suspended, and whether the same

shall or shall not have been levied for) be recoverable from any person except within seven years from the date when the same became due and payable, and after the said period of seven years, any charge or lien upon the real property in respect of such duties, rates or taxes shall be extinguished:

31/1999
S. 6(d)(i)(ii).

Provided, however, that nothing herein contained shall affect the enforcement of the payment of the expenses referred to in the *Kingston Improvements Act* and the *Local Improvement Act* as being a prior charge, or the charge created under the said Acts.

31/1999
S. 6(e)(i).

(4) The word “properties” in this section, includes all property, as defined in the *Property Tax Act*, the *Kingston and St. Andrew Corporation Act* and the *Parochial Rates and Finance Act*, and all lands, tenements and hereditaments in the Island, on which any house is built.

31/1999
S. 6(e)(ii).

Recovery
of second
moiety.

22. Where only one moiety of the tax or duty shall have been paid, the remaining moiety shall, within ten days after the same falls due, be paid to the Collector of Taxes, or Assistant to the Collector by the party liable thereto; or in default the Collector of Taxes, or Assistant Collector of Taxes, without the necessity for any other authority than is given by this Act, may distrain for the same, and the costs thereon, in like manner as in this Act directed.

Application
of payments.
9/2014
Sch.

22A.—(1) If a payment is made on account of any amount owed by a tax debtor to the Commissioner General, or as the case may be, to the Commissioner of Customs, the payment shall be applied firstly to any principal that is payable, secondly to any interest that is payable, thirdly to any penalty that is payable, and finally to any surcharge that is payable.

(2) A payment under subsection (1) of an amount of interest, penalty, surcharge or principal, as the case may be, shall be applied first to the earliest of such amount that is owing.

(3) Notwithstanding subsections (1) and (2), the Commissioner General (in the case of amounts other than duties imposed under the *Customs Act*), or the Commissioner of Customs (in the case of duties imposed under the *Customs Act*), may agree in writing, as part of a settlement with a tax debtor,

that a payment made on account of any amounts owed by the tax debtor may be applied in a manner other than that required by those subsections.

(4) For the purposes of this section the word “penalty” does not include interest.

Enforcement of Taxes

23. When no return, in respect of the duties or taxes, or any of them, imposed by any enactment of this Island, as shall be by such enactment required, shall be made to the Collector of Taxes, or other officer as aforesaid, such officer shall assess the person neglecting to make such return to the best of his judgment, and according to such information as he may be able to obtain, and shall add to such duties or taxes the penalty specified in that enactment.

Collector may, on neglect to make return as by Act required, assess and make penalty. 6/1960 S. 2(a). 31/1999 S. 7(a).

The Collector of Taxes or other officer as aforesaid shall deliver to the person assessed, or leave at his usual or last known place of abode, or on the premises assessed, a statement of such duties and taxes and penalty, and if within fifteen days after such service, the person so charged shall not make a return as required by the law or laws in that respect, and pay the duties or taxes for which, by such return, he shall appear liable, together with the penalty imposed under this section, the assessment shall be binding and conclusive upon the person charged.

24. If any person making a return of the duties or taxes imposed upon him by any enactment, shall not therewith pay the said duties or taxes, or if any person assessed shall not make a return of and pay the duties or taxes to which he is liable and the penalty thereon within ten days after the delivery of the assessment to him, the Collector of Taxes, without the necessity for any other authority than is given by this Act, for the recovery of the said duties or taxes so returned, or included in the assessment, and the penalty thereon and the costs of distress, may distrain the goods and chattels of the person so liable as aforesaid to the said duties and taxes wheresoever found, as well as any goods and chattels found on the land or premises in the possession of the person liable.

Authority to distrain.

25. If any person liable to the payment of any taxes or duties whatsoever shall, in any return required by him to be made,

Penalty on evasion of taxes.

charge himself with less duty than he is liable to pay under the enactment or enactments imposing such taxes or duties, or in any other manner evade the payment of any such taxes or duties, every such person shall, on conviction, not only be liable to pay the taxes and duties so evaded, but an additional sum, by way of a penalty, equal to the amount of the taxes or duties so evaded, and the costs of the proceeding to recover the same, and shall be further liable to a penalty not five thousand dollars.

