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SOUTH AUSTRALIA

VALUATION OF LAND ACT 1971

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **30 June 1999**.*

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VALUATION OF LAND ACT 1971

being

Valuation of Land Act 1971 No. 113 of 1971
[Assented to 9 December 1971]¹

as amended by

Statutes Amendment (Public Salaries) Act 1972 No. 76 of 1972 [Assented to 28 September 1972]
Statutes Amendment (Valuation of Land) Act 1972 No. 79 of 1972 [Assented to 5 October 1972]²
Statutes Amendment (Public Salaries) Act 1973 No. 28 of 1973 [Assented to 20 September 1973]
Statutes Amendment (Public Salaries) Act 1975 No. 19 of 1975 [Assented to 27 March 1975]³
Valuation of Land Act Amendment Act 1976 No. 93 of 1976 [Assented to 16 December 1976]
Statutes Amendment (Valuation of Land) Act 1981 No. 29 of 1981 [Assented to 19 March 1981]⁴
Valuation of Land Act Amendment Act 1981 No. 91 of 1981 [Assented to 23 December 1981]
Local Government Act Amendment Act 1983 No. 27 of 1983 [Assented to 16 June 1983]⁵
Valuation of Land Act Amendment Act 1984 No. 88 of 1984 [Assented to 29 November 1984]⁶
Statutes Amendment (Remuneration) Act 1985 No. 59 of 1985 [Assented to 30 May 1985]⁷
Valuation of Land Act Amendment Act 1985 No. 86 of 1985 [Assented to 19 September 1985]⁸
Valuation of Land Act Amendment Act 1987 No. 31 of 1987 [Assented to 23 April 1987]⁹
Statutes Repeal and Amendment (Remuneration) Act 1990 No. 18 of 1990 [Assented to 19 April 1990]¹⁰
Valuation of Land (Miscellaneous) Amendment Act 1991 No. 3 of 1991 [Assented to 14 March 1991]
Statutes Amendment (Expiation of Offences) Act 1992 No. 71 of 1992 [Assented to 19 November 1992]¹¹
Heritage Act 1993 No. 56 of 1993 [Assented to 27 May 1993]¹²
Statutes Amendment (Community Titles) Act 1996 No. 38 of 1996 [Assented to 9 May 1996]¹³
Valuation of Land (Miscellaneous) Amendment Act 1998 No. 43 of 1998 [Assented to 27 August 1998]¹⁴
Emergency Services Funding Act 1998 No. 63 of 1998 [Assented to 10 September 1998]¹⁵

¹ Came into operation 1 June 1972: *Gaz.* 11 May 1972, p. 1758.

² Came into operation 1 June 1972: s. 2.

³ Came into operation 28 August 1975: *Gaz.* 28 August 1975, p. 1126.

⁴ Came into operation 30 June 1981: *Gaz.* 4 June 1981, p. 1640.

⁵ Came into operation 28 July 1983: *Gaz.* 21 July 1983, p. 126.

⁶ Came into operation 11 July 1985: *Gaz.* 4 July 1985, p. 6.

⁷ Came into operation 13 June 1985: *Gaz.* 13 June 1985, p. 2132.

⁸ Came into operation 1 July 1986: *Gaz.* 6 February 1986, p. 254.

⁹ Came into operation 1 September 1987: *Gaz.* 20 August 1987, p. 516.

¹⁰ Came into operation 19 April 1990: *Gaz.* 19 April 1990, p. 1136.

¹¹ Came into operation 1 March 1993: *Gaz.* 18 February 1993, p. 600.

¹² Came into operation 15 January 1994: *Gaz.* 27 October 1993, p. 1890.

¹³ Came into operation 4 November 1996: *Gaz.* 31 October 1996, p. 1460.

¹⁴ Came into operation (except s. 13(a) and (b)) 1 December 1998: *Gaz.* 26 November 1998, p. 1600; s. 13(a) and (b) came into operation 30 June 1981: s. 2(1).

