

# Valuation of Land Act 1916 No 2

[1916-2]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Water Management Act 2000 No 92](#), Sch 8.29 [1] [2] and [8] (not commenced)
  - [Valuers Act 2003 No 4](#) (not commenced)

### Authorisation

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# Valuation of Land Act 1916 No 2



New South Wales

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# Valuation of Land Act 1916 No 2



New South Wales

An Act to make provision for the valuation of land; to establish the office of Valuer-General; to provide for the appointment of contract valuers; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Valuation of Land Act 1916*.

### 2 Date of commencement

This Act shall commence and come into operation on the first day of January, one thousand nine hundred and sixteen. Parts 5 and 6 shall not come into operation within any district or any part of a district until a date to be specified by proclamation of the Governor in the Gazette.

#### Editorial note—

For list of districts and parts of districts to which the operation of Parts 5 and 6 has been extended, see the Historical notes at the end of this Act.

### 3 (Repealed)

### 4 Definitions

(1) In this Act, unless inconsistent with the context or subject-matter:

**Area** means the territory within which a rating or taxing authority levies rates or taxes.

**Compulsorily acquired** means compulsorily acquired in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* or the *Roads Act 1993*.

**contract** includes an arrangement.

**contract valuer** means a person or body with whom the Valuer-General has a valuation service contract.

**Council** has the same meaning as it has in the *Local Government Act 1993*.

**Department** means the Department of Land and Water Conservation.

**Deposited plan** means a plan (not being a plan under the [Strata Schemes \(Freehold Development\) Act 1973](#) or the [Strata Schemes \(Leasehold Development\) Act 1986](#)) registered after being lodged at the office of the Registrar-General in accordance with Division 3 of Part 23 of the [Conveyancing Act 1919](#).

**Director-General** means the Director-General of the Department.

**District** means valuation district for the purposes of this Act.

**exercise** a function includes perform a duty.

**function** includes a duty.

**general valuation** means a valuation referred to in section 14A (1).

**Joint Committee** means the Joint Committee called the Committee on the Office of the Valuer-General constituted under Part 8.

**Land improvements** means:

- (a) the clearing of land by the removal or thinning out of timber, scrub or other vegetable growths,
- (b) the picking up and removal of stone,
- (c) the improvement of soil fertility or the structure of soil,
- (d) the restoration or improvement of land surface by excavation, filling, grading or levelling, not being works of irrigation or conservation,
- (d1) without limiting paragraph (d), any excavation, filling, grading or levelling of land for the purpose of the erection of a building, structure or work, not being for the purpose of irrigation or conservation,
- (e) the reclamation of land by draining or filling together with any retaining walls or other works appurtenant to the reclamation, and
- (f) underground drains.

**Lease** includes agreement to lease, licence, or any other document for the tenancy or occupancy of land.

**Lessee** includes sub-lessee.

**List** includes supplementary list.

**Local government area** has the same meaning as **area** has in the [Local Government Act 1993](#).

**Owner** means the person who, whether jointly or severally, is seised or possessed of or entitled to any estate or interest in land.

**Planning instrument** means an environmental planning instrument within the meaning of the *Environmental Planning and Assessment Act 1979* (including a deemed environmental planning instrument within the meaning of that Act).

**Proclamation** means proclamation by the Governor published in the Gazette.

**rating or taxing authority** means a rating or taxing authority referred to in section 47 (1).

**Register of Land Values** means the Register of Land Values referred to in section 14CC.

**Rent**, in respect of a lease, includes premium, fine, royalty, and any other consideration for the tenancy or occupancy of land.

**Stratum** means a part of land consisting of a space or layer below, on, or above the surface of the land, or partly below and partly above the surface of the land, defined or definable by reference to improvements or otherwise, whether some of the dimensions of the space or layer are unlimited or whether all the dimensions are limited; but refers only to a stratum ratable or taxable under any Act, and **strata** is the plural of stratum.

**Supplementary valuation** means a valuation included in a supplementary list supplied pursuant to section 49 but does not include:

- (a) a valuation made under the provisions of section 19B or a valuation referred to in section 20 (3) (b),
- (b) an altered valuation made as the result of an objection, appeal, correction of a clerical error or misdescription, where the valuation which was altered was included in a general valuation.
- (c) (Repealed)

**Taxes** includes duties.

**valuation recommendation** means a recommendation of the kind referred to in section 13H.

**valuation service** means a service involving the provision of valuation recommendations to the Valuer-General for the purposes of Part 2.

**valuation service contract** means a valuation service contract referred to in Part 1A.

**valuing year** means the year commencing 1 July.

**Water right** means a right or other authority under an Act, whether conferred by licence, permit or otherwise, to take or use water or to take and use water.

**Western Division** has the same meaning as it has in the [Western Lands Act 1901](#).

- (1A) In this Act, a reference to land includes a reference to a stratum and a reference to a parcel of land includes a reference to a parcel that comprises a stratum.
- (2) Notes in the text of this Act are explanatory notes and do not form part of this Act.
- (3) Nothing in this Act relating to strata shall affect the provisions of the [Strata Schemes \(Freehold Development\) Act 1973](#) or the [Strata Schemes \(Leasehold Development\) Act 1986](#).

**Note—**

Refer to Part 4 of the [Strata Schemes \(Freehold Development\) Act 1973](#) and Part 4 of the [Strata Schemes \(Leasehold Development\) Act 1986](#) for provisions relating to the valuation of parcels under those Acts.

## **5 Improved value of land**

- (1) The improved value of land is the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require.
- (2) In determining the improved value of any land being premises occupied for trade, business, or manufacturing purposes, such value shall not include the value of any plant, machines, tools, or other appliances which are not fixed to the premises or which are only so fixed that they may be removed from the premises without structural damage thereto.

## **6 (Repealed)**

### **6A Land value**

- (1) The land value of land is the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require, assuming that the improvements, if any, thereon or appertaining thereto, other than land improvements, and made or acquired by the owner or the owner's predecessor in title had not been made.
- (2) Notwithstanding anything in subsection (1), in determining the land value of any land it shall be assumed that:
- (a) the land may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used, at the date to which the valuation relates, and

(b) such improvements may be continued or made on the land as may be required in order to enable the land to continue to be so used,

but nothing in this subsection prevents regard being had, in determining that value, to any other purpose for which the land may be used on the assumption that the improvements, if any, other than land improvements, referred to in subsection (1) had not been made.

(3) Notwithstanding anything in subsection (1), in determining the land value of any land, being land in relation to which, at the date to which the valuation relates, there was a water right:

(a) the land value shall include the value of the right, and

(b) it shall be assumed that the right shall continue to apply in relation to the land.

## **7 Assessed annual value**

(1) The assessed annual value of land is:

(a) nine-tenths of the fair average annual value of the land, with the improvements (if any) thereon, or

(b) \$10,

whichever is the greater.

(2) In determining the assessed annual value of any land being premises occupied for trade, business, or manufacturing purposes such value shall not include the value of any plant, machines, tools, or other appliances which are not fixed to the premises or which are only so fixed that they may be removed from the premises without structural damage thereto.

(3) In determining the assessed annual value of any land it shall be assumed that the land, with the improvements, if any, thereon is not subject to the provisions of the [Landlord and Tenant \(Amendment\) Act 1948](#).

## **7A Improved value of strata**

(1) The improved value of a stratum is the capital sum which the fee-simple of the stratum might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require.

(2) In determining the improved value of any stratum being premises occupied for trade, business, or manufacturing purposes, such value shall not include the value of any plant, machines, tools or other appliances which are not fixed to the premises or which are only so fixed that they may be removed from the premises without structural damage thereto.

## **7B Land value of strata**

- (1) The land value of a stratum is the capital sum which the fee-simple of the stratum might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require assuming:
  - (a) that the improvements, if any, within the stratum and made or acquired by the owner or the owner's predecessor in title had not been made: Provided that where the stratum is wholly or partly in an excavation it shall be assumed that the excavation of the stratum had been made,
  - (b) that means of access to the stratum may be used, and may continue to be used, as they were being used, or could be used, on the date to which the valuation relates, and
  - (c) that lands outside the stratum, including land of which the stratum forms part, are in the state and condition existing at the date to which the valuation relates, and, in particular, without limiting the generality of this assumption, that where the stratum consists partly of a building, structure, or work or is portion of a building, structure, or work, such building, structure, or work, to the extent that it is outside the stratum, had been made.
- (2) Notwithstanding anything in subsection (1), in determining the land value of a stratum it shall be assumed that:
  - (a) the stratum may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used, at the date to which the valuation relates, and
  - (b) such improvements may be continued or made in the stratum as may be required in order to enable the stratum to continue to be so used,but nothing in this subsection prevents regard being had, in determining that value, to any other purpose for which the stratum may be used on the assumptions set forth in subsection (1).

## **7C Assessed annual value of strata**

- (1) The assessed annual value of a stratum is:
  - (a) nine-tenths of the fair average annual value of the stratum, with the improvements (if any) therein, or
  - (b) \$10,whichever is the greater.
- (2) In determining the assessed annual value of any stratum being premises occupied for

trade, business, or manufacturing purposes such value shall not include the value of any plant, machines, tools, or other appliances which are not fixed to the premises or which are only so fixed that they may be removed from the premises without structural damage thereto.

- (3) In determining the assessed annual value of any stratum it shall be assumed that the stratum, with the improvements, if any, therein, is not subject to the provisions of the *Landlord and Tenant (Amendment) Act 1948*.

#### **7D Valuer-General not required to determine certain valuations**

- (1) Subject to subsection (5), on and after 1 January 1973, the Valuer-General is not required:
- (a) to determine the improved value of any land,
  - (b) to determine the assessed annual value of any land except where the Valuer-General is requested, by instrument in writing, to do so by a rating or taxing authority, or
  - (c) to record in the Register of Land Values the nature of the improvements on any land.
- (2) Subsection (1) shall not operate so as to prevent the Valuer-General, if he or she decides to do so, from determining the assessed annual value of any land or from recording in the Register of Land Values the nature of the improvements on any land.
- (2A) The Valuer-General is not required, in relation to a rating or taxing authority:
- (a) to make any valuation, or to determine any allowance or apportionment factor, under this Act, or
  - (b) to comply with any other provision of this Act or any other law with respect to such a valuation, allowance, apportionment factor or rating base factor,
- if it appears to the Valuer-General, at the time at which the valuation, allowance, apportionment factor or rating base factor would otherwise be made or determined, that the valuation, allowance, apportionment factor or rating base factor would not, at any time, be used for the purpose of any rate or tax which may be made by or payable to the authority.
- (3) The omission to include in the Register of Land Values or to give in a valuation list the assessed annual value of any land in respect of which a request is made pursuant to subsection (1) (b) by a rating or taxing authority or a valuation, allowance, apportionment factor or rating base factor to which subsection (2A) applies shall not affect or invalidate the Register of Land Values or the valuation list.
- (4) This section shall have effect notwithstanding any provision of this Act or of any other

law.

- (5) Nothing in or done under this section shall affect the operation of section 19B.

#### **7E-7K (Repealed)**

### **8 Valuer-General**

- (1) The Governor may appoint a Valuer-General, who shall have the general administration of this Act.
- (2) Schedule 1 has effect in respect of the Valuer-General.
- (3) Subject to this Act, the Valuer-General has and may exercise the functions conferred or imposed on the Valuer-General by or under this or any other Act or law.
- (4) The general role of the Valuer-General is:
- (a) to exercise functions with respect to the valuation of land in the State, and
  - (b) to ensure the integrity of valuations under this Act, and
  - (c) to be the custodian of the Register of Land Values.
- (5) The Valuer-General may delegate to any person any of the functions conferred or imposed on the Valuer-General by or under this or any other Act or law, other than this power of delegation.

### **9 Functions of Valuer-General**

- (1) The functions of the Valuer-General include the following:
- (a) to establish and maintain the Register of Land Values, and for this purpose to maintain such databases as the Valuer-General thinks appropriate,
  - (b) to enter valuations on the Register of Land Values on the basis of valuation recommendations made under this Act,
  - (c) to enter into, manage and monitor valuation service contracts,
  - (d) to make valuations of land as required by or under this or any other Act,
  - (e) to deal with objections and appeals against valuations under this Act.
- (2) The Valuer-General may, on behalf of the Crown, enter into contracts in connection with the exercise of the functions of the Valuer-General. Nothing in this subsection affects any other power to enter into contracts.

### **10 Staff of Valuer-General's Office**

Such staff as may be necessary to assist the Valuer-General in exercising the functions of



the Valuer-General may be employed under the *Public Sector Management Act 1988*.

### **11 Disclosure and misuse of certain information**

- (1) A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:
  - (a) with the consent of the person from whom the information was obtained,
  - (b) in connection with the administration or execution of this Act,
  - (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings,
  - (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or
  - (e) with other lawful excuse.
- (2) A person acting in the administration or execution of this Act shall not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known but if generally known might reasonably be expected to affect materially the market value or price of any land for the purpose of gaining either directly or indirectly any personal advantage.
- (3) The following persons, namely:
  - (a) contract valuers,
  - (b) directors of corporations that are contract valuers,
  - (c) officers, employees and agents of contract valuers,are, for the purposes of this section, taken to be involved in the administration or execution of this Act. Accordingly, they are persons to whom subsections (1) and (2) apply.

Maximum penalty: 20 penalty units.

### **12 Local government areas**

- (1) Each local government area is a valuation district for the purposes of this Act.
- (2) Whenever there is any change in the boundaries of a local government area, the same change is taken to have been made in the boundaries of the valuation district that corresponds to that area.