31/1999
S. 9.

Succeeding
occupier
distrained
on to deduct
from rent.

26. In case of any distress on the goods and chattels of any succeeding occupier, for the duties or taxes due by a previous occupier, it shall be lawful for such succeeding occupier to deduct the amount enforced by such distress from the next payment of rent; but as against the goods and chattels of any other than the person originally liable, such levy must be made within six months after the duties or taxes shall have become leviable.

Taxes may be
recovered in
Resident
Magistrate's
Court.

27. In addition to the other remedies given by this Act or any other enactment relating to taxes, the Collector of Taxes or Assistant Collector of Taxes, may proceed for the recovery of any amount claimed for any taxes, and for the penalty thereon, in a Resident Magistrate's Court, and such proceedings may be brought in the name of such Collector of Taxes, or Assistant Collector of Taxes, who shall described himself by his name and office, and such proceedings shall not abate by the death, removal, retirement or resignation of such Collector of Taxes, or Assistant Collector of Taxes, but may be carried on and enforced by and in the name of his successor.

Power to
appoint
Bailiffs to
make
distress.

28. Every Collector of Taxes, or Assistant Collector of Taxes, shall have power to name and appoint a Bailiff for the purpose of making a distress for taxes, and every such bailiff shall have the like powers as his principal might or could have exercised in relation to such distress, and the proceedings thereunder, and shall be entitled to the like protection:

Provided that every such Collector, or Assistant Collector, shall be responsible for the acts of the Bailiff appointed by him.

29. Whenever the goods and chattels, or other property of any person indebted for taxes shall have been taken by the Bailiff or Assistant Bailiff of the Resident Magistrate's Court of his parish, by virtue of any execution, warrant, or other process, it shall be lawful for the Collector of Taxes, or Assistant Collector of Taxes, to make a declaration in writing before a Justice of his parish that such person is indebted for taxes, stating the amount wherein such person is so indebted, and to deliver the same to the Bailiff or Assistant Bailiff of such Resident Magistrate's Court, who shall have seized such property; and it shall be the duty of the Bailiff or Assistant Bailiff of such Resident Magistrate's Court, to pay over to such Collector of Taxes or Assistant Collector of Taxes, the net proceeds of any such levy, or a sufficient portion thereof in or towards satisfaction of the taxes so declared to be due; and the declaration so made and delivered to the officer executing the process aforesaid, shall by such officer be returned to the Court out of which such process shall have issued as the authority for such payment.

Payment of taxes from property taken by Bailiff of the Resident Magistrate's Court.

30. A distress or levy for any tax, duty, arrear, moiety, instalment, penalty, or costs under any law of this Island, may be made on any money bonds, bills, notes, or other securities for money, belonging to the same person against whom such distress or levy shall be made, and the same shall be sold and disposed of under the provisions of this Act; and whenever necessary, for the purpose of vesting the same in the purchaser thereof, the Collector of Taxes, or other officer as aforesaid, shall assign and endorse such security for money, without rendering himself liable thereby.

Distress may be made on money, etc.

31. It shall be lawful to keep any distress for the space of ten days (unless the same shall be of a perishable nature, when the same may be immediately sold); and if the same

When distress to be sold.

be not redeemed within ten days, or before sale, to sell and dispose of the same, or a sufficient portion thereof, to satisfy the duties or taxes, and the expenses of the distress, and a commission of five *per centum* on such taxes, or on the value of the distress, if the proceeds shall be insufficient to satisfy the taxes; and the surplus of any sale, and any unsold goods or chattels, shall be returned, on demand, to the person distrained on.

Distress not
redeemable
but on pay-
ment of
taxes and
commission.

32. No distress shall be redeemable except upon payment of the taxes due, and of the commission aforesaid.

Collector of
Taxes, etc.,
not liable
except for
wilful injury
etc., to
distress.

33. No action shall be brought, nor shall any Collector of Taxes, or other officer as aforesaid, be answerable or accountable for any loss, deterioration, or injury to any goods or chattels, or other property levied or distrained upon, except for wilful negligence, ill-usage, or injury.

Distrainer
not a tres-
passer
ab initio.