¹⁵ **Schedule 2 (cl. 3) came into operation 30 June 1999: *Gaz.* 13 May 1999, p. 2502.**

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

An Act to make provision for the valuation of land, and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Valuation of Land Act 1971*.

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Interpretation

5. (1) In this Act, unless the contrary intention appears—

"**annual value**" of land, means a value computed as three-quarters of the gross annual rental that the land might reasonably be expected to realise if leased upon condition that the landlord were liable for all rates, taxes and other imposts on the land and the insurance and other outgoings necessary to maintain the value of the land, or as five per cent of the capital value of the land, but this definition is subject to the following qualifications—

- (a) the annual value of land held of the Crown by virtue solely of a mining lease must not exceed the amount of the rental payable to the Crown under the lease, and if the annual value of any such land would, but for this paragraph, exceed that amount, the annual value must be reduced to that amount; and
- (b) if the value of the land has been enhanced by trees planted on the land (other than commercial plantations), or trees preserved on the land for the purpose of shelter or ornament, the annual value must be determined as if the value of the land had not been so enhanced; and
- (c) if the value of the land is enhanced by the existence on the land of any fixtures, consisting of prescribed machinery, plant or equipment the annual value of the land must (where the annual value is computed on the basis of gross annual rental, but not otherwise) be reduced by an amount representing depreciation on that machinery, plant or equipment; and
- (d) where it is not reasonably practicable to determine a gross annual rental in relation to land, the annual value of the land must be computed on the basis of the capital value of the land;

"**area**" means a municipality or district as defined in the *Local Government Act 1934* and an area in relation to which any body corporate is, by virtue of any Act, taken to be or vested with the powers of, a municipal council or district council, and any other portion or portions of the State declared by regulation to constitute an area for the purposes of this Act;

"**business of primary production**" means the business of agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming, forestry or any other business consisting of the cultivation of soils, the gathering in of crops or the rearing of livestock or consisting of the propagation and harvesting of fish or other aquatic organisms;

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"**capital value**" of land means the capital amount that an unencumbered estate of fee simple in the land might reasonably be expected to realise upon sale, but if the value of the land has been enhanced by trees planted on the land (other than commercial plantations), or trees preserved on the land for the purpose of shelter or ornament, the capital value must be determined as if the value of the land had not been so enhanced;

"**council**" means a municipal council or a district council and includes any body corporate that is, by virtue of any Act, taken to be, or vested with the powers of, a municipal or district council;

"**general valuation**" means a valuation of all the land within an area on which any rate, tax or impost is to be levied or imposed under the provisions of any of the rating or taxing Acts;

"**owner**" of land means the person who is liable to pay tax in respect of the land under the *Land Tax Act 1936*, or where there is no person so liable, a person who is liable, as owner or occupier of the land, to pay any rate, tax or impost under any other of the rating or taxing Acts;

"**the rating or taxing Acts**" means—

- (a) the *Land Tax Act 1936*; and
- (b) the *Local Government Act 1934*; and
- (ba) the *Emergency Services Funding Act 1998*; and
- (c) the *Waterworks Act 1932*, the *Water Conservation Act 1936* and the *Sewerage Act 1929*;

"**site value**" of land means the capital amount that an unencumbered estate in fee simple in the land might reasonably be expected to realise upon sale assuming that any improvements on the land, the benefit of which is unexhausted at the time of valuation, had not been made; for the purposes of this definition—

- (a) "**improvements**" means—
 - (i) buildings and structures (but not including structures in the nature of site works); and
 - (ii) wells, dams and reservoirs; and
 - (iii) the planting of trees for commercial purposes;

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"**unimproved value**" of land means the capital amount that an unencumbered estate of fee simple in the land might reasonably be expected to realise upon sale assuming that any improvements on the land (except, in the case of land not used for primary production, any site improvements), the benefit of which is unexhausted at the time of valuation, had not been made; for the purposes of this definition—