### **13 Western Division**

That portion of the Western Division which is not incorporated as local government areas shall also be a valuation district, but may be divided by the Governor into two or more

such districts. The Governor shall notify any such division in the Gazette, and may rescind or alter any such division.

## **Part 1A Contract valuers**

### **13A Valuation service contracts**

- (1) The Valuer-General may negotiate and enter into valuation service contracts for the provision of valuation services to the Valuer-General.
- (2) Without limiting the terms and conditions of valuation service contracts, such contracts may regulate the manner in which valuation services are to be carried out. In particular, such contracts may contain provisions:
  - (a) setting out the principles and methods according to which the valuation services are to be carried out,
  - (b) establishing performance indicators to assist with assessing the effectiveness and efficiency of the valuation services that have been carried out,
  - (c) prescribing the qualifications of persons (including contract valuers and employees or agents of contract valuers) who may exercise specified functions,
  - (d) identifying persons (including contract valuers and employees or agents of contract valuers) who may or may not exercise specified functions,
  - (e) regulating the manner in which specified functions are to be exercised,
  - (f) imposing restrictions on the exercise of specified functions,
  - (g) authorising contract valuers to exercise functions or discretions that expressly or impliedly belong to the Valuer-General,
  - (h) setting out the obligations of contract valuers to provide assistance to the Valuer-General in dealing with objections under Part 3, defending appeals under Part 4 and exercising functions under Part 5.
- (3) Contract valuers are not agents of and do not represent the Valuer-General, except where expressly provided by or under this or any other Act or by the terms of the relevant valuation service contract.

### **13B Kinds of contracts**

Valuation service contracts are of two kinds, as follows:

- (a) contested contracts, being contracts contested through open tender, and
- (b) uncontested contracts, being contracts that are not contested through open tender.

### **13C Contested contracts**

- (1) The Minister may, by order in writing, direct the Valuer-General to invite tenders for contested valuation service contracts for the provision of valuation services:
  - (a) in specified parts of the State, or
  - (b) for specified purposes, or
  - (c) for specified purposes in specified parts of the State.
- (2) The Valuer-General is required to comply with a direction under subsection (1). However, any failure to do so does not invalidate anything done or omitted to be done under or for the purposes of this or any other Act or law.
- (3) Any qualified person may submit tenders for contested valuation service contracts.
- (4) In this section, **qualified person** means:
  - (a) a person who is registered as a practising real estate valuer, or
  - (b) a corporation in respect of which at least one of its directors or employees is registered as a practising real estate valuer,within the meaning of the [Valuers Registration Act 1975](#), and includes the State Valuation Office and any other public agency within which persons who are registered as practising real estate valuers are employed.

### **13D Uncontested contracts**

The Valuer-General may negotiate and enter into uncontested valuation service contracts with the State Valuation Office for the provision of:

- (a) valuation services not covered by a direction under section 13C, and
- (b) valuation services for which there are no successful tenderers under section 13C.

### **13E Termination of contracts**

The Valuer-General may terminate a valuation service contract at any time, subject only to the terms of the contract.

### **13F Monitoring of contract valuers**

The Valuer-General is required:

- (a) to monitor the standard of valuation services provided under valuation service contracts, and
- (b) to make assessments (on a sample basis or otherwise) of the compliance by contract valuers with procedural and other requirements of this Act, the regulations and the

applicable valuation service contracts.

### **13G Provisions relating to State Valuation Office**

- (1) The State Valuation Office may enter into contested and uncontested valuation service contracts with the Valuer-General.
- (2) The Director-General may enter into contracts, and do anything else, on behalf of the State Valuation Office for the purposes of this Act.
- (3) The Director-General may delegate his or her functions under this section, other than this power of delegation, to any public servant employed within the State Valuation Office.
- (4) Nothing in this section affects any other power to enter into contracts or do anything else.

### **13H Recommendations for valuations**

- (1) Any valuation for which the Valuer-General is required under section 13C to invite tenders for contested valuation service contracts must, and any other valuation under this Act may, be made by the Valuer-General on the recommendation of a contract valuer.
- (2) For the purpose of formulating recommendations in connection with a valuation, a contract valuer may exercise any relevant functions or discretions that expressly or impliedly belong to the Valuer-General and:
  - (a) that are specifically authorised by the relevant valuation service contract to be exercised by the contract valuer, or
  - (b) that, although not so specifically authorised, are ancillary to or otherwise relate to the making of the valuation.

This subsection has effect subject to the valuation service contract.

- (3) The Valuer-General may make a valuation on the basis of such a recommendation:
  - (a) without independently exercising relevant functions or discretions referred to in subsection (2), and
  - (b) without independently assessing the accuracy of the recommendation.
- (4) Without limiting section 13F, the Valuer-General is to monitor and make general assessments of the standards of accuracy of recommendations.
- (5) The Valuer-General may request that a recommendation be revised by the contract valuer who prepared it.

- (6) If a contract valuer under a contested valuation service contract:
- (a) fails to make a recommendation in respect of a valuation or class of valuations to which the contract applies, or
  - (b) fails to revise a recommendation, in respect of a valuation or class of valuations to which the contract applies, in accordance with a request under subsection (5),
- the Valuer-General may make the valuation or valuations concerned without the need for such a recommendation.
- (7) Alternatively, the Valuer-General may negotiate and enter into an uncontested valuation service contract with some other contract valuer to provide the relevant recommendations.

## **Part 1B Valuation of land**

### **Division 1 Land to be valued**

#### **14A Valuer-General to ascertain land values**

- (1) The land value of each parcel of land in New South Wales, other than:
- (a) lands of the Crown, or
  - (b) land that is within the Western Division and is not within the area of a rating or taxing authority,
- is to be ascertained each year.
- (2) The Valuer-General may at any time value lands of the Crown, either on his or her own initiative or on the application of:
- (a) a rating or taxing authority, or
  - (b) the public authority by or on whose behalf the land is held.
- (3) The Valuer-General may at any time value land within the Western Division, either on his or her own initiative or on the application of:
- (a) a rating or taxing authority, or
  - (b) the Western Lands Commissioner.
- (4) The Valuer-General may separately value different parts of the same parcel of land, in which case this Act applies to each such part as if it were a separate parcel of land.
- (5) Any land value ascertained under this Act is to be entered in the Register of Land Values.

- (6) The power to ascertain a land value includes the power to reascertain that land value, and references in this Part to the ascertainment of land value are taken to include references to the reascertainment of land value.

#### **14B Valuations to be made as at 1 July in current valuing year**

- (1) Land that is valued for the purposes of a general valuation is to be valued as at 1 July in the valuing year in which the valuation takes place.
- (2) A land value for any year commencing 1 July may be ascertained for a parcel of land even if it did not exist, as at 1 July in that year, in the form in which it exists when its value is ascertained.
- (3) If any part of the parcel was, as at 1 July in that year, included in another parcel of land for which a value as at that date has been ascertained, the Valuer-General is to reascertain the value of the residue of that other parcel.

### **Division 2 How land is to be valued**

#### **14C Valuation of land in the Western Division**

- (1) In making a valuation for use by a rating or taxing authority of land in the Western Division, the Valuer-General is to assume:
  - (a) if the land is freehold land, that the land is, as freehold land, subject to such restrictions on the use and disposition of the land as would be applicable if the land were held under and in accordance with a lease under the [Western Lands Act 1901](#) that authorised the use to which the land was put as at the date to which the valuation of the land relates, and
  - (b) if the land is not freehold land and is held under a lease or other tenure under the [Western Lands Act 1901](#), or any other Act, that the land is freehold land and that it is, as freehold land, subject to such restrictions on the use and disposition of the land as are applicable to the land by reason of its being the subject of the lease or other tenure.
- (2) The restrictions referred to in subsection (1) are to be assumed to apply to land at the date to which the valuation of the land relates.

#### **14D Protected archaeological areas, wildlife districts, wildlife refuges and game reserves**

- (1) On receipt of a copy of an order or revocation made under section 65 of the [National Parks and Wildlife Act 1974](#), or a proclamation made under section 67, 68 or 69 of that Act, or a conservation agreement under Division 7 of Part 4 of that Act, the Valuer-General is to make a valuation of the land affected by the order, revocation or proclamation.
- (2) Despite any other provision of this Act, the Valuer-General must assume, in making a

valuation for use by a rating or taxing authority of land, the whole or part of which comprises:

- (a) a protected archaeological area within the meaning of the *National Parks and Wildlife Act 1974*, that the land so comprised may be used only for the purposes of such a protected archaeological area as at the date to which the valuation relates, or
- (b) a wildlife district within the meaning of that Act, that the land so comprised may be used only for the purposes of such a wildlife district as at the date to which the valuation relates, or
- (c) a wildlife refuge within the meaning of that Act, that the land so comprised may be used only for the purposes of such a wildlife refuge as at the date to which the valuation relates, or
- (d) a game reserve within the meaning of that Act, that the land so comprised may be used only for the purposes of such a game reserve as at the date to which the valuation relates.

#### **14E Community schemes, neighbourhood schemes and certain strata schemes**

(1) Land that is association property is not to be separately valued unless the Valuer-General has been informed by:

- (a) the local council, or
- (b) the Chief Commissioner for Land Tax, or
- (c) a prescribed person,

that the land is used for commercial purposes.

(2) In valuing:

- (a) a community development lot or a precinct development lot, or
- (b) a neighbourhood lot or strata parcel that is part of a community scheme (whether or not it is also part of a precinct scheme),

the Valuer-General is to take into account any benefits and disadvantages applicable to the lot or parcel because of its special status as part of the community scheme and, except in the case of a community development lot, as part of a subsidiary scheme or schemes.

(3) In valuing a neighbourhood lot that is not part of a community scheme the Valuer-General is to take into account any benefits and disadvantages applicable to the lot as part of the neighbourhood scheme.

- (4) In valuing a lot:
- (a) in a scheme referred to in subsection (2), the Valuer-General is to take into account the value to the proprietor of the lot of the interest attributable to the lot in community property, precinct property or neighbourhood property that is not used for commercial purposes,
  - (b) in a neighbourhood scheme referred to in subsection (3), the Valuer-General is to take into account the value to the proprietor of the lot of the interest attributable to the lot in neighbourhood property that is not used for commercial purposes.
- (5) Expressions used in this section have the same meanings as they have in the [Community Land Development Act 1989](#).

#### **14F Valuation of mines and minerals**

- (1) If a mine is situated partly in one area and partly in another, the mine is to be valued as a whole, and the land value, improved value and assessed annual value are to be apportioned between the areas as the Valuer-General may direct.
- (2) If any part of a mine is under the sea or under the tidal waters of an estuary or harbour, the part is to be valued with and as part of the mine, even though the overlying land and water are not within the boundaries of any area.
- (3) If any part of a mine is separately occupied by a person for a purpose other than mining, the part is taken to be distinct from the mine, and is to be valued and rated accordingly.
- (4) To the extent to which the presence of coal in any land within a colliery holding (within the meaning of the [Mining Act 1992](#)) increases the land value of that land, the amount of the increase is to be separately recorded in the Register of Land Values in relation to that land.
- (5) Objection may be made under Part 3 against any apportionment referred to in subsection (1) or the amount of any increase referred to in subsection (4).

#### **14G Valuation subject to heritage restrictions under EPI**

- (1) Land that is **heritage restricted** on the date by reference to which its land value is to be determined is to have its land value determined on the basis of the following assumptions:
  - (a) that the land may be used only for the purpose, if any, for which it was used when the value is determined,
  - (b) that all improvements on that land when the value is determined may be continued and maintained in order that the use of that land as referred to in paragraph (a) may be continued,



(c) that no improvements, other than those referred to in paragraph (b), may be made to or on that land.

- (2) Land is **heritage restricted** as at a particular date if the Valuer-General has determined that it would be reasonable to make the assumptions referred to in subsection (1) in respect of the land as at that date because of any provision of a planning instrument concerned with the heritage significance or heritage value of the land or any building, work or other thing on or in the land.
- (3) The Valuer-General may, and on the application of the owner of land must, make a determination as to whether a particular parcel of land is heritage restricted.
- (4) An application under subsection (3) is to be in the form required by the Valuer-General and accompanied by such supporting information as the Valuer-General may request.
- (5) The Valuer-General is not to determine that land is heritage restricted as at a particular date if the land is the subject of a listing on the State Heritage Register under the *Heritage Act 1977* as at that date.

**Note—**

Division 6 of Part 6 of the *Heritage Act 1977* deals with heritage valuations. In certain circumstances the Valuer-General is required to make a heritage valuation of land that is listed on the State Heritage Register under that Act.

#### **14H Valuing rent-controlled land**

- (1) Land that is **rent-protected** is to have its land value determined taking into account any restriction imposed by the *Landlord and Tenant (Amendment) Act 1948* on the rent at which any premises or part of premises on the land may be let.
- (2) Land is **rent-protected** if the Valuer-General has determined that a fair rent is applicable to any premises or part of premises on the land under the *Landlord and Tenant (Amendment) Act 1948*.
- (3) The Valuer-General may, and on the application of the owner of land must, make a determination as to whether a particular parcel of land is rent-protected.
- (4) An application under subsection (3) is to be in the form required by the Valuer-General and accompanied by such supporting information as the Valuer-General may request.

#### **14I Valuing Crown lease restricted land**

- (1) Land that is **Crown lease restricted** is to have its land value determined taking into account the restrictions on the disposition or manner of use that apply to the land by reason of its being the subject of the lease concerned.
- (2) Land is **Crown lease restricted** if it is subject to a lease referred to in section 58F.