34. The person making such distress shall not, by reason of any irregularity, be deemed a trespasser *ab initio*.

Properties in
receivership
may be dis-
trained on.

35. The Collector of Taxes may proceed as by this Act directed, for the recovery of taxes, or any arrear, moiety, penalty, or costs respectively, notwithstanding that the property in respect whereof the same shall be payable be in receivership in the Supreme Court, or the party proceeded against be an officer of that Court, without the necessity of any application to the Court for that purpose.

Taxes prior
lien to
bankruptcy.

36. Upon the bankruptcy of any person charged with the payment of taxes, the sum which shall be charged to such person, whether the same shall have become due or not, shall, to the extent to which such taxes may remain un-

paid at the time of such bankruptcy, be the prior charge and lien upon the estate and effects of such bankrupt, in the hands of the Trustee in Bankruptcy or other assignee of such estate, and shall be paid by him out of such estate and effects, if any; and every such bankrupt shall be relieved and discharged from such payment.

37. The permanent quit rent and the property tax may be recovered and enforced under the provisions of this Act, as well against the occupier or tenant, as the owner or any other person interested in the land subject thereto.

Quit rents recoverable against owner as well as tenant.

38. The cost of any such distress shall be charged on the same scale as the fees in other cases of distress; but it shall not be necessary for the Collector of Taxes, or Assistant Collector of Taxes, in making a distress, to appraise the same, nor shall any charge be allowed for appraisalment.

Costs of distress.

39. [*Repealed by Act 31 of 1999.*]

40. If any person shall assault, hinder, or obstruct, or incite any person to assault, hinder, or obstruct any Collector of Taxes, or Assistant Collector of Taxes, or other officer in the performance of his duty, under any enactment or law relating to taxes or duties, every such person shall be liable to a penalty not exceeding ten thousand dollars for every such offence to be recovered as other penalties under this Act.

Penalty for obstructing officer.

31/1999
S. 11.

40A.—(1) The Minister may by order published in the *Gazette* vary—

Power of Minister to vary amount of taxes and penalty.

(a) the amount of taxes payable by moieties or instalments; or

31/1999
S. 12.

(b) any penalty payable under the Act.

(2) An order under subsection (1) shall be subject to affirmative resolution.

Further Remedies for Enforcement of Taxes

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40B.—(1) Where the Commissioner General knows or has reasonable cause to believe that a person—

Garnishment.
9/2014
Sch.

- (a) holds, controls or has custody of moneys belonging to a tax debtor; or
- (b) is, or will be within one year, liable to make a payment to a tax debtor,

the Commissioner General may in writing require the person to pay forthwith, where the moneys are immediately payable, and in any other case as and when the moneys become payable, the moneys otherwise payable to the tax debtor in whole or in part to the Commissioner General on account of an amount owed by the tax debtor to the Commissioner General.

(2) Where the Commissioner General has, under this section, required a person to pay to the Commissioner General, on account of an amount owed by the tax debtor, moneys otherwise payable by the person to the tax debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement—

- (a) applies to all such payments to be made by the person to the tax debtor until the amount owed by the tax debtor is satisfied; and
- (b) operates to require payments to the Commissioner-General, out of each such payment, of such amount as is stipulated by the Commissioner General in the requirement.

(3) The receipt of the Commissioner General for moneys paid by a person as required under this section is a good and sufficient discharge of the liability of that person to the tax debtor, to the extent of the payment.

(4) Every person who, having been required under subsection (1) to pay moneys to the Commissioner General—

- (a) fails to pay to the Commissioner General all or any part of such moneys (in this subsection referred to as the “unpaid amount”); or
- (b) pays all or any part of such moneys to any person other than the Commissioner General (in this subsection referred to as “the diverted amount”),

shall remain liable to pay to the Commissioner General a sum that is equal to the unpaid amount or the diverted amount, as the case may be, and the Commissioner General shall be entitled to recover that sum from the first-mentioned person as a civil debt owing to the Commissioner General.

(5) Where a person carries on business under a duly authorized name or style other than the person's own name, notification to the person of a requirement under this section may be addressed to the name or style under which the person carries on business and, in the case of personal service, in addition to any other lawful means of service, shall be deemed to be validly served if it is left with an adult person employed at the place of business of the addressee.