- (a) "**improvements**" means houses and buildings, fixtures and other building improvements of any kind whatsoever, fences, bridges, roads, tanks, wells, dams, fruit trees, bushes, shrubs and other plants planted or sown, whether for trade or other purposes, draining of land, ringbarking, clearing of timber or scrub and any other actual improvements;

- (b) "**site improvements**" means reclamation of land by draining or filling, and any retaining walls or other structures or works ancillary to that reclamation, the excavation, grading or levelling of land, the removal of rocks, stone, sand or soil, and the clearing of timber, scrub or other vegetation;

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"**value**" in relation to land means the annual value, the capital value, the site value and the unimproved value of the land or any one or more of those values; "**to value**" means to determine or assess those values or any one or more of them; and "**determination of value**" or "**valuation**" means a determination or assessment of those values or any one or more of them.

(2) Where land is—

- (a) a primary strata lot in a strata scheme under the *Community Titles Act 1996* in which none of the primary lots has been divided by a secondary plan; or
- (b) a unit under the *Strata Titles Act 1988*,

the unimproved value or site value of the lot or unit will be determined as follows:

- (c) the capital value of all lots or units shown on the plan will be assessed; and
- (d) the unimproved value or site value (as the case may require) of the parcel or site will be assessed; and
- (e) the unimproved value or site value of the strata lot or unit will be taken to be the value that bears to the unimproved value or site value of the parcel or site the same proportion as the capital value of the lot or unit bears to the aggregate capital value of all the strata lots or units shown on the plan.

(3) Where any of the primary strata lots created by the deposit of a primary strata plan under the *Community Titles Act 1996* have been divided by a secondary plan the unimproved value or site value of the primary lots that have not been divided by a secondary plan (if any), the secondary lots that have not been divided by a tertiary plan (if any) and the tertiary lots (if any) will be determined as follows:

- (a) the capital value of all the undivided primary and secondary lots and the tertiary lots shown on the plan will be assessed; and
- (b) the unimproved value or site value (as the case may require) of the primary parcel will be assessed; and
- (c) the unimproved value or site value of a primary, secondary or tertiary lot will be taken to be the value that bears to the unimproved value or site value of the primary parcel the same proportion as the capital value of the lot bears to the aggregate capital value of all the undivided primary and secondary lots and the tertiary lots shown on the plan.

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**PART 2
ADMINISTRATION**

Valuer-General and Deputy Valuer-General

6. (1) The Governor may, by notice published in the *Gazette*, appoint a Valuer-General who will have the general administration of this Act.

(2) If the Valuer-General is temporarily absent from the duties of office or if the office of Valuer-General is temporarily vacant, the Governor may, by notice published in the *Gazette*, appoint an officer of the Public Service to be a Deputy Valuer-General and that person, while so appointed, will perform all such functions and duties as are imposed on, or assigned to, the Valuer-General by or under this or any other Act.

(3) Where a Deputy Valuer-General is appointed to perform the functions and duties of the Valuer-General, references in this or any other Act to the Valuer-General will, in relation to those functions or duties, be read as references to the Deputy Valuer-General.

(4) A person appointed Valuer-General, or a Deputy Valuer-General under this section must be a person who is qualified for membership of the Australian Property Institute Incorporated or a body prescribed by regulation and has practised as a land valuer (whether in the service of the Government or privately) for a period (whether continuous or in aggregate) of at least 5 years.

Independence of Valuer-General

6A. The Valuer-General will, in valuing any land or performing any statutory function as Valuer-General, exercise an independent judgment and not be subject to direction from any person.

Delegation

7. (1) The Valuer-General may, by instrument in writing, delegate any of his or her powers, authorities, duties and functions (except this power of delegation) under this or any other Act to any other person.

(2) Any such delegation does not prevent the Valuer-General from acting personally in any matter.

Salary of Valuer-General

8. (1) The Valuer-General will be paid such salary and allowances as the Governor may from time to time determine.

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(3) The salary and allowances referred to in subsection (1) are a charge on the Consolidated Account which is to the necessary extent appropriated accordingly.

Term of appointment, etc.

9. (1) The Valuer-General will be appointed for a term of 5 years.