#### **14J Deduction of allowances**

- (1) In determining the land value of land, there is to be deducted the amount of any allowance or allowances ascertained under Divisions 3 (Allowances for profitable expenditure) and 4 (Allowances for subdivision).
- (2) If more than one provision of this Division is applicable to the determination of land value in a particular case, the applicable provisions apply cumulatively.

#### **14K Assumption as to physical condition of land**

- (1) For the purpose of valuing any land, it is to be assumed:
  - (a) that the physical condition of the land, and of any other land, and
  - (b) that the manner in which any other land may be used,were the same on 1 July of the valuing year in respect of which the land is being valued as they were on the date on which the valuation is made.
- (2) For the purpose of ascertaining any allowance or apportionment factor for any land, it is to be assumed:
  - (a) that the physical condition of the land, and of any other land, and
  - (b) that the manner in which any other land may be used,were the same on 1 July of the valuing year in respect of which the allowance or apportionment factor is being ascertained as they were on the date on which the land became eligible to have an allowance or apportionment factor ascertained for it.

### **Division 3 Allowances for profitable expenditure**

#### **14L Expenditure for which allowance is to be made**

- (1) For the purpose of ascertaining the land value of any land, the Valuer-General is to ascertain a reasonable allowance for profitable expenditure by the owner, occupier or lessee in respect of:
  - (a) any effective land improvements on or appertaining to the land, and
  - (b) any visible and effective improvements which, although not on the land, have been constructed:
    - (i) for the purpose of supplying water to the land, or
    - (ii) for the purpose of draining the land, protecting the land from inundation or making some other provision for the more beneficial use of the land.
- (2) In the case of a stratum, the Valuer-General is also to ascertain a reasonable

allowance for profitable expenditure by the owner or occupier on any visible and effective improvements which, although not in the stratum, have been constructed exclusively for the benefit of the stratum.

- (3) An allowance for profitable expenditure is to be calculated on the assumption that:
  - (a) the allowance is being calculated at the date by reference to which the land value is being determined, and
  - (b) any improvements that have been taken into account for the purpose of ascertaining the land value of the land were in existence at the date referred to in paragraph (a).
- (4) An allowance for profitable expenditure is to be entered in the Register of Land Values in respect of any land value to which it relates.

**14M No allowance in certain cases**

- (1) No allowance is to be ascertained under this Division if:
  - (a) the owner of the land was not the owner of the land when the profitable expenditure was incurred, or
  - (b) the profitable expenditure was incurred by an occupier or lessee of the land, and the occupancy or lease has been transferred or surrendered or has expired since that expenditure was incurred, or
  - (c) in the case of land zoned or otherwise designated for use for any purpose (other than rural or non-urban purposes) under a planning instrument, any building or structure has been erected or any works have been carried out on the land, or
  - (d) the profitable expenditure was incurred more than 15 years before the date by reference to which the land value is being determined.
- (2) Subsection (1) (c) does not apply to an allowance in respect of a stratum.

**14N Allowance not to exceed cost of improvements**

The amount of an allowance for profitable expenditure is not to exceed the cost of the improvements determined as at the date by reference to which the land value is being determined.

**14O No allowance for expenditure by the Crown**

If land has been leased by the Crown or a statutory body, no allowance is to be ascertained under this Division for expenditure incurred by the Crown or body, except to the extent to which the Crown or body has been reimbursed in respect of the expenditure by the lessee (otherwise than by payment of rent, rates or taxes).

#### **14P Time at which allowance is to be calculated**

An allowance for profitable expenditure is to be ascertained in relation to a rating or taxing authority:

- (a) as at the 1 July by reference to which the land was valued for the purposes of the valuation list for that authority current at the time the land became eligible for the allowance, and
- (b) as at the 1 July by reference to which the land has been valued for the purposes of any subsequent valuation list for that authority.

#### **14Q Apportionment of joint expenditure**

- (1) This section applies to the calculation of allowances for profitable expenditure for improvements constructed on or for the benefit of a number of parcels of land, where the profitable expenditure has (by agreement or otherwise) been apportioned between the various owners of the land.
- (2) The proportion of the total profitable expenditure on any such improvements to be allowed in relation to any one parcel of land is to be the same as the proportion of the total cost of those improvements that are paid or payable by the owner of that parcel.

#### **14R Allowance can be objected against**

- (1) An objection under Part 3 may be made against a decision of the Valuer-General:
  - (a) to ascertain an allowance for profitable expenditure in respect of any land, or
  - (b) not to ascertain an allowance for profitable expenditure in respect of any land, or
  - (c) as to the amount of an allowance for profitable expenditure in respect of any land,in the same way as an objection may be made under that Part against a decision of the Valuer-General as to the valuation of any land.
- (2) An objection referred to in subsection (1) may be made on any ground that is relevant to the decision concerned.

### **Division 4 Allowances for subdivision**

#### **14S Definition**

In this Division, **subdivider**, in relation to a lot in a deposited plan, means the person who, immediately before the registration of the plan, owned all the land comprising the lots in the plan.

#### **14T Lots which qualify for subdivision allowance**

- (1) A lot in a deposited plan qualifies for an allowance for subdivision if, as at the date by

reference to which the allowance is ascertained, the lot is owned by the subdivider.

- (2) If a lot qualifies for an allowance for subdivision, the Valuer-General is to ascertain the allowance in respect of that lot in accordance with this Division.
- (3) An allowance for subdivision (including a nil allowance) is to be entered in the Register of Land Values in respect of any land value to which it relates.

#### **14U How subdivision allowance is ascertained**

- (1) The amount of the allowance for subdivision in respect of a lot in a deposited plan is the proportionate amount of the discount from sale price of all lots in that plan that in the opinion of the Valuer-General would be applicable to the lot.
- (2) The **discount from sale price**, in relation to lots in a deposited plan, means the amount (if any) that in the opinion of the Valuer-General is the difference between:
  - (a) the total of the land values of the lots had they been sold separately, and
  - (b) the total of the land values of the lots had they been sold to one person.
- (3) An allowance for subdivision is to be ascertained in relation to a rating or taxing authority:
  - (a) as at the 1 July by reference to which the land was valued for the purposes of the valuation list for that authority current at the time the land became eligible for the allowance, and
  - (b) as at the 1 July by reference to which the land has been valued for the purposes of any subsequent valuation list for that authority.

#### **14V Exclusion of subdivision allowances in certain circumstances**

- (1) For the purposes of the [Land Tax Management Act 1956](#), the land value of a parcel of land is taken not to include an allowance for subdivision in respect of any land tax year:
  - (a) if any building has been erected on the land, or any works have been carried out on the land, since the deposited plan was registered, or
  - (b) if, as at 31 December before the beginning of that year, more than 3 years have passed since the deposited plan was registered,and land tax under that Act is to be assessed and levied accordingly.
- (2) For the purposes of the [Local Government Act 1993](#), the land value of a parcel of land is taken not to include an allowance for subdivision in respect of any rating year:
  - (a) if any building has been erected on the land, or any works have been carried out on the land, since the deposited plan was registered, or

(b) if, as at 30 June before the beginning of that year, more than 3 years have passed since the deposited plan was registered,

and rates and charges under that Act are to be assessed and levied accordingly.

#### **14W Allowance can be objected against**

(1) An objection under Part 3 may be made against a decision of the Valuer-General:

- (a) to ascertain an allowance for subdivision in respect of any land, or
- (b) not to ascertain an allowance for subdivision in respect of any land, or
- (c) as to the amount of an allowance for subdivision in respect of any land,

in the same way as an objection may be made under that Part against a decision of the Valuer-General as to the valuation of any land.

(2) An objection referred to in subsection (1) may be made on any ground that is relevant to the decision concerned.

### **Division 5 Apportionment factors for mixed development land**

#### **14X Owner may apply for apportionment factor for mixed development land**

(1) The Valuer-General may ascertain an apportionment factor for the land value of mixed development land, either on his or her own initiative or on the application of the owner of the land or of a rating or taxing authority.

(2) An apportionment factor ascertained by the Valuer-General under this Division is to be entered by the Valuer-General in the Register of Land Values in respect of the land value to which it relates.

#### **14Y How apportionment factor is determined**

(1) The apportionment factor is the proportion (expressed as a percentage) that the rental value of the part of that land that is non-residential land bears to the rental value of the mixed development land as a whole.

(2) Rental values are to be ascertained in relation to a rating or taxing authority:

- (a) as at the 1 July by reference to which the land was valued for the purposes of the valuation list for that authority current at the time the land became mixed development land, and
- (b) as at the 1 July by reference to which the land has been valued for the purposes of any subsequent valuation list for that authority.

#### **14Z Apportionment factors can be objected against**

- (1) An objection under Part 3 may be made against a decision of the Valuer-General:
  - (a) to ascertain an apportionment factor in respect of any land, or
  - (b) not to ascertain an apportionment factor in respect of any land, or
  - (c) as to the amount of an apportionment factor in respect of any land,in the same way as an objection may be made under that Part against a decision of the Valuer-General as to the valuation of any land.
- (2) An objection referred to in subsection (1) may be made on any ground that is relevant to the decision concerned.

#### **14AA Apportionment factor to be reascertained in certain cases**

If the land value of land in respect of which an apportionment factor has been ascertained is altered (whether as the result of being reascertained or on objection or appeal or for the correction of a clerical error or misdescription), the Valuer-General must reascertain an apportionment factor for that land value.

#### **14BB Definitions**

- (1) For the purposes of this Division:

***mixed development land*** means a parcel of land occupied or used solely as the site of one or more buildings comprising:

- (a) one, or more than one, flat, and
- (b) one, or more than one, office.

***non-residential land*** means:

- (a) a parcel of land that is not residential land or mixed development land, or
- (b) a strata lot that is not residential land, or
- (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn,  
or
- (d) a stratum separately valued under this Act that is not a stratum referred to in paragraph (g) of the definition of residential land.

***residential land*** means:

- (a) a parcel of land occupied or used solely as the site of one single dwelling, or
- (b) a parcel of land (not exceeding 2.428 hectares in area) occupied or used solely as

- the site of one single dwelling and for primary production, or
- (c) a parcel of land occupied or used solely as the site of one building comprising two or more flats, or
  - (d) a parcel of land occupied or used solely as the site of a boarding house or lodging house, or
  - (e) a strata lot occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, or
  - (f) a strata lot designed and intended for use in conjunction with a strata lot referred to in paragraph (e) for the purpose of accommodating one, or more than one, motor vehicle, or
  - (g) a stratum separately valued under this Act that is occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a parcel of land occupied or used solely as the site of a hotel, motel, guest-house, backpacker hostel, nursing home or other form of residential accommodation prescribed under section 516 (1) (a) of the [Local Government Act 1993](#).
- (2) A parcel of land occupied or used as the site of one or more buildings comprising one, or more than one, office is not **mixed development land** by reason only that it comprises (in addition) one, or more than one, flat, if the flat is, or the flats are, intended for use for the purpose of accommodating a person or persons responsible for the security or maintenance of the building or buildings.
- (3) For the purposes of the definition of **mixed development land** in subsection (1), a parcel of land does not cease to be occupied or used solely as the site of one or more buildings comprising one, or more than one, flat and one, or more than one, office.
- (4) For the purposes of the definition of **residential land** in subsection (1), a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one or more buildings comprising two or more flats, a boarding house or a lodging house by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building or buildings, boarding house or lodging house, as the case may be.
- (5) For the purposes of paragraph (b) of the definition of **residential land** in subsection (1), land is used for primary production if it is used primarily for:
- (a) the cultivation of the land for the purpose of selling the produce of the cultivation, or
  - (b) the maintenance of animals or poultry on the land for the purpose of selling them or their natural increase or bodily produce, or



(c) the keeping of bees on the land for the purpose of selling their honey.

(6) The reference in this section to a parcel of land is a reference to a parcel of land required to be separately valued, or to land included in one valuation, pursuant to this Act.

(7) In this section:

**flat** means a room or a suite of rooms:

(a) occupied or used as a separate dwelling, or

(b) so constructed, designed or adapted as to be capable of being occupied or used as a separate dwelling,

but does not include a strata lot or a dwelling, or a portion of a building, under company title that is rated in accordance with section 547 of the [Local Government Act 1993](#).

**inn** has the same meaning as it has in the [Innkeepers Act 1968](#).

**office** means a room or a suite of rooms:

(a) separately occupied or used for a commercial, industrial or professional purpose, or

(b) so constructed, designed or adapted as to be capable of being separately occupied or used for a commercial, industrial or professional purpose,

but does not include a dwelling, or a portion of a building, under company title that is rated in accordance with section 547 of the [Local Government Act 1993](#).

**single dwelling** means a house:

(a) occupied or used as a separate dwelling, or

(b) so constructed, designed or adapted as to be capable of being occupied or used as a separate dwelling,

but does not include a lot in a strata plan or a property commonly known as a shop and dwelling.

**strata lot** means a lot as defined in section 5 (1) of the [Strata Schemes \(Freehold Development\) Act 1973](#) or section 4 (1) of the [Strata Schemes \(Leasehold Development\) Act 1986](#).

## Division 5A Apportionment factors for mixed use land

**14BBA Owner may apply for apportionment factor for mixed use land**

- (1) The Valuer-General may ascertain an apportionment factor for the land value of mixed use land, either on his or her own initiative or on the application of the owner of the land or of a rating or taxing authority.
- (2) An apportionment factor ascertained by the Valuer-General under this Division is to be entered by the Valuer-General in the Register of Land Values in respect of the land value to which it relates.