(6) Where persons carry on business in partnership, notification to the persons of a requirement under this section may be addressed to the partnership name and, in the case of personal service, in addition to any other lawful means of service, shall be deemed to be validly served if it is served on one of the partners or left with an adult person employed at the place of business of the partnership.

(7) The provisions of this section, except subsection (4), apply to the Government of Jamaica in respect of—

(a) any moneys belonging to a tax debtor that the Government holds, controls or has custody of; and

(b) any payment that the Government is, or will be within one year, liable to pay to a tax debtor.

40C.—(1) The Commissioner General may issue a certificate (in this section referred to as a “certificate”) certifying the amount owed by a tax debtor to the Commissioner General that has not been paid, or any part of an amount of tax owed by a tax debtor that has not been paid, as an amount payable by the tax debtor.

Lien.
9/2014
Sch.

(2) The Commissioner General may make an application to the Supreme Court (in this section referred

to as the “Court”) for an order to have registered in the Court a certificate that has been issued under subsection (1).

(3) An application under subsection (2) shall be made in accordance with rules of court and shall be heard by a single Judge in Chambers.

(4) A Judge shall make an order for registration of a certificate in the Court if the Judge is satisfied that—

(a) the Commissioner General is not restricted by section 40D from taking action under this section in respect of the amount owed by the tax debtor or any part thereof, as certified in the certificate; and

(b) there are reasonable grounds for making the order and it would not in the circumstances be unjust to do so.

(5) A certificate when registered pursuant to an order made under subsection (4) has the same effect, and all proceedings may be taken thereon, as if the certificate were a judgment obtained in the Court against the tax debtor for a debt in the amount certified, and the rules of the Court, including those providing for accrual of interest, shall apply accordingly.

(6) For greater certainty, for the purpose of any proceedings under this section—

(a) the rules of the Court relating to judgment debts apply; and

(b) the Commissioner General shall be deemed to be a judgment creditor under those rules.

(7) All reasonable costs and charges incurred or paid in respect of the registration in the Court of a certificate, or in respect of any proceedings taken to collect the amount certified, are recoverable in like manner as if they had been included in the amount certified in the certificate when it was registered.

(8) For the purpose of creating a charge, lien or priority on property (whether real or personal), or any interest or right in such property, belonging to the tax debtor, a

certificate may be filed, registered or otherwise recorded in any registry system, including—

- (a) the Register Book of Titles under the *Registration of Titles Act*;
- (b) the Security Interests Registry under the *Security Interests in Personal Property Act*; and
- (c) the Records Office under the *Record Office Act*,

in the same manner as a document evidencing a judgment of the Court against a person for a debt owing by that person, or a writ of execution in respect of that debt, may be filed, registered or otherwise recorded in such registry system.

(9) If a certificate has been filed, registered or otherwise recorded in a registry system under subsection (8) in respect of any property, or interest or right in such property, belonging to a tax debtor, a charge, lien or priority is created on that property, interest or right, in the same manner and to the same extent as if the certificate were a document evidencing a judgment of the Court against a person for a debt owing by that person or a writ of execution in respect of that debt.

(10) A charge, lien or priority created under subsection (9) by the filing, registration or other recording of a certificate shall be subordinate to any charge, lien or priority in respect of which all steps necessary to make it effective against other creditors were taken before the time the certificate was filed, registered or otherwise recorded.

(11) If a certificate is filed, registered or otherwise recorded under subsection (8), proceedings may be taken in respect of the certificate, including proceedings—

- (a) to enforce payment of the amount evidenced by the certificate, interest on the amount and all costs and charges paid or incurred in respect of—
 - (i) the filing, registration or other recording of the certificate, and
 - (ii) proceedings taken to collect the amount;

- (b) to sell or otherwise dispose of any property, or interest or right in such property, belonging to a tax debtor and to effect the transfer of title to such property, interest or right in furtherance of a sale or disposition of the property, interest or right;
- (c) to renew or otherwise prolong the effectiveness of the filing, registration or other recording of the certificate;
- (d) to cancel or withdraw the certificate wholly or in respect of any of the property, or interest or right, affected by the certificate; or
- (e) to postpone the effectiveness of the filing, registration or other recording of the certificate in favour of any right, charge, lien or priority that has been or is intended to be filed, registered or otherwise recorded in respect of any property, or interest or right, affected by the certificate,

in the same manner and to the same extent as if the certificate were a document evidencing a judgment against a person for a debt owing by that person or a writ of execution in respect of that debt.