(1a) Subject to this Act, a person appointed to be the Valuer-General is, on the expiration of a term of office, eligible for reappointment for a term of 5 years.

(2) The Governor may remove the Valuer-General from office upon the presentation of an address by both Houses of Parliament praying for his or her removal.

(3) The Governor may, at any time suspend the Valuer-General from office on the ground of incompetence or misbehaviour and upon such suspension—

- (a) a full statement of the reason for the suspension must be laid before both Houses of Parliament within 7 days of the suspension if Parliament is then in session or, if not, within 7 days of the commencement of the next succeeding session of Parliament; and
- (b) if within 1 month of the statement being laid before Parliament, neither House of Parliament presents an address to the Governor praying for the removal of the Valuer-General from office, he or she must be restored to office, but if either House does present such an address, the Governor may remove the Valuer-General from office.

(4) The office of Valuer-General becomes vacant if the Valuer-General—

- (a) dies; or
- (b) resigns by written notice addressed to the Governor; or
- (ba) completes a term of office and is not reappointed; or
- (c) is removed from office by the Governor under subsection (2) or (3); or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his or her creditors for less than one hundred cents in the dollar; or
- (e) is convicted of any indictable offence or is sentenced to imprisonment for any offence; or
- (f) becomes a member of the Parliament of the State or the Commonwealth; or
- (g) becomes, in the opinion of the Governor, incapable, by reason of mental or physical illness, of further performing his or her functions and duties under this Act; or
- (h) is removed from office by the Governor on the ground that the Valuer-General has engaged in any remunerative employment, occupation or business outside the duties of the office without the consent of the Minister.

(5) Except as provided by this section, the Valuer-General cannot be removed or suspended from office, nor does the office of Valuer-General become vacant.

(6) If a person's conditions of appointment as Valuer-General so provide, a person who—

- (a) was an employee in the Public Service immediately before his or her appointment as Valuer-General; and
- (b) is not reappointed as Valuer-General at the expiry of a term of office,

will be entitled to be appointed (without any requirement for selection processes to be conducted) to a position in the Public Service with a remuneration level the same as, or at least equivalent to, that of the position he or she occupied immediately before his or her appointment as Valuer-General.

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**PART 3
VALUATION AND VALUATION ROLLS**

General valuations

11. (1) The Valuer-General must make or cause to be made general valuations of land within the areas of the State.

(2) For the purposes of each such general valuation, the Valuer-General must determine or cause to be determined, with respect to all land subject to the general valuation, the annual value, the capital value, the site value and the unimproved value of the land so far as those values are required for the purpose of levying or imposing any rate, tax or impost.

(3) A separate valuation roll must be prepared in respect of each area.

Time as at which value is to be ascertained

12. A value assigned to land for the purposes of a general valuation must be the value of the land as at a date (whether before, on or after the completion of the general valuation) determined by the Valuer-General in relation to the general valuation.

Notice of general valuation to be published in *Gazette*

13. (1) When a general valuation of land within an area has been made under this Act, the Valuer-General must cause notice of the making of the general valuation to be published in the *Gazette*.

(2) A notice published under subsection (1) must specify the area in which the general valuation has been made, and the date determined by the Valuer-General as at which values are assigned to land in the area for the purposes of the general valuation.

(3) The determinations of value comprising the general valuation will come into force and supersede any previous determinations of value in force under this Act and affecting the land to which the general valuation relates as from such day (whether before, on or after the date as at which values are assigned to land for the purposes of the general valuation) as may be determined by the Valuer-General and specified in the notice published under subsection (1).

Frequency of general valuations

14. (1) A general valuation must be made within each area at least once during each successive period of 5 years after the day on which the first general valuation of land within the area comes into force.

(2) If the Valuer-General is of opinion that the value of land within an area has not materially increased or diminished since a previous general valuation of land within the area, he or she may, by notice published in the *Gazette*, declare that the valuation roll prepared for the purposes of that previous general valuation, correctly represents the value of land within the area and such a declaration will be taken to constitute a general valuation of the land within the area.