**14BBB How apportionment factor is determined**

- (1) The apportionment factor is the proportion (expressed as a percentage) that the rental value of the part of that land that is occupied or used for non-residential purposes bears to the rental value of the mixed use land as a whole.
- (2) Rental values are to be ascertained in relation to a rating or taxing authority:
  - (a) as at the 1 July by reference to which the land was valued for the purposes of the valuation list for that authority current at the time the land became mixed use land, and
  - (b) as at the 1 July by reference to which the land has been valued for the purposes of any subsequent valuation list for that authority.

**14BBC Apportionment factors can be objected against**

- (1) An objection under Part 3 may be made against a decision of the Valuer-General:
  - (a) to ascertain an apportionment factor in respect of any land, or
  - (b) not to ascertain an apportionment factor in respect of any land, or
  - (c) as to the amount of an apportionment factor in respect of any land,in the same way as an objection may be made under that Part against a decision of the Valuer-General as to the valuation of any land.
- (2) An objection referred to in subsection (1) may be made on any ground that is relevant to the decision concerned.

**14BBD Apportionment factor to be reascertained in certain cases**

If the land value of land in respect of which an apportionment factor has been ascertained is altered (whether as the result of being reascertained or on objection or appeal or for the correction of a clerical error or misdescription), the Valuer-General must reascertain an apportionment factor for that land value.

#### 14BBE Definitions

- (1) For the purposes of this Division, ***mixed use land*** means a parcel of land (other than mixed development land within the meaning of Division 5) that:
  - (a) is the site of a residence occupied or used for residential purposes, and
  - (b) is also used for non-residential purposes.
- (2) A residence is one or more buildings comprising:
  - (a) one, or more than one, flat, or
  - (b) one single dwelling.
- (3) For the purpose of this Division, land is occupied or used for a ***non-residential purpose*** if it is occupied or used for any purpose that is not ancillary to the use and occupation of the residence for residential purposes, such as a commercial, industrial or professional purpose.
- (4) Land occupied or used for non-residential purposes is not ***mixed use land*** by reason only that it is the site of a residence intended for use for the purpose of accommodating a person or persons responsible for the security or maintenance of the building or buildings.
- (5) The reference in this section to a parcel of land is a reference to a parcel of land required to be separately valued, or to land included in one valuation, pursuant to this Act.
- (6) For the purpose of applying this section in respect of land on which there is one single dwelling, the land does not cease to be regarded as land on which there is one single dwelling merely because of the use or occupation of any building on the land, or any part of a building, for the purpose of another residential occupancy, if the use of the land for the purpose of that other residential occupancy could be disregarded as an excluded residential occupancy under Schedule 1A to the [Land Tax Management Act 1956](#) if the principal place of residence exemption were to apply in respect of the land (whether or not the principal place of residence exemption in fact applies in respect of the land).
- (7) In this section:

***flat*** means a room or a suite of rooms:

  - (a) occupied or used as a separate dwelling, or
  - (b) so constructed, designed or adapted as to be capable of being occupied or used as a separate dwelling,

but does not include a single dwelling, a strata lot or a dwelling, or a portion of a

building, under company title that is rated in accordance with section 547 of the *Local Government Act 1993*.

**single dwelling** means a house:

- (a) occupied or used as a separate dwelling, or
- (b) so constructed, designed or adapted as to be capable of being occupied or used as a separate dwelling,

but does not include a strata lot or a property commonly known as a shop and dwelling.

**strata lot** means a lot as defined in section 5 (1) of the *Strata Schemes (Freehold Development) Act 1973* or section 4 (1) of the *Strata Schemes (Leasehold Development) Act 1986*.

## **Division 6 Register of land values**

### **14CC Register of Land Values**

- (1) The Valuer-General is to keep a Register of Land Values in such form as the Valuer-General thinks fit.
- (2) The Register is to contain such of the following kinds of information in relation to land as is within the knowledge of the Valuer-General:
  - (a) information as to the ownership of the land,
  - (b) information as to the occupation of the land,
  - (c) information as to the value of the land,
  - (d) information as to the title of the land,
  - (e) information as to the location or description of the land,
  - (f) information as to the area of the land,
  - (g) such other kinds of information as is permitted or required by this Act or the regulations to be entered in the Register.
- (3) An entry in the Register as to a land value, allowance or apportionment factor ascertained under this Part is conclusive evidence of the ascertaining of the value, allowance or factor on the date shown in the entry.

### **14DD Alteration of the Register**

- (1) The Valuer-General is to make such alterations to the Register of Land Values as may be necessary for the following purposes:

- (a) to give effect to any reascertainment of a land value, allowance or apportionment factor,
- (b) to give effect to any decision on an objection or appeal under this Act,
- (c) to correct any clerical error or misdescription.

(2) If:

- (a) any such alteration affects a land value, allowance or apportionment factor, and
- (b) under any other Act, any amount is payable by reference to that land value, allowance or apportionment factor,

any overpayment is refundable, and any underpayment recoverable, under that Act.

#### **14EE Certificates of land value**

- (1) The Valuer-General may issue a certificate to any person certifying details of an entry in the Register of Land Values.
- (2) The Valuer-General may determine:
  - (a) the means by which a certificate may be issued, including electronically, and
  - (b) the form of a certificate, including as a document or in an electronic form or a form that may be produced from an electronic message.
- (3) A certificate under this section is conclusive evidence, as at the date specified in the certificate, that the details in the Register of Land Values in relation to a particular matter are as set out in the certificate.
- (4) The Valuer-General may determine:
  - (a) the means by which an application for a certificate may be made, and
  - (b) the form of an application, and
  - (c) the fee to be paid for a certificate, and
  - (d) the means by which the fee may be paid.

## **Part 2 Valuations and rolls**

### **14 (Repealed)**

### **15 Forms to be sent out by Valuer-General**

- (1) The Valuer-General may send:
  - (a) to any person who is the owner of any land in respect of which the Valuer-General

proposes to make a valuation, or

- (b) if the owner is not resident in the State, to any person who is the agent or attorney of the owner,

a form to be filled in and returned to the Valuer-General within a time specified by the Valuer-General in the form.

- (2) Such a form may contain such questions as the Valuer-General considers appropriate to facilitate the making of a valuation of the land concerned, such as questions relating to:
  - (a) the area, situation or quality of the land, or
  - (b) the purpose for which the land is being used, or
  - (c) the nature of any improvements on the land, or
  - (d) the existence of any tenancies to which the land, or any stratum of the land, is subject.
- (2A) For the purpose of enabling a contract valuer to exercise the Valuer-General's functions under this section in accordance with section 13H (2):
  - (a) the references to the Valuer-General in subsection (1) (but not subsection (2)) are taken to be references to the contract valuer, and
  - (b) the references to the making of a valuation in subsections (1) and (2) are taken to be references to the making of a valuation recommendation.
- (3) Any owner or any such person who:
  - (a) refuses or neglects, within the time stated on a form sent to the owner or person, to fill in and return the form, or
  - (b) knowingly makes a false statement in filling in such a form,shall be liable to a penalty not exceeding 2 penalty units.
- (4) The omission to send out forms for returns under this section shall not invalidate or affect any valuation under this Act.

#### **15A Production of documents to Valuer-General**

- (1) The Valuer-General may, by notice in writing served:
  - (a) on any person who is the owner of any land, or
  - (b) if the owner is not resident in the State, on any person who is the agent or attorney of the owner,

require the person to produce to the Valuer-General, within a time specified by the Valuer-General in the notice, such documents relating to the land as may be required by the Valuer-General for the purposes of this Act and as may be specified in the notice, whether generally or otherwise.

- (2) Without limiting the generality of subsection (1), a notice referred to in that subsection may require the production of:
  - (a) any contract, or a copy of any contract, for the purchase of the land, any instrument incorporated or referred to in any such contract and any instrument or option relating to the purchase of the land by the owner, where the contract, copy, instrument or option is in the owner's possession or under the owner's control, or
  - (b) any financial or accounting document or record specified in the notice relating to the conduct by the owner of any business or activity on the land where the document or record is in the owner's possession or under the owner's control.
- (3) (Repealed)
- (4) A person who neglects or refuses to comply with the requirements of a notice served on the person under this section shall be liable to a penalty not exceeding 2 penalty units.

**16-19A (Repealed)**

**19B Valuation upon land becoming ratable on or after 1 July 1977**

- (1) Where any non ratable land becomes ratable on or after 1 July 1977 and at the date it becomes ratable there is no valuation for it in the Register of Land Values the Valuer-General shall make a valuation:
  - (a) of the land value, and
  - (b) if a rating or taxing authority, by instrument in writing, so requests, or the Valuer-General decides to do so, of the assessed annual value,  
of the land.
- (2) If, on or after 1 July 1977, any general valuation has been made since the date on which any land became ratable and that general valuation does not include the valuation of such land the Valuer-General shall make a further valuation:
  - (a) of the land value, and
  - (b) if a rating or taxing authority, by instrument in writing, so requests, or the Valuer-General decides to do so, of the assessed annual value,  
of the land.

- (3) Valuations made pursuant to this section shall, until the land concerned is included in a subsequent valuation which may be used for rating purposes, be deemed to be valuations furnished to the rating authority on the date as at which the valuations are being determined and have effect for the levying of any rates which are made and leviable upon land values or assessed annual values, as the case may be.
- (4) Land that becomes ratable is to be valued, for the purposes of any relevant rating or taxing authority:
  - (a) as at the 1 July by reference to which the land was valued for the purposes of the valuation list for that authority current at the time the land became ratable, and
  - (b) as at the 1 July by reference to which the land has been valued for the purposes of any subsequent valuation list for that authority.

## **20 Valuation on application**

- (1) The following persons, that is to say:
  - the holder of an estate in fee simple,
  - the mortgagee in possession, and
  - any lessee who is liable to pay rates,may, by notice in or to the effect of a form approved by the Valuer-General and on payment of the fee determined by the Valuer-General require the Valuer-General to make a valuation of that person's land or of that person's estate or interest therein, as the case may be.
- (2) The following persons, that is to say:
  - the holder of an estate in fee-simple in the land of which a stratum forms part,
  - the mortgagee in possession of such land, and
  - any lessee or occupier of a stratum liable under any Act to pay any rate or tax to a rating or taxing authority in respect of that person's lease or occupation,may by notice in or to the effect of a form approved by the Valuer-General and on payment of the fee determined by the Valuer-General require the Valuer-General to make a valuation of the stratum.
- (3) A notice under this section may require the Valuer-General to make a valuation of the land:
  - (a) as at the date of the valuation, or
  - (b) as at any specified date occurring before the date of the valuation.



- (4) If the notice requires the Valuer-General to make a valuation of the land as at the date of the valuation, the Valuer-General is to enter the valuation in the Register of Land Values.
- (5) On making a valuation of land under this section, the Valuer-General:
  - (a) must make such alterations to the Register of Land Values as are necessary to reflect the valuation, and
  - (b) must issue a certificate to the person on whose application the valuation was made certifying details of the relevant entry in the Register of Land Values, as so altered.
- (6) The Valuer-General may determine:
  - (a) the means by which a certificate may be issued, including electronically, and
  - (b) the form of a certificate, including as a document or in an electronic form or a form that may be produced from an electronic message.
- (5) A certificate under this section is conclusive evidence, as at the date specified in the certificate, that the details in the Register of Land Values in relation to a particular matter are as set out in the certificate.

## **21 Total value of interests in land**

- (1) Where there are more owners than one of the freehold of any land the sum of the values of the interests of all the said owners in the land shall be not less than the amount at which the improved value of the land would be estimated if held by one owner in fee simple.
- (2) Where there are more owners than one of a leasehold interest in any land the sum of the values of the interests of all the said owners shall be not less than the amount at which the value of the said leasehold interest would be estimated if held by one lessee.

## **22 Interests of lessors and lessees**

The value of the interest of a lessor or a lessee in the improved value of land is the capital sum which such interest may be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require.

## **23-25 (Repealed)**

## **26 Where lands are to be included in one valuation**

- (1) Where several parcels of land adjoin, are owned by the same person, and where no part is leased, they shall be included in one valuation, unless the Valuer-General otherwise directs: Provided that any such parcels of land shall be valued separately if

buildings are erected thereon which are obviously adapted to separate occupation.

- (2) Where several parcels of land adjoin, are owned by the same person and are all let to one person, they shall be included in one valuation, unless the Valuer-General otherwise directs.
- (3) This section does not apply to land which is required, by section 27B, to be separately valued or included in one valuation.

#### **26A Valuation of parcels that form part of the site of a building**

- (1) If the site of a building is subdivided into separate parcels of land solely by means of a subdivision to which this section applies, the value of each of those parcels is to be determined as follows:
  - (a) first, the Valuer-General is to value all of those separate parcels as if they comprised a single parcel and that single parcel and all improvements on it were owned by a single owner, and
  - (b) then, the Valuer-General is to apportion the value obtained under paragraph (a) between each of those separate parcels, on the basis of their respective rental values as a proportion of the sum of the rental values of each of those parcels.
- (2) This section applies to subdivision by any of the following means:
  - (a) subdivision by the creation of 2 or more lots in a deposited plan,
  - (b) subdivision by a deposited plan and one or more strata plans,
  - (c) subdivision by 2 or more strata plans.
- (3) This section does not apply unless at least 2 or more of the parcels of land created by the subdivision are adjoined horizontally (that is, one is wholly or partly above the other).
- (4) The site of a building includes land consisting of space above or below the building.
- (5) In determining the rental value of a parcel of land, regard is to be had to any improvements on or appertaining to the parcel.
- (6) This section does not limit any power of the Valuer-General to include 2 or more parcels of land that are owned by the same person in one valuation.
- (7) In this section:

**building** includes a building that is in the course of construction.

**parcel of land** means a parcel (within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*) or

the land comprised in a lot in a deposited plan.