(12) If a certificate is presented to an official in a registry system referred to in subsection (8) for filing, registration or other recording under that subsection, or a document relating to the certificate is presented to such official for filing, registration or other recording for the purpose of any proceeding described in subsection (11), it shall be accepted for filing, registration or other recording in the same manner and to the same extent as if the certificate or document relating to the certificate were a document evidencing a judgment against a person for a debt owing by that person or a writ of execution in respect of that debt.

(13) If access is sought to any person, place or thing to make a filing, registration or other recording referred to in

subsection (12), access shall be granted in the same manner and to the same extent as if the certificate or document relating to the certificate were a document evidencing a judgment against a person for a debt owing by that person or a writ of execution in respect of that debt.

40D.—(1) The Commissioner General may not take any action under section 40B or 40C in respect to an amount owed by a tax debtor unless—

Limitations
on action
under
sections
40B and
40C.
9/2014
Sch.

- (a) the tax debtor has acknowledged in writing the amount owed, including by way of filing a return of tax, and has not paid the amount;
- (b) the time for making any objection or appeal in respect of the amount owed has expired, and the amount has not been paid;
- (c) in the event of an objection or appeal in respect of the amount owed, the objection or appeal has been finally determined in accordance with the enactment under which the tax was imposed, and the amount has not been paid; or
- (d) the amount owed has been finally determined by a court, otherwise than pursuant to an objection or appeal referred to in paragraph (c), and the amount has not been paid.

(2) The amounts in respect of which action may be taken by the Commissioner General under section 40B or 40C shall not include any amounts, as determined by the Commissioner General, that are payable to the tax debtor by the Commissioner General.

(3) This section does not apply with respect to—

- (a) any amount that is required to be deducted or withheld, and required to be remitted or paid, under any enactment; or

- (b) any penalty or interest payable in respect of an amount referred to in paragraph (a).

Recovery by
deduction or
set-off.
9/2014
Sch.

40E.—(1) Where an amount owed by a tax debtor has not been paid, the Commissioner General may require the retention by way of deduction or set-off of such amount as the Commissioner General may specify out of any amount that may be or become payable to the tax debtor by the Government of Jamaica, and the Commissioner general may require that the amount deducted or set-off be paid to the Commissioner General to be applied in reduction of the amount owed by the tax debtor to the Commissioner General.

(2) The amount that may be deducted or set-off under subsection (1) shall not include any amounts, as determined by the Commissioner General, that are payable to the tax debtor by the Commissioner General.

Sections 40B,
40C and 40E
without
prejudice to
other
remedies.
9/2014
Sch.

40F. The provisions of sections 40B, 40C and 40E are without prejudice to any other provisions of this Act or any other enactment for recovery of tax owed by a tax debtor.

Publication
of list of tax
debtors.
9/2014
Sch.

40G.—(1) For the purposes of this section—

“certificate” means a certificate of the Commissioner General under section 40C(1);

“publish” means to make public by publishing—

- (a) in the *Gazette* or in any daily newspaper in nationwide circulation in Jamaica;
- (b) by means of broadcast media or any other form of mass media; or
- (c) on a website of the Government of Jamaica or Tax Administration Jamaica;

“list” means the list of tax debtors that is published under subsection (2) or a revised list that is published under subsection (4), as the case may be.

(2) Notwithstanding any other provision of law and subject to the provisions of this section, the Commissioner General may publish a list of tax debtors in respect of whom certificates have been registered in the Supreme Court under section 40C(5).

(3) The list shall contain the following information in respect of each tax debtor in respect of whom a certificate has been registered—

- (a) the amount owed;
- (b) the name of the tax debtor; and
- (c) the type of tax that is comprised in the amount owed.

(4) The Commissioner General shall periodically publish a revised list to update information that is contained in the immediate preceding published list.