(3) A value will be taken to have been assigned to land for the purposes of a general valuation made by declaration in accordance with subsection (2) as at the date (whether before, on or after the date of the declaration) specified by the Valuer-General in that declaration.

Valuer-General may value any land

15. (1) The Valuer-General may at any time, value or cause to be valued any land if the land has not previously been valued or separately valued under this Act or if, in his or her opinion, the value of the land has been materially enhanced or diminished, or such a valuation is, for any reason whatsoever, necessary or expedient.

(2) Where a valuation is made under subsection (1), the value of the land must be determined—

- (a) if there has been a previous general valuation of land within the same area as that land, in accordance with the level of values prevailing in relation to land of the same or a similar character at the date as at which values were assigned to land for the purposes of the latest such general valuation; or
- (b) if there has been no previous general valuation of land within the same area as that land, as the value of the land as at the date of valuation.

(3) A determination of value made under this section will come into force and supersede any previous determination of value in force under this Act and affecting the land to which the determination relates as from such day (whether before, on or after the day on which the determination of value is made) as may be determined by the Valuer-General.

(4) A value determined by valuation under this section must be entered in an appropriate valuation roll.

Valuation may be separate or conjoint

16. (1) The Valuer-General may, in his or her discretion, make a separate valuation of any portion of any land or may value any land conjointly with other land.

(2) The Valuer-General may make a separate valuation of a portion of land forming part of a larger parcel or allotment, despite a prohibition against, or restriction upon, separate alienation of that portion of land by sale or lease, where—

- (a) the valuation is required by law; or
- (b) that portion of land is under separate physical occupation.

(3) For the purpose of a valuation under subsection (2), any prohibition against, or restriction upon, alienation of the portion of land in question must be disregarded.

Valuation in community schemes

16A. Where a rate, tax or impost is assessed under one of the rating or taxing Acts against the common property, or part of the common property, created by division of land under the *Community Titles Act 1996* separately from a community lot created by the division, the value of the lot for the purposes of an assessment under that Act must not include a component attributable to the interest in the common property or that part of it that attaches to the lot.

Valuation on request

17. (1) The Minister administering any Act or department of Government, or a council may request the Valuer-General to value any land for the purposes of that Act, department or council and the Valuer-General upon receipt of that request must value the land or cause it to be valued as soon as practicable.

(2) The Valuer-General may, at the request of any person, value land or cause it to be valued if the Valuer-General is satisfied that—

- (a) there is no land valuer with the appropriate expertise available to value the land; or
- (b) the cost of obtaining the services of a land valuer to value the land would, in the circumstances of the case, result in genuine hardship; or

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(c) there are other special reasons why the Valuer-General should accede to the request.

(3) A valuation, not made for the purpose of levying or imposing any rate, tax or impost upon land, must not be entered in any valuation roll and the provisions of this Act relating to notice of, and objection and appeal against, valuations do not apply in respect of such a valuation.

(4) Where the Valuer-General has valued any land in pursuance of a request under subsection (1) or (2), the Valuer-General may recover from any person or council at whose request he or she has valued the land such fees as are for the time being approved by the Minister, as a debt due to the Valuer-General, in any court of competent jurisdiction.

Form of valuation roll

18. A valuation roll will be in such form as the Valuer-General determines and must contain the following particulars in respect of land subject to a general valuation—

- (a) the name of the owner; and
- (b) a description of or reference to the land sufficient to identify it; and
- (c) the annual value, the capital value and the site value and the unimproved value of the land, so far as those values have been determined by the Valuer-General; and
- (d) such additional particulars as the Valuer-General may determine.

Amendment to valuation roll

19. (1) The Valuer-General must correct or amend a valuation or entry in a valuation roll if he or she discovers or receives notice of any error in the valuation or entry.

(2) The Valuer-General must amend a valuation roll if he or she receives notice of a change in the ownership of the land to which it relates.

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Copies of valuation rolls, etc., to be supplied

21. The Valuer-General must, after the completion of a valuation