**strata plan** means a strata plan within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

## **27 Where lands are to be separately valued**

- (1) Where several parcels of land, owned by the same person, are separately let to different persons, they shall be separately valued.
- (2) Lands which do not adjoin or which are separated by a road, or are separately owned, shall be separately valued: Provided that the Valuer-General shall, subject to section 28, include in one valuation lands owned by the same person if worked as one holding for agricultural or pastoral purposes.
- (3) Subject to subsection (3A), where portion of a parcel of land which has been valued is sold, conveyed, or compulsorily acquired fresh valuations shall be made of the portions sold, conveyed, or compulsorily acquired and of the portion remaining.
- (3A) If any general valuation has been made since a portion of a parcel of land which has been valued was sold, conveyed or compulsorily acquired and the general valuation does not include a valuation of that portion and of the portion remaining the Valuer-General shall make a further valuation of each portion.
- (3B) A valuation of a portion made pursuant to subsections (3) and (3A) shall, until the value of that portion is included in a subsequent valuation, made having regard to the sale, conveyance or compulsory acquisition, which may be used for rating and taxing purposes, be used to the exclusion of any other valuation by any rating or taxing authority as the basis of any rate or tax levied or leviable in respect of any rating or taxing year following the sale, conveyance or compulsory acquisition.
- (4) Where a part only of a parcel of land is subject to a particular rate or tax, the value of such parcel shall be apportioned so as to show separately the value of that part which is subject to the particular rate or tax.
- (4A) Land that is required to be separately valued under this section is to be valued, for the purposes of any relevant rating or taxing authority:
  - (a) as at the 1 July by reference to which the land was valued for the purposes of the valuation list for that authority current at the time the land became required to be separately valued, and
  - (b) as at the 1 July by reference to which the land has been valued for the purposes of any subsequent valuation list for that authority.
- (5) This section does not apply to land which is required, by section 27B, to be separately valued or included in one valuation.

**27A Separate valuations of strata**

- (1) Where strata owned by the same person and comprised in the same building, structure, or work are separately let to or occupied by different persons who under any Act are respectively liable to pay any rate or tax to a rating or taxing authority, the strata shall be separately valued.
- (2) All other strata comprised in the same building, structure, or work shall be included in one valuation unless the Valuer-General otherwise directs.

**27B Lots in subdivisions to be separately valued**

- (1) The Valuer-General may make valuations, in accordance with this section, of the land in a deposited plan on registration of the plan.
- (2) If:
  - (a) one or more lots in a deposited plan in which all lots are owned by the same person, or
  - (b) one or more lots in a deposited plan that are owned by the same person and included in one valuation (whether or not made under this section),is or are sold or otherwise conveyed to another person or is or are compulsorily acquired, fresh valuations of the land in the plan or included in the valuation concerned must be made by the Valuer-General in accordance with this section.
- (3) Subsection (2) (a) does not apply if the Valuer-General has made a valuation under subsection (1) of the land in the deposited plan concerned.
- (4) Separate valuations are to be made in respect of each lot comprising the land that is the subject of the valuation.
- (5) However:
  - (a) the Valuer-General may, at the Valuer-General's discretion (but subject to section 26 (1)), include adjoining lots that are owned by the same person in the one valuation (which may also include other adjoining land owned by that person), and
  - (b) the Valuer-General must (subject to section 28) include in one valuation lots owned by the same person if those lots are worked in one holding for agricultural or pastoral purposes.
- (6) Land that is required to be separately valued under this section is to be valued, for the purposes of any relevant rating or taxing authority:
  - (a) as at the 1 July by reference to which the land was valued for the purposes of the valuation list for that authority current at the time the land became required to be separately valued, and

(b) as at the 1 July by reference to which the land has been valued for the purposes of any subsequent valuation list for that authority.

(7) Rates and taxes (other than land tax under the *Land Tax Management Act 1956*) levied or leviable on the land in the deposited plan for the rating and taxing years following the sale or other conveyance or compulsory acquisition (or, if the valuation was occasioned by the registration of a deposited plan, following that registration) are to be based on valuations made under this section. Those valuations are to be used until the land is included in a later valuation that may be used for rating or taxing purposes.

(8) If part only of a lot in a valuation under this section is subject to a particular rate, the value of the land is to be apportioned so as to show separately the value of that part.

## **28 Land in two or more districts**

Where any land in respect of which one valuation would otherwise be made under this Act is situated partly in one district and partly within another, or is ratable as to part only, the parts which are within such separate districts, or the part which is ratable, shall be separately valued.

### **28A Stratum in two or more districts**

Where any stratum in respect of which one valuation would otherwise be made under this Act is situated partly in one district and partly within another the parts which are within such separate districts shall be separately valued.

### **28B Strata to be separate parcels for purposes of certain Acts**

Where in an Act it is provided that a parcel of land separately valued under this Act shall be a separate parcel for the purposes of the first mentioned Act, then in any such case a stratum or strata separately valued under this Act shall be a separate parcel for the purposes of the first mentioned Act.

## **Part 3 Notices and objections**

### **29 Notice of valuations to owner**

- (1) On furnishing a valuation list to the council of a local government area, the Valuer-General must cause notice of each valuation contained in the list to be given to:
  - (a) the owner of the freehold estate in the land, and
  - (b) any lessee or occupier of the land who, under any Act, is liable to pay any rate or tax to a rating or taxing authority in respect of the land, and
  - (c) any lessee of the land under a written lease for a term exceeding 3 years who, under the lease, is liable to pay the whole or any part of any rate or tax to a rating

or taxing authority in respect of the land, and

(d) any mortgagee in possession of the land.

(2), (3) (Repealed)

(3A) A person to whom the Valuer-General has given written notice under subsection (1) may lodge with the Valuer-General written objection to any such valuation within such time as is stated in such notice.

(3B) Where a person referred to in subsection (1) (b), (c) or (d) makes objection the person shall notify all other persons having any other estate or interest in the land to which the valuation relates that such objection has been made and of that person's reasons therefor.

(3C) In subsections (3A) and (3B), a reference to a valuation includes a reference to an allowance or apportionment factor and to the Valuer-General's refusal to determine an allowance or apportionment factor.

(4) Where the Crown is liable to pay rates in respect of any land, the notice of valuation in respect of such land shall be sent to such person as the Treasurer may notify to the Valuer-General, or to such person as may be prescribed, and such person may object to such valuation.

### **30 Failure to notify**

No valuation shall be invalid because of any failure to give notice of valuation.

### **31 Objection by rating or taxing authority**

(1) Any public taxing or rating authority may within the prescribed time object to any valuation, and shall at the same time give notice of such objection to every owner or occupier who is liable for any rates or taxes which may be payable to such authority in respect of the land.

(2) Objection to any valuation may also be made by any State or Commonwealth Department acting by any officer authorised in that behalf.

(3) In this section, a reference to a valuation includes a reference to an allowance or apportionment factor and to the Valuer-General's refusal to determine an allowance or apportionment factor.

### **32 Rating or taxing authority to notify Valuer-General when occupiers etc liable to be rated or taxed**

(1) Where under any Act the lessee or occupier of any land is liable to pay any rate or tax to a rating or taxing authority, such authority shall, within three months after the commencement of this Act, or in the case of any Act which comes into force after the

commencement of this Act, then within three months after such coming into force, serve upon the Valuer-General notice of such Act, and of the classes of persons who are so liable to be rated or taxed thereunder.

- (2) Where a rating or taxing authority is notified of the fact that:
- (a) under any Act the lessee or occupier of any land or any stratum is liable to pay any rate or tax to a rating or taxing authority, or
  - (b) a lessee under a written lease of any land for a term exceeding three years is liable thereunder to pay the whole or any part of any rate or tax in respect of such land, or
  - (c) a person as mortgagee of any ratable or taxable land is in possession of such land under the mortgage,

such rating or taxing authority shall, within one month of being so notified, serve upon the Valuer-General notice of the fact.

### **33 Form of objection**

An objection under this Part must be in a form approved by the Valuer-General.

### **34 Grounds of objection**

- (1) In relation to land the only grounds upon which objection may be taken under this Act are:
- (a) that the values assigned are too high or too low,
    - (a1) that the area, dimensions or description of the land are not correctly stated,
  - (b) that the interests held by various persons in the land have not been correctly apportioned,
  - (c) that the apportionment of the valuations is not correct,
  - (d) that lands which should be included in one valuation have been valued separately,
  - (e) that lands which should be valued separately have been included in one valuation, and
  - (f) that the person named in the notice is not the lessee or owner of the land.
- (2) In relation to a stratum the only grounds upon which objection may be taken under this Act are:
- (a) that the values assigned are too high or too low,
  - (b) that the situation, description, or dimensions of the stratum are not correctly

stated,

- (c) that strata which should be included in one valuation have been valued separately,
- (d) that strata which should be valued separately have been included in one valuation, and
- (e) that the person named in the notice is not the lessee, occupier, or owner of the stratum.

(2A) In either case, an objection against the Valuer-General's refusal to determine an allowance or apportionment factor may be made on the ground that such an allowance or apportionment factor should have been determined.

(3) For the purposes of the application of this section to an objection under this Act to an allowance or an apportionment factor determined in respect of land or a stratum, a reference in this section to **values** is to be taken to include a reference to the amount of the allowance or the apportionment factor, as the case requires.

### **35 Time for lodging objection**

(1) Except as provided by section 35A, an objection must be lodged with the Valuer-General, in accordance with the regulations, not later than 60 days after:

- (a) the date of service of the notice of valuation under section 29, or
- (b) in the case of a valuation for the purposes of the [Land Tax Management Act 1956](#), the date of service of the relevant land tax assessment under section 14 of the [Taxation Administration Act 1996](#).

(2) For the purposes of subsection (1) (b), a reassessment of land tax for a particular parcel of land is taken to be a relevant land tax assessment, in relation only to that parcel, if it is based on a land value, allowance or apportionment factor that differs from the land value, allowance or apportionment factor on which the original land tax assessment was based.

### **35A Objections lodged out of time**

- (1) The Valuer-General may permit a person to lodge an objection after the 60-day period.
- (2) The person seeking to so lodge the objection must state fully and in detail, and in writing, the circumstances concerning and the reasons for the failure to lodge the objection within the 60-day period.
- (3) The Valuer-General may grant permission unconditionally or subject to conditions or may refuse permission.
- (4) The Valuer-General must give notice to the person of the Valuer-General's decision



and include in the notice the reasons for refusing to grant permission or for imposing conditions on the permission.

- (5) The notice is to be in a form approved by the Valuer-General.

### **35B Determination of objection**

- (1) The Valuer-General must consider an objection and either allow the objection or disallow the objection.
- (2) If the Valuer-General delegates the functions conferred by this section, the delegate who considers the objection must be a different person from, and not subordinate to, the person who made the decision against which the objection is lodged.

### **35C Notice of determination**

- (1) The Valuer-General must give notice to the objector of the determination of the objection.
- (2) The Valuer-General must, in the notice, give the reasons for disallowing an objection or for allowing an objection in part only.
- (3) The notice is to be in a form approved by the Valuer-General.
- (4) For the purposes of section 37, an objection is taken to have been disallowed if notice of the Valuer-General's determination of the objection has not been given within 90 days after the objection was lodged with the Valuer-General.

### **36 Rates and taxes payable despite objection or appeal**

The making of an objection under this Part or an appeal under Part 4 does not affect the valuation concerned, and rates, taxes and duties may be imposed and recovered on the basis of the valuation as if the objection or appeal had not been made.

## **Part 3A**

### **36A-36M (Repealed)**

## **Part 4 Appeals to Land and Environment Court**

### **Division 1 Appeals**

#### **37 Right of appeal**

- (1) Any person entitled under Part 3 to object to a valuation may appeal to the Land and Environment Court if the person is dissatisfied with the Valuer-General's determination of any such objection to the valuation concerned (whether or not the person was the objector).

- (2) An appeal may not be made on the ground that the objection is taken to have been disallowed, as referred to in section 35C (4), unless written notice of the objector's intention to appeal on that ground has been given to the Valuer-General at least 14 days before the appeal is made.
- (3) No person or body has jurisdiction or power to conduct a review or hear an appeal in respect of the determination of an objection except as provided by this Part.

### **38 Time for appeal**

- (1) An appeal must be made not later than 60 days after the date of issue of the notice of the Valuer-General's determination of the objection.
- (2) The Land and Environment Court may allow a person to appeal after the 60-day period.

### **39 Grounds of appeal**

The appellant's and respondent's cases on an appeal are not limited to the grounds of the objection.

### **40 Powers of Land and Environment Court on appeal**

- (1) On an appeal, the Land and Environment Court may do any one or more of the following:
  - (a) confirm or revoke the decision to which the appeal relates,
  - (b) make a decision in place of the decision to which the appeal relates,
  - (c) remit the matter to the Valuer-General for determination in accordance with the Court's finding or decision.
- (2) On an appeal, the appellant has the onus of proving the appellant's case.

### **41 Giving effect to decision on appeal**

- (1) Within 60 days after the decision on appeal becomes final, the Valuer-General must take any action that is necessary to give effect to the decision, which may include altering the Register of Land Values in any relevant respect.
- (2) If no appeal from a decision of the Land and Environment Court is instituted within 30 days after the day on which the decision is made, the decision of the Land and Environment Court is taken, for the purposes of this section, to have become final at the end of the 30-day period.