(5) Subject to subsection (6), the Commissioner General shall remove the name of, and other information relating to, a tax debtor from a list—

- (a) if the amount owed by the tax debtor has been paid in full;
- (b) an agreement or arrangement for payment has been made to the satisfaction of the Commissioner General for payment of the amount owed; or
- (c) a settlement with regard to the amount owed has been reached to the satisfaction of the Commissioner General.

(6) If a tax debtor, whose name and other information was removed from a list, is in breach of an agreement or arrangement referred to in subsection (5)(b), the Commissioner

General may add the tax debtor to a subsequent revised list, without having to register a certificate in the Supreme Court.

Relief to Indigent Persons

Relief to
indigent
persons.

41. Whenever it shall come to the knowledge of any Collector of Taxes, that any person in possession of a house, whether as owner or otherwise, which is liable to taxation under any law of this Island, is poor and indigent, and unable to pay the tax, rate or duty upon such house, or cannot afford to pay more than a portion of such taxes, rates or duties, he shall refrain from enforcing the payment of any such taxes, rates or duties, or portion thereof, until he has transmitted to the Parish Council, or, in the cases of the parishes of Kingston and St. Andrew, the Kingston and St. Andrew Corporation, a statement of the case, in which he shall give the name of the party, and the amount due by him for taxes, rates or duties, with a description of the house liable to the taxes, rates or duties, and any evidence he may have of the poverty of such person, or his inability to pay the whole of the tax, rate or duty with which he is charged.

Examination
by Collector
of Taxes, etc.

42. It shall be lawful in every such case for the Collector of Taxes, or other officer as aforesaid, to examine on oath (and he is hereby authorized to administer such oath), the person liable for the duties, rates or taxes, and any other person who may be willing to give information respecting his circumstances, and to take down in writing the statement of such persons, to be forwarded with his statement to the Parish Council, or, in the cases of the parishes of Kingston and St. Andrew, the Kingston and St. Andrew Corporation.

Parish
Council or
Kingston
and St.
Andrew
Corporation
to recom-
mend and
Minister to
relieve.

43. The Parish Council, or Kingston and St. Andrew Corporation, in every such case may institute such further inquiry as they shall consider necessary; and, when satisfied that the person is poor and destitute, and unable to pay the duties, rates or taxes for which he is liable, or to pay the whole of them, shall report the case, with their

recommendation, to the Minister, who may direct the Collector of Taxes not to levy for the same, or for the whole thereof, as the Minister shall think proper, or until such time as the Minister shall think proper.

31/1999
S. 13.

44. Whenever the Minister is satisfied from a report made to him by a Collector of Taxes, that any person is so poor and destitute, as to be unable to pay either current property tax or any arrears thereof, due by him, he may direct the Collector of Taxes not to levy for such tax or for such arrears thereof, and he may remit the same, either in whole or in part, and may wipe off all such remitted taxes from the tax roll accounts.

Remission in cases of poor and destitute persons.
31/1999
S. 14.

Actions by Persons Aggrieved

45. In any action to be brought for recovery of the value of any distress for duties or taxes which may have been sold, no greater damages than the net proceeds of sale, after payment of all expenses attending the same, shall be recoverable, unless the plaintiff shall prove that by fraud, or want of care, the distress hath been sold at an under-value, or that before the sale he had given written notice to the Collector of Taxes or Assistant Collector or other officer or person distraining, of his intention to replevy such goods, within a time to be mentioned in such notice, not exceeding ten days from the taking, and had required the sale to be delayed to enable him to replevy the same, and tendered a reasonable sum to cover the additional expenses occasioned thereby, and that the sale was, notwithstanding, proceeded with before the expiration of such time.

Damages recoverable against Collector, etc.