## **Division 2 Valuer-General may state case**

#### **42 Valuer-General may state case**

- (1) The Valuer-General may state a case on any question of law for the opinion of the Land and Environment Court.
- (2) The Land and Environment Court's opinion on the stated case binds the Valuer-General in relation to the question.

#### **43-46 (Repealed)**

### **Part 5 Use of valuation lists**

#### **Editorial note—**

For list of districts and parts of districts to which the operation of Parts 5 and 6 has been extended, see the Historical notes at the end of this Act.

#### **47 Rating or taxing authorities**

- (1) This Part shall apply to the following rating or taxing authorities only:
  - The council of a local government area.
  - The Chief Commissioner of State Revenue.
  - Sydney Water Corporation.
- (1A) The locality comprising land in respect of which any such authority levies rates or taxes on the land, improved or assessed annual or other value is hereinafter referred to as the area of such authority.
- (1B) The area of the Chief Commissioner of State Revenue is the whole of New South Wales.
- (2) This Part has effect subject to any special arrangements entered into between the Valuer-General and Sydney Water Corporation.

#### **48 Furnishing valuation lists to authorities**

- (1) Each rating or taxing authority is to be given a list (referred to in this Act as a **valuation list**) containing such of the information entered in the Register as relates to land within the authority's area.
- (2) Valuation lists are to be furnished to each such authority:
  - (a) in the case of a list to be furnished to the Chief Commissioner of State Revenue, before 31 December in each year, and
  - (b) in the case of a list to be furnished to any other authority, at least once every 4 years.

- (3) Despite subsection (2) (b), the Valuer-General may furnish a valuation list for an area within 6 years if the Valuer-General is of the opinion that there has been so little movement in values in the area that a valuation within 4 years is not warranted.

#### **49 Supplementary lists**

- (1) Each rating or taxing authority is to be given a list (referred to in this Act as a **supplementary list**) containing such of the information entered in the Register in relation to land within the authority's area as has changed since the authority was last given a valuation list.
- (2) Supplementary lists are to be furnished to each such authority:
  - (a) in accordance with any agreement in force between the Valuer-General and the authority, or
  - (b) if no such agreement exists, at such times as the Valuer-General may determine.
- (3) Land that is valued for the purpose of preparing a supplementary list for a rating or taxing authority under this section is to be valued as at the 1 July by reference to which the land was valued for the purposes of the current valuation list for that authority.

#### **49A Partial lists**

- (1) If, under section 7D, the Valuer-General decides not to make any valuation, or to determine any allowance or apportionment factor, under this Act in respect of any land or stratum, the Valuer-General may decide to furnish to a rating or taxing authority, at such time or times as may be determined by the Valuer-General, a list which contains only:
  - (a) a valuation, allowance or apportionment factor:
    - (i) that has been made or determined since the last such valuation, allowance or apportionment factor made or determined in respect of the land or stratum was furnished to the authority (whether in a valuation list, a supplementary list or a list under this section), and
    - (ii) that may be used for the purpose of a rate or tax made by or payable to the authority, and
  - (b) such other particulars as the Valuer-General considers necessary.
- (2) A list under this section may relate to part only of an area or district and may contain valuations, allowances and apportionment factors determined as at different dates.
- (3) Without limiting section 7D, the Valuer-General is not required to comply with section 48 or 49 if the Valuer-General decides to furnish a list or lists under this section.

- (4) A list under this section shall be a valuation list or supplementary list for the purposes of this Act (sections 48 and 49 excepted).

#### **50 No alteration by rating or taxing authorities except when authorised**

- (1) Any such authority may forward to the Valuer-General particulars of any alterations which it desires to be made in any valuation list; but it shall not be lawful for such authority or for any person, without the written consent of the Valuer-General, to make any alteration in such list except as to changes of ownership, or occupancy, or as to the postal addresses of owners or occupiers.
- (2) Every document containing the authorisation of any alteration made in such list in respect of any land or a certified copy of such document shall be carefully docketed, filed, and referenced or indexed, and shall be produced without fee to the auditor or a duly authorised servant of such authority, or any Departmental representative carrying out an investigation under Part 5 of Chapter 13 of the [Local Government Act 1993](#), or any auditor under the [Public Finance and Audit Act 1983](#), on demand, or to the owner of the land, or of any interest therein, on demand made within the office hours of the authority.

#### **51 New lists to replace old**

The Valuer-General shall on request by any such authority furnish such authority with a new valuation list for the whole or any part of its area brought up to a specified date and, on the commencement of such authority's next rating or taxing year as prescribed by law, such list shall supersede all previous lists so far as they relate to the lands included in such list.

#### **52 Alteration of boundaries or constitution of new districts**

Where the boundaries of any such area are altered, or a new area is constituted for any such authority, the Valuer-General shall, as soon as is practicable after such alteration or constitution, furnish such new lists or supplementary lists as may be necessary.

#### **53 Lists to be valuation book of authority**

A valuation list, together with any supplementary list, shall, except as hereinafter provided, be the valuation roll or valuation book or assessment book of such authority until superseded, in whole or part, by a subsequent list.

#### **54 Authentication of lists**

All such lists shall be stamped with the official stamp of or signed by the Valuer-General, and without such authentication shall not be used by any such authority.

#### **55 Payment for lists**

There shall be payable by every such authority to which a list is supplied fees therefor

according to a scale which shall be fixed by the Governor from time to time.

#### **56 Form of lists**

Valuation lists under this Part may be furnished in such form as may be arranged between the authority and the Valuer-General, or in default of such arrangement, as the Valuer-General directs.

#### **57 Notice to authorities of amendments or alterations of Register**

The Valuer-General shall, as soon as practicable after any amendment or alteration of the Register of Land Values has been made, notify each rating or taxing authority concerned of such amendment or alteration.

#### **58-58E (Repealed)**

#### **58F Land rating factors—certain classes of lease from the Crown**

- (1) This section applies to land (not being land in the Western Division):
  - (a) held under an annual lease, occupation licence, preferential occupation licence, permissive occupancy, special lease (not being a special lease in perpetuity) or permit to enclose a road or watercourse granted under the [Crown Lands Consolidation Act 1913](#), or
  - (b) held under a permissive occupancy or permit to enclose a road granted under the Closer Settlement Acts, or
  - (c) held under any lease under the [Forestry Act 1916](#), or
  - (d) held under a lease or licence, or permit to enclose a road or watercourse, granted under Part 4 of the [Crown Lands Act 1989](#), or
  - (e) held under a lease granted under the [Prickly Pear Act 1987](#), or
  - (f) (Repealed)
  - (g) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description.
- (2) The Valuer-General must, when furnishing a general valuation list in which is included a valuation of any land to which this section applies or a supplementary valuation list in which is included a valuation of any such land, furnish:
  - (a) a statement of a land rating factor, and
  - (b) if the valuation includes a valuation of the improved capital value, an improved rating factor determined in respect of any such land in accordance with subsection (3).

- (3) The rating factor in respect of any land to which this section applies is to be determined as follows:
- (a) in the case of the land rating factor, that factor is an amount equal to the land value of the land to which this section applies reduced in accordance with paragraph (c),
  - (b) in the case of the improved rating factor, that factor is an amount equal to the improved capital value of the land to which this section applies reduced in accordance with paragraph (c),
  - (c) the amounts referred to in paragraphs (a) and (b) are to be reduced by an amount, as determined by the Valuer-General, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (1) applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.
- (4) Any rating factor determined under this section is to be shown on the notice of valuation and objection may be made under Part 3 to a rating factor as if it were a valuation.
- (5) Without limiting the generality of subsection (4), an objection may be made by a rateable person (within the meaning of the *Local Government Act 1993*) on the ground that no rating factor has been determined for the land in respect of which the person is rateable.

## **59 (Repealed)**

## **60 Assessed annual value for purposes of other Acts**

The assessed annual value of land determined under this Act is taken to be the assessed annual value of that land for the purposes of the following Acts:

- (a) the *Landlord and Tenant (Amendment) Act 1948*,
- (b) the *Strata Schemes (Freehold Development) Act 1973*,
- (c) the *Strata Schemes (Leasehold Development) Act 1986*,
- (d) the *Sydney Water Act 1994*,
- (e) the *Water Supply Authorities Act 1987*.

## **60A Determination of values at request of council**

- (1) The Valuer-General must, on the request in writing of a council, make a new valuation of the land value of any land if:

- (a) as a consequence of the making of or an amendment to or the repeal or substitution of a planning instrument, the purposes for which development may be carried out on the land are changed, or
  - (b) a water right relating to the land is acquired or ceases or is varied, or
  - (c) the land suffers or is likely to suffer physical damage (such as landslip or erosion), or
  - (d) the land is or is likely to be affected by a coastal hazard.
- (2) The Valuer-General is not required to make and furnish a new valuation under this section if the Valuer-General is of the opinion that the land value of the land has not changed since its last valuation.
- (3) Land that is valued at the request of a council under this section is to be valued, for the purposes of any relevant rating or taxing authority:
- (a) as at the 1 July by reference to which the land was valued for the purposes of the valuation list for that authority current:
    - (i) in the circumstances referred to in subsection (1) (a), at the time the relevant planning instrument was made, amended or repealed, as the case may be, or
    - (ii) in the circumstances referred to in subsection (1) (b), at the time the relevant water right was acquired, ceased or was varied, or
    - (iii) in the circumstances referred to in subsection (1) (c) or (d), at the time the request was made, and
  - (b) as at the 1 July by reference to which the land has been valued for the purposes of any subsequent valuation list for that authority.
- (4) (Repealed)

#### **61 Valuations to be used as basis of rates, taxes and duties**

Notwithstanding anything to the contrary in any Act, each such rating or taxing authority shall use any valuation list and any supplementary list so furnished by the Valuer-General as the basis of its rate or tax in respect of any land included in any such list, and the values stated therein shall be deemed to be the values fixed or determined by a valuation or assessment duly made under the Acts relating to the rate or tax without any necessity to give any notice thereof. No appeal against such valuation under any such Act shall lie except as to a matter which would not be admissible as a ground of objection under this Act:

Provided that a new valuation made by the Valuer-General in accordance with section 20 (3) (b) shall not be used by a rating or taxing authority as the basis of its rate or tax in



respect of the land included in such valuation.

**61A (Repealed)**

**62 Taxes and rates under any authority**

- (1) Subject to this Act every rate or tax levied by a council or by any other rating or taxing authority in respect of any land included in any such lists shall be levied in accordance with the values appearing in such lists last furnished as aforesaid on or before the first day of any year for which such authority levies rates or taxes:

Provided also that where new buildings or additions to existing buildings are after the commencement of the rating or taxing year erected upon lands subject to a rate upon the assessed annual value or improved capital value, such rate may be levied in accordance with fresh valuations of such lands made by the Valuer-General and notified to such authority at any time during the rating year in which such buildings were so erected.

- (2) Subject to this Act the amount of any such rate or tax shall not be affected by any alteration of valuation made during the year, except to the extent necessary to give effect to the provisions of subsection (1) or an alteration made on an objection lodged within the prescribed time to a valuation made before the said first day; and except an alteration made on the written authorisation of the Valuer-General for the purpose of correcting any clerical error or misdescription.

**63, 64 (Repealed)**

**Part 6 Use of valuations by government departments**

**Editorial note—**

For list of districts and parts of districts to which the operation of Parts 5 and 6 has been extended, see the Historical notes at the end of this Act.

**65, 66 (Repealed)**

**67 Valuation for the purposes of [Fire Brigades Act 1989](#)**

- (1) Each year the Valuer-General shall furnish to the Commissioner of NSW Fire Brigades an estimate of the aggregated land values that would most likely result if a general valuation were to be made (as at 1 July of the year preceding the year in which the estimate is furnished) of all ratable land within any area constituted as a fire district under section 5 of the [Fire Brigades Act 1989](#).
- (2) The estimate shall be separately expressed in respect of so much of the land within the district as is within each local government area.
- (3) The aggregated land values estimated under this section shall be the aggregated land values for the purposes of:

(a) (Repealed)

(b) any apportionment, under section 51 of the *Fire Brigades Act 1989*, to be made in respect of a contribution to the estimated expenditure of the Board for the year concerned.

(4) This section applies only to such fire districts as include more than one, or parts of more than one, local government area.

#### **68 Valuation for compulsory acquisition**

(1) The Valuer-General is to determine, in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*, the amount of compensation to be offered to an owner of land for a compulsory acquisition of the land under that Act.

(2) Any such determination does not affect, and is not affected by, any valuation of land made by the Valuer-General under this or any other Act.

#### **69, 70 (Repealed)**

### **Part 6A**

#### **70A-70G (Repealed)**

### **Part 6B Special arrangements**

#### **70H Application of Part**

This Part applies only to Sydney Water Corporation (referred to in this Part as ***the Corporation***).

#### **70I Special arrangements**

(1) The Valuer-General may enter into special arrangements with the Corporation regarding the supply of valuations to the Corporation.

(2) The special arrangements may make provision for or with respect to the following:

(a) the times when any such valuations are to be provided (whether on request or otherwise),

(b) the fees to be paid for any such valuations,

(c) any other matters relevant to the making, supply and use of any such valuations.

(3) The Valuer-General may terminate any such arrangements:

(a) in accordance with any procedures contained in the arrangements, or

(b) with the approval of the Minister and on giving the Corporation at least 6 months'

notice of the termination.

### **70J Nature of valuations**

- (1) Any valuations provided for by a special arrangement under this Part may but need not be in accordance with this Act.
- (2) Valuations provided for by a special arrangement and not conforming to the principles of valuations required by other provisions of this Act are nevertheless subject to Parts 3 and 4.
- (3) Those Parts (together with any other relevant provisions of this Act) apply with such modifications as are necessary or appropriate in relation to valuations provided for by a special arrangement.