Recovery of Penalties, Forfeitures and Taxes

46.—(1) All penalties and forfeitures imposed by this Act, or by the Licence and Registration Duties Act or the Property Tax Act, or by any other enactment in force for raising and imposing duties or taxes, may be recovered,

Recovery of penalties, forfeitures, and taxes by other process than distress.

and all taxes, duties, and arrears required to be paid to the Collector of Taxes, and not paid to him pursuant to the provisions of this Act, or other such enactments as aforesaid, as well as the penalty thereon, may, instead of the process of distress hereinbefore directed, also be recovered in a summary manner in the parish wherein such offence or default was committed, or the offender or defaulter resides; and, in case of non-payment, may be enforced by distress and sale of the offender's or defaulter's goods, or imprisonment not exceeding three months, unless such penalty, taxes, duties, arrears, and costs shall be sooner paid, and may be enforced under the provisions of any Statute in respect to summary proceedings, and the forms of any such Statute, or other Statutes, may be adapted to meet the requirements of this Act or other enactment as aforesaid; the taxes, duties, and arrears, and the surcharge, and any penalty attaching to such non-payment, may be included in, and recovered in one proceeding, notwithstanding any provision in any enactment relating to summary proceedings providing to the contrary.

6/1960
S. 3 (a).

6/1960
S. 3 (b).

(2) Subsequently to the order of the court under subsection (1), the Collector of Taxes or other officer as aforesaid, may, if he is satisfied that any action taken to enforce the order can be effectively suspended, receive any sum offered by the defaulter on account of taxes, duties, arrears and penalty thereon; so that the defaulter arranges, to the satisfaction of such Collector or other officer on such terms and conditions as may be fixed by such Collector or other officer, for payment of the amount remaining unpaid of such taxes, duties, arrears and penalty, and notwithstanding anything in this Act or in any other enactment contained, or any provision, or rule of law to the contrary the receipt of any sum under this subsection shall not have the effect of vitiating the said order:

Provided, however, that where the said order is to be enforced by distress and sale of the defaulter's goods, the distress shall be abated proportionately by the amount of such payment, and where the said order is to be enforced by imprisonment, the court making the original order shall vary the term of imprisonment accordingly.

47. Nothing in any law relating to summary proceedings shall preclude the Collector of Taxes or Assistant Collector of Taxes from proceeding by distress, or under the provisions of section 46, for the recovery of the said taxes, duties, arrears, and surcharge, at any time until full payment shall have been made to the Government of this Island for the same.

No
limitation as
to recovery
of taxes.

47A.—(1) This section applies to any sum—

- (a) recoverable under section 46 by way of penalty, forfeiture, tax, duty, or surcharge or as arrears or costs; and
- (b) in respect of which the Minister is informed in accordance with subsection (3) that a determination has been made under subsection (2).

Minister
may
write-off
uncollectable
debt.
9/2013
S. 4.

(2) The Commissioner General shall determine whether any sums to which this section applies are uncollectible, in accordance with the criteria prescribed in regulations made under subsection (7).

(3) Upon making a determination under subsection (2), the Commissioner General shall in writing inform the Minister of such determination within thirty days of the determination having been made.

(4) The Minister may, by order published in the *Gazette*, declare any sum in respect of which a determination under subsection (2) has been made by the Commissioner General to be written-off.

(5) Upon the publication in the *Gazette* of an order made under subsection (4), the sum written-off shall thereafter no longer be included in any projection of the specified sum referred to in subsection (6), but may, thereafter, be the subject of proceedings under this Act to recover the sum, upon any

information subsequently coming to the attention of the Commissioner General which indicates that the sum can in fact be recovered.

(6) The specified sum is the sum in the aggregate that the Collector of Taxes or Assistant Collector of Taxes intends to collect by way of penalty, forfeiture, tax, duty, or surcharge, or as arrears or costs, in respect of any Tax Collection Year subsequent to the date of publication in subsection (4).

(7) The Minister may make regulations—

- (a) providing for a tax debt arrears management system which shall include provisions for the ranking of debt for the purposes of collectability and the criteria for determining a debt to be uncollectible for the purposes of subsection (2);
- (b) prescribing any other matter which may be necessary for the purposes of this section.

Write-off of
uncollectable
customs duty.
9/2014
Sch.

47B. Section 47A applies *mutatis mutandis* in respect of the write-off of any sum that is recoverable by the Commissioner of Customs under the *Customs Act* by way of customs duty, interest, penalty, arrears or costs.

Justices may
give moiety
of penalty to
informer.

48. The Justices adjudicating under this Act may award to the informer a sum not exceeding a moiety of the penalty to be imposed.

Evidence

Copies of
rules evidence.
12/1985
Sch.

49. Copies of all rules passed by the Minister for the regulation of the duties and the guidance of Collectors of Taxes, and Assistant Collectors of Taxes, and other officers, in relation to the departments of the Customs and Inland Revenue, signed, or purporting to be signed by the Minister, and printed copies of such rules purporting to be printed by authority of the Government of this Island, produced from the office of the Commissioner of Customs or the Commissioner General, or of any other officer of either of the said departments, shall be received in all courts as sufficient evidence of such rules.

12/1985
Sch.
9/2013
S. 5.

50. In all legal proceedings, the production of a certificate, purporting to be signed by the Accountant-General, or other officer to whom the duty shall appertain, or by any Collector of Taxes, or other officer as aforesaid, stating the number and description or the value of property, in respect of which the person therein named appears to have paid taxes or duties; and any book, record, statement, or return made by any of those officers in the execution of this Act, or the Licence and Registration Duties Act, or other such enactment as aforesaid, shall be received as *prima facie* evidence of the truth of the statements therein contained; and any certificate, purporting to be signed as aforesaid, that the person therein named does not appear, from any document in his office, authorized to occupy, or keep, or use any property within the meaning of this Act, or the Licence and Registration Duties Act, or other such enactment as aforesaid, or any greater number of any such items respectively than shall be expressed in any such certificate, shall be also received *prima facie* evidence of the truth of the facts therein stated.

Certificates
of certain
officers
evidence.

Application of Act

51. The powers and provisions of this Act shall apply to the collection and enforcement of all taxes, duties, and penalties which are or shall be raised or imposed by any law not otherwise specifically providing for the collection of the same.

This Act to
apply to
taxes, the
collection of
which not
otherwise
provided for.

52.—(1) Where the person liable to pay taxes, rates or duties collectible pursuant to this Act or to do any acts, matters or things in relation thereto is a body corporate such body corporate shall designate an officer of the body corporate (hereinafter in this section referred to as the “responsible officer”) who shall be—

Designation
of respon-
sible officer
by com-
panies.
12/1986
S. 2.

- (a) answerable for doing all such acts, matters and things as aforesaid; and

- (b) responsible for making payment to the Collector of Taxes of all such taxes, rates or duties collectible as aforesaid.

(2) The body corporate shall give written notice to the Collector of Taxes of any designation made pursuant to subsection (1) and shall also notify the Collector of any change in that designation.

(3) In the absence of any designation pursuant to subsection (1), the person who is the managing director of the body corporate or, as the case may be, the person who (by whatever name called) performs in Jamaica the duties normally carried out by a managing director or, if there is no such person, the person in Jamaica appearing to the Collector of Taxes to be primarily in charge of the body corporate's affairs shall for the purposes of this section be deemed to be the responsible officer.

(4) A responsible officer who fails or neglects to carry out his duties in accordance with this section shall be jointly and severally liable together with the body corporate for all taxes, rates and duties and any penalties in relation thereto unless he satisfies the Collector that—

- (a) there were *bona fide* reasons for the failure or neglect and that payment could not have been made in the circumstances; or
- (b) he was overruled by the board of directors (hereinafter referred to as the board) or was otherwise prevented by the board or any director thereof from carrying out his duties under this section.

(5) If the Collector is not satisfied as to the matters referred to in subsection (4) he shall inform the responsible officer of his decision in writing.

(6) Where the responsible officer satisfies the Collector pursuant to subsection (4) that he was overruled or prevented as mentioned in that subsection, each director shall be jointly

and severally liable (together with the body corporate) for the taxes, rates and duties and any penalties in relation thereto unless he proves that—

- (a) there were *bona fide* reasons for overruling the responsible officer or preventing payment and that payment could not have been made in the circumstances; or
- (b) he was neither a party to the decision of the board to overrule the responsible officer nor a party to any action by the board or any other director to prevent payment.

(7) A person who is designated a responsible officer shall not be liable in respect of any taxes, rates or duties which were due and payable—

- (a) prior to the date of his designation; or
- (b) during any period when, consequent on notification to the Collector, he is not the responsible officer.

(8) In this section—

“body corporate” means—

- (a) a statutory body or authority; and
- (b) a company;

“company” means a company incorporated or registered under the Companies Act.

SCHEDULE [Repealed by Act 31 of 1999.]