### **70K Relationship with other provisions of this Act**

- (1) This Part has effect despite anything in this Act.
- (2) Special arrangements entered into under this Part have effect despite anything in Part 5 (including, but not limited to, sections 48, 49 and 55) and any other provisions of this Act.

## **Part 7 Miscellaneous**

### **71 Changes of ownership**

- (1) Whenever any land is sold and conveyed or any lease in writing for a term exceeding three years under which the lessee is liable to pay the whole or any part of any rate or tax in respect of the land so leased is granted, transferred, surrendered or assigned, the purchaser, lessee, transferee, surrenderee, or assignee, as the case may be, shall give written notice thereof to the Valuer-General within one month of the completion thereof, and shall give such particulars in respect of the sale, lease, transfer, surrender, or assignment as the Valuer-General may in writing require or as may be prescribed.
- (2) The requirements of this section in relation to the giving of notice are taken to have been satisfied in relation to an event if notice of the event is lodged with the Registrar-General with a dealing, application or instrument as referred to in section 39 of the [Real Property Act 1900](#) or section 184E of the [Conveyancing Act 1919](#) within 1 month after the occurrence of the event.

### **72 Boundaries of rating or taxing areas**

Each rating or taxing authority named in Part 5 shall as soon as practicable after the commencement of this Act supply the Valuer-General with a description of the boundaries of its area, and such other information with respect to land therein as the Valuer-General may require, and shall transmit to the Valuer-General from time to time such particulars of

the change of ownership of or of interests in land as may have been notified to such authority.

### **73 Lessor to furnish copy of lease**

Where a lease in writing of any land contains a condition that the lessee shall pay any portion of the rates or taxes imposed on such land, the lessor shall, on the request in writing of the Valuer-General, furnish the Valuer-General with a certified copy of such lease, and if the lessor fails so to furnish such copy the lessor shall be liable to a penalty not exceeding 2 penalty units for each such failure.

### **74 Power of entry**

- (1) An authorised person may at all times during the day enter on any land for the purposes of this Act; and the owner or occupier or manager thereof shall answer any questions put by the authorised person and generally afford all necessary information to enable a correct valuation to be made.
- (2) Without limiting the generality of subsection (1), a person, in exercising or performing any function under that subsection:
  - (a) may require the owner, occupier or manager of any land to produce any accounts, records, books, instruments, letters, maps, plans, papers or other documents in the possession of or under the control of that owner, occupier or manager which relate to, or which the person believes on reasonable grounds relate to, the description, nature, use or value of the land, and
  - (b) may take copies of, or extracts or notes from, any accounts, records, books, instruments, letters, maps, plans, papers or other documents referred to in paragraph (a).
- (3) In this section:

**authorised person** means:

- (a) the Valuer-General, or
- (b) a member of the staff of the Valuer-General authorised in writing by the Valuer-General, or
- (c) a person who is:
  - (i) a contract valuer, or
  - (ii) a director of a corporation that is a contract valuer, or
  - (iii) an employee or agent of a contract valuer,if authorised by or in accordance with the relevant valuation service contract, or

(d) a Judge or assessor of the Land and Environment Court.

#### **75 Penalty for refusing information**

(1) Every person who in any way obstructs or hinders an authorised person in the exercise of any functions under this Act, or refuses to answer any relevant questions or to afford any information in the person's power when duly required to do so shall be liable to a penalty not exceeding 2 penalty units.

(2) In this section:

**authorised person** means:

(a) the Valuer-General, or

(b) a member of the staff of the Valuer-General, or

(c) a person who is:

(i) a contract valuer, or

(ii) a director of a corporation that is a contract valuer, or

(iii) an employee or agent of a contract valuer,

to the extent (if any) to which the relevant valuation service contract provides that subsection (1) is applicable, or

(d) a Judge or assessor of the Land and Environment Court when exercising functions under section 74.

#### **76 Copies of entries to be supplied**

(1), (1A) (Repealed)

(2) The Valuer-General may supply information as to valuations to any department of the Commonwealth in the manner and to the extent and on the terms mutually agreed upon between the Governments of the State and of the Commonwealth.

(3) To enable a revised schedule of unit entitlements to be prepared for the purposes of section 30 of the [Community Land Development Act 1989](#), the Valuer-General, at the request of an association constituted under that Act and on payment of a fee determined by the Valuer-General, is to provide the association with a table showing the values at the same base date of the lots in the scheme under which the association is constituted by that Act.

#### **77 (Repealed)**

## **78 Certificate in lieu of valuation of land**

Any trustee, solicitor, or agent may for the purposes of any investment obtain and use the certificate of valuation hereinbefore mentioned, and unless directed by the conditions of any trust, retainer, or employment to ascertain in any other specified manner the value of land offered as security, shall not be chargeable with negligence or other default for failing to obtain other evidence of such value.

## **78A Furnishing of information given to the Valuer-General under sec 71**

- (1) The Valuer-General may, on application by a person in a form approved by the Valuer-General and on payment of a fee determined by the Valuer-General, furnish to the person information which has been given to the Valuer-General under section 71, other than such information as may be prescribed.
- (2) Regulations for the purposes of subsection (1) may be made so as to apply differently according to such factors as may be specified in the regulations.

## **79 Right to appear**

The Valuer-General may appear either personally or by counsel, or solicitor, or by any officer of the department, in any court or in any proceedings, and the statement of any such counsel, solicitor, or officer of the department that any appearance is by the authority of the Valuer-General shall be accepted as sufficient evidence of such authority.

## **80 Method of recovery of penalties and fees**

The Valuer-General may sue for the recovery of fees and may initiate and conduct prosecutions for breaches of this Act or of any regulation made under it.

## **80A Proceedings for recovery of penalties to be heard summarily**

Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a Local Court constituted by a Magistrate sitting alone.

## **80B Valuers Registration Act 1975 not affected**

Nothing in this Act affects the [Valuers Registration Act 1975](#).

## **81 Regulations**

- (1) The Governor may from time to time make regulations for all or any of the following purposes, that is to say:
  - (a) Defining the duties and powers of the Valuer-General, members of the Valuer-General's staff, members of the staff of the State Valuation Office, contract valuers and directors, officers, employees and agents of contract valuers.
  - (b) Determining the form and contents of the Register of Land Values, and making

provision for whatever the Governor deems necessary for the proper preparation, completion, alteration, amendment, and custody thereof.

- (c) Determining the mode in which valuation lists shall be prepared for and supplied to rating and taxing authorities, and making provision for whatever the Governor deems necessary in connection therewith.
  - (d) For giving effect to the provisions of this Act as to notices and objections and prescribing the manner of serving notices and what shall be conclusive proof of service.
  - (e) Determining the fees payable under the Act and the mode in which the same shall be paid and recoverable.
  - (f) Making provision for anything which is expressed to be prescribed or in respect of which regulations are contemplated by this Act.
  - (g) For the exercise of any powers by this Act conferred upon the Governor.
  - (h) Regulating valuation service contracts, including:
    - (i) regulating the matters that may or are to be the subject of valuation service contracts, and
    - (ii) regulating the process of inviting, receiving, assessing and accepting tenders for contested valuation service contracts.
  - (i) Prescribing the tables and methods to be used in calculating the values of the interests of lessors and lessees and of other persons having interests in any land.
  - (j) Making provision for any matter necessary in order to give full effect to this Act.
  - (k) (Repealed)
- (2) (Repealed)

## **82 Penalties**

- (1) A regulation made under this Act may provide a penalty not exceeding 1 penalty unit for the breach thereof.
- (2) A person who contravenes any provision of this Act is (except where a penalty is specifically provided) liable to a penalty not exceeding 1 penalty unit.

## **83 Savings, transitional and other provisions**

Schedule 2 has effect.

## **Part 8 Parliamentary Joint Committee**

#### **84 Constitution of Joint Committee**

- (1) As soon as practicable after the commencement of this Part, a joint committee of members of Parliament, to be known as the Committee on the Office of the Valuer-General, is to be appointed.
- (2) The Joint Committee has and may exercise the functions conferred or imposed on it by or under this Act or any other Act.

#### **85 Functions**

- (1) The Joint Committee has the following functions under this Act:
  - (a) to monitor and to review the exercise of the Valuer-General's functions with respect to land valuations under this Act and the *Land Tax Management Act 1956* and, in particular:
    - (i) to monitor the methodologies employed for the purpose of conducting such valuations, and
    - (ii) to monitor the arrangements under which valuation service contracts are negotiated and entered into under Part 1A of this Act, and
    - (iii) to monitor the standard of valuation services provided under such contracts,
  - (b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter connected with the exercise of the Valuer-General's functions referred to in paragraph (a) to which, in the opinion of the Joint Committee, the attention of Parliament should be directed,
  - (c) to report to both Houses of Parliament any change that the Joint Committee considers desirable to the Valuer-General's functions referred to in paragraph (a),
  - (d) to inquire into any question in connection with the Joint Committee's functions which is referred to it by both Houses of Parliament, and to report to both Houses on that question.
- (2) The functions of the Joint Committee do not extend to the investigation of any matter relating to or arising from a particular valuation of a specific parcel of land.
- (3) The functions of the Joint Committee may be exercised in respect of matters occurring before or after the commencement of this section.

#### **86 Membership**

- (1) The Joint Committee is to consist of 5 members, of whom:
  - (a) 2 are to be members of, and appointed by, the Legislative Council, and
  - (b) 3 are to be members of, and appointed by, the Legislative Assembly.



- (2) The appointment of members of the Joint Committee is, as far as practicable, to be in accordance with the practice of Parliament with reference to the appointment of members to serve on joint committees of both Houses of Parliament.
- (3) A person is not eligible for appointment as a member of the Joint Committee if the person is a Minister of the Crown or a Parliamentary Secretary.

### **87 Vacancies**

- (1) A member of the Joint Committee ceases to hold office:
  - (a) if the member becomes a Minister of the Crown or a Parliamentary Secretary, or
  - (b) if a member ceases to be a member of the Legislative Council or Legislative Assembly, or
  - (c) if, being a member of the Legislative Council, the member resigns the office by instrument in writing addressed to the President of the Legislative Council, or
  - (d) if, being a member of the Legislative Assembly, the member resigns the office by instrument in writing addressed to the Speaker of the Legislative Assembly, or
  - (e) if the member is discharged from office by the House of Parliament to which the member belongs.
- (2) Either House of Parliament may appoint one of its members to fill a vacancy among the members of the Joint Committee appointed by that House.

### **88 Chairperson and Vice-Chairperson**

- (1) There is to be a Chairperson and a Vice-Chairperson of the Joint Committee, who are to be elected by and from the members of the Joint Committee.
- (2) A member of the Joint Committee ceases to hold office as Chairperson or Vice-Chairperson of the Joint Committee if:
  - (a) the member ceases to be a member of the Committee, or
  - (b) the member resigns the office by instrument in writing presented to a meeting of the Committee, or
  - (c) the member is discharged from office by the Committee.
- (3) At any time when the Chairperson is absent from New South Wales or is, for any reason, unable to perform the duties of Chairperson or there is a vacancy in that office, the Vice-Chairperson may exercise the functions of the Chairperson under this Act or under the [Parliamentary Evidence Act 1901](#).

## **89 Procedure**

- (1) The procedure for the calling of meetings of the Joint Committee and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Committee.
- (2) The Clerk of the Legislative Assembly is to call the first meeting of the Joint Committee in each Parliament in such manner as the Clerk thinks fit.
- (3) At a meeting of the Joint Committee, 3 members constitute a quorum, but the Committee must meet as a joint committee at all times.
- (4) The Chairperson or, in the absence of the Chairperson, the Vice-Chairperson (or, in the absence of both the Chairperson and the Vice-Chairperson, a member of the Joint Committee elected to chair the meeting by the members present) is to preside at a meeting of the Joint Committee.
- (5) The Vice-Chairperson or other member presiding at a meeting of the Joint Committee has, in relation to the meeting, all the functions of the Chairperson.
- (6) The Chairperson, Vice-Chairperson or other member presiding at a meeting of the Joint Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (7) A question arising at a meeting of the Joint Committee is to be determined by a majority of the votes of the members present and voting.
- (8) The Joint Committee may sit and transact business despite any prorogation of the Houses of Parliament or any adjournment of either House of Parliament.
- (9) The Joint Committee may sit and transact business on a sitting day of a House of Parliament during the time of sitting.

## **90 Reporting when Parliament not in session**

- (1) If a House of Parliament is not sitting when the Joint Committee seeks to furnish a report to it, the Committee may present copies of the report to the Clerk of the House.
- (2) The report:
  - (a) on presentation and for all purposes is taken to have been laid before the House, and
  - (b) may be printed by authority of the Clerk, and
  - (c) if printed by authority of the Clerk, is for all purposes taken to be a document published by or under the authority of the House, and
  - (d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the

first sitting day of the House after receipt of the report by the Clerk.

## **91 Evidence**

- (1) The Joint Committee has power to send for persons, papers and records.
- (2) Subject to section 92, the Joint Committee must take all evidence in public.
- (3) If the Joint Committee as constituted at any time has taken evidence in relation to a matter but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as constituted at any subsequent time, whether during the same or another Parliament, may consider that evidence as if it had taken the evidence.
- (4) The production of documents to the Joint Committee is to be in accordance with the practice of the Legislative Assembly with respect to the production of documents to select committees of the Legislative Assembly.

## **92 Confidentiality**

- (1) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced to, the Joint Committee relates to a secret or confidential matter, the Committee may, and at the request of the witness giving the evidence or the person producing the document must:
  - (a) take the evidence in private, or
  - (b) direct that the document, or the part of the document, be treated as confidential.
- (2) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Valuer-General, the Committee must (despite any other provision of this section):
  - (a) take the evidence in private, or
  - (b) direct that the document, or the part of the document, be treated as confidential.
- (3) Despite any other provision of this section except subsection (8), the Joint Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (2) applies.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

- (4) If a direction under subsection (1) applies to a document or part of a document produced to the Joint Committee:
  - (a) the contents of the document or part are, for the purposes of this section, to be

regarded as evidence given by the person producing the document or part and taken by the Committee in private, and

(b) the person producing the document or part is, for the purposes of this section, to be regarded as a witness.

(5) If, at the request of a witness, evidence is taken by the Joint Committee in private:

(a) the Committee must not, without the consent in writing of the witness, and

(b) a person (including a member of the Committee) must not, without the consent in writing of the witness and the authority of the Committee under subsection (7),

disclose or publish the whole or a part of that evidence.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

(6) If evidence is taken by the Joint Committee in private otherwise than at the request of a witness, a person (including a member of the Committee) must not, without the authority of the Committee under subsection (7), disclose or publish the whole or a part of that evidence.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

(7) The Joint Committee may, in its discretion, disclose or publish or, by writing under the hand of the Chairperson, authorise the disclosure or publication of evidence taken in private by the Committee, but this subsection does not operate so as to affect the necessity for the consent of a witness under subsection (5).

(8) Nothing in this section prohibits:

(a) the disclosure or publication of evidence that has already been lawfully published, or

(b) the disclosure or publication by a person of a matter of which the person has become aware otherwise than by reason, directly or indirectly, of the giving of evidence before the Joint Committee.

(9) This section has effect despite section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975*.

(10) If evidence taken by the Joint Committee in private is disclosed or published in accordance with this section:

(a) sections 5 and 6 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* apply to and in relation to the disclosure or publication as if it were a publication of that evidence under the authority of section 4 of that Act, and

(b) Division 5 of Part 3 of, and Schedule 2 to, the *Defamation Act 1974* apply to and in

relation to that evidence as if it were taken by the Committee in public.

### **93 Application of certain Acts etc**

For the purposes of the *Parliamentary Evidence Act 1901* and the *Parliamentary Papers (Supplementary Provisions) Act 1975* and for any other purposes:

- (a) the Joint Committee is to be regarded as a joint committee of the Legislative Council and Legislative Assembly, and
- (b) the proposal for the appointment of the Joint Committee is to be regarded as having originated in the Legislative Assembly.

### **94 Validity of certain acts or proceedings**

Any act or proceeding of the Joint Committee is, even though at the time when the act or proceeding was done, taken or commenced there was:

- (a) a vacancy in the office of a member of the Committee, or
  - (b) any defect in the appointment, or any disqualification, of a member of the Committee,
- as valid as if the vacancy, defect or disqualification did not exist and the Committee were fully and properly constituted.

### **95 Expiry of Part**

This Part expires on the day following the commencement of this Part on which the Legislative Assembly is next dissolved or next expires by the effluxion of time.

## **Schedule 1 Provisions relating to the Valuer-General**

(Section 8 (2))

### **1 (Repealed)**

### **2 Term of office**

- (1) The Valuer-General shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his or her appointment.
- (2) The Valuer-General shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, not exceeding 7 years, as is specified in the instrument of his or her re-appointment.

### **3 Full-time office**

The Valuer-General shall devote the whole of his or her time to the duties of his or her office.

#### **4 Remuneration**

- (1) The Valuer-General is entitled to be paid:
  - (a) remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*, and
  - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the Valuer-General.
- (2) (Repealed)

#### **5 Application of Public Sector Management Act 1988**

The *Public Sector Management Act 1988* (Part 8 excepted) does not apply to or in respect of the appointment of the Valuer-General and the Valuer-General is not, in his or her capacity as the Valuer-General, subject to that Act during his or her term of office.

#### **6 Appointment of substitute to act during absence of Valuer-General**

- (1) The Governor may appoint any person appointed or employed for the purposes of this Act to act in the office of the Valuer-General while the Valuer-General is absent from his or her office through illness or any other cause or while there is a vacancy in the office of the Valuer-General, and that person while so acting shall be deemed to be the Valuer-General and shall have and may exercise and perform the powers, authorities, duties and functions of the Valuer-General.
- (2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of the Valuer-General, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by the Valuer-General.

#### **7 Vacation of office**

The Valuer-General shall be deemed to have vacated his or her office:

- (a) if he or she dies,
- (b) if he or she engages in New South Wales or elsewhere during his or her term of office in any paid employment outside the duties of his or her office without the approval of the Minister,
- (c) if he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration, allowances or estate for their benefit,
- (d) if he or she absents himself or herself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is

hereby authorised to grant, or unless the absence is occasioned by illness or other unavoidable cause,

- (e) if he or she becomes a mentally incapacitated person,
- (f) if he or she is convicted in New South Wales of a crime or offence which is punishable by imprisonment for 12 months or upwards, or if he or she is convicted elsewhere than in New South Wales of a crime or offence which, if committed in New South Wales, would be a crime or offence so punishable,
- (g) if he or she resigns his or her office by writing under his or her hand addressed to the Minister, or
- (h) if he or she is removed from office under clause 8.
- (i) (Repealed)

## **8 Removal from office**

- (1) The Valuer-General shall not be removed from office except in accordance with this clause.
- (2) The Valuer-General may be suspended from office by the Governor for misbehaviour or incompetence.
- (3) The Minister shall lay or cause to be laid before each House of Parliament, within 7 sitting days of that House after the Valuer-General has been suspended from office, a full statement of the grounds for the suspension.
- (4) The suspension shall be lifted unless each House of Parliament, within 21 sitting days from the time when the statement was laid before it, declares by resolution that the Valuer-General ought to be removed from office.
- (5) If each House does so declare within that period, the Valuer-General shall be removed from office by the Governor.
- (6) For the purposes of this clause, sitting days shall be counted, whether or not they occur during the same session.

## **9 Protection from liability**

- (1) No matter or thing done by the Valuer-General or by any other person acting under the direction or as delegate of the Valuer-General shall, if the matter or thing was done in good faith for the purposes of executing this Act, subject the Valuer-General or person personally to any action, liability, claim or demand.
- (2) A contract valuer who exercises functions under this Act pursuant to a valuation service contract is not to be taken to be doing so as a delegate of, or under the

direction of, the Valuer-General unless the valuation service contract expressly so provides.

## **10 Preservation of rights of Valuer-General previously public servant etc**

(1) In this clause:

**statutory body** means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

**superannuation scheme** means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of his or her appointment, where the Valuer-General was, immediately before his or her appointment as the Valuer-General:

(a) an officer of the Public Service,

(b) a contributor to a superannuation scheme,

(c) an officer employed by a statutory body, or

(d) a person in respect of whom provision was made by any Act that he or she retain any rights accrued or accruing to him or her as an officer or employee,

he or she:

(e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person,

(f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before his or her appointment, and

(g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such an officer, contributor or person during his or her service as the Valuer-General, and:

(h) his or her service as the Valuer-General shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred, and

(i) he or she shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be his or her employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.



- (3) If the Valuer-General would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme he or she shall not be so entitled upon his or her becoming (whether upon his or her appointment as the Valuer-General or at any later time while he or she holds office as the Valuer-General) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her and the Government of New South Wales in any case where he or she becomes a contributor to such another superannuation scheme.
- (4) Subclause (3) does not prevent the payment to the Valuer-General upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason of his or her resignation, to be an officer or employee for the purposes of that scheme.
- (5) The Valuer-General shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

#### **11 Valuer-General entitled to re-appointment to former employment in certain cases**

- (1) In this clause:

**statutory body** means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

- (2) A person who ceases to be the Valuer-General, otherwise than pursuant to clause 7 (paragraph (g) excepted), shall be entitled to be appointed, where, immediately before his or her appointment as the Valuer-General, he or she was:
  - (a) an officer of the Public Service—to some position in the Public Service, or
  - (b) an officer or employee of a statutory body—to some position in the service of that body,not lower in classification and salary than that which he or she held immediately before his or her appointment as the Valuer-General.

#### **12 Declaration of statutory bodies**

The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

## Schedule 2 Savings, transitional and other provisions

(Section 83)

### Part 1 Preliminary

#### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Valuation of Land Further Amendment Act 1996*

*Water Management Act 2000*

*Valuation of Land Amendment Act 2000*

*State Revenue Legislation Amendment Act 2004*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### Part 2 Provisions consequent on enactment of **Valuation of Land Further Amendment Act 1996**

#### 2 Existing valuations

Section 14B (2) has effect with respect to valuations to be made after the commencement of section 14B, except where the processes involved in making a valuation had started before that commencement.

### Part 3 Provisions consequent on enactment of **Valuation of Land Amendment Act 2000**

#### 3 Definitions

In this Part:

**the 2000 amending Act** means the *Valuation of Land Amendment Act 2000*.

**the amended 1916 Act** means the *Valuation of Land Act 1916*, as amended by the 2000 amending Act.

**the unamended 1916 Act** means the *Valuation of Land Act 1916*, as in force immediately before the commencement of the 2000 amending Act.

**the unamended 1956 Act** means the *Land Tax Management Act 1956*, as in force immediately before the commencement of the 2000 amending Act.

#### **4 Valuations and valuation recommendations**

- (1) Any valuation, allowance or apportionment factor made or determined under the unamended 1916 Act or the unamended 1956 Act is taken to have been made or determined under the amended 1916 Act.
- (2) Any valuation recommendation made under the unamended 1916 Act is taken to have been made under the amended 1916 Act.

#### **5 Valuation rolls and Register of Land Values**

- (1) The information contained in:
  - (a) any valuation roll prepared under the unamended 1916 Act, or
  - (b) the Register of Land Values prepared under the unamended 1956 Act,is taken to form part of the Register of Land Values under the amended 1916 Act.
- (2) Any valuation list prepared under the unamended 1916 Act is taken to have been prepared under the amended 1916 Act.
- (3) The information contained in the Register of Land Values under the unamended 1956 Act is taken to form part of a valuation list prepared for the Chief Commissioner of State Revenue under the amended 1916 Act.

#### **6 Certificates**

Any certificate issued under the unamended 1916 Act or the unamended 1956 Act in relation to a valuation, allowance or apportionment factor is taken to have been issued under the amended 1916 Act.

#### **7 Continuation of former section 58AA**

- (1) Section 58AA, as in force immediately before the commencement of the 2000 amending Act, continues to have effect in relation to land that, as at that date, was within the area of operations of the Sydney Water Board, as if that Act had not been enacted.

(2) This clause ceases to have effect on a day to be appointed by proclamation.

### **8 Applications, notices and objections**

Any application, notice or objection made, given or lodged under the unamended 1916 Act or the unamended 1956 Act in relation to a valuation, allowance or apportionment factor is taken to have been made, given or lodged under the amended 1916 Act.

### **9 Application of new objections and appeals provisions to existing matters**

The provisions of the amended 1916 Act with respect to objections and appeals apply to any valuation, allowance or apportionment factor under the unamended 1916 Act or the unamended 1956 Act in the same way as they apply to any valuation, allowance or apportionment factor under the amended 1916 Act.

### **10 Continuation of pending appeal proceedings**

The provisions of the unamended 1916 Act and the unamended 1956 Act continue to apply to appeals under those Acts in relation to any valuation, allowance or apportionment factor as if the 2000 amending Act had not been enacted.

### **11 Delegations**

Any delegation in force under the unamended 1916 Act is taken to be a delegation in force under the amended 1916 Act, and may be amended or revoked accordingly.

### **12 Construction of other references**

Subject to this Schedule and the regulations, in any Act or instrument:

- (a) a reference to a provision of the unamended 1916 Act or the unamended 1956 Act for which there is a corresponding provision in the amended 1916 Act extends to the corresponding provision of the amended 1916 Act, and
- (b) a reference to any act, matter or thing referred to in a provision of the unamended 1916 Act or the unamended 1956 Act for which there is a corresponding provision in the amended 1916 Act extends to the corresponding act, matter or thing referred to in the corresponding provision of the amended 1916 Act.

### **13 General saving**

Subject to this Schedule and the regulations:

- (a) anything begun before the appointed day under a provision of the unamended 1916 Act or the unamended 1956 Act for which there is a corresponding provision in the amended 1916 Act may be continued and completed under the unamended 1916 Act or the unamended 1956 Act as if the 2000 amending Act had not been enacted, and
- (b) subject to paragraph (a), anything done under a provision of the unamended 1916 Act

or the unamended 1956 Act for which there is a corresponding provision in the amended 1916 Act (including anything arising under paragraph (a)) is taken to have been done under the corresponding provision of the amended 1916 Act.

## **Part 4 Provisions consequent on enactment of [Water Management Act 2000](#)**

### **14 Water rights**

- (1) Section 6A (3), as in force immediately before the commencement of Schedule 10 to the [Water Management Act 2000](#), continues to apply as if an access licence arising under clause 3 (1) (a) of that Schedule were a water right in relation to:
  - (a) the land specified in the entitlement from which the access licence arose as the land to which that entitlement related immediately before that commencement, or
  - (b) if the access licence is transferred or amended so as to specify some other land as the land to which the access licence relates, that other land.
- (2) This clause ceases to apply on the commencement of Schedule 8.29 [2] to the [Water Management Act 2000](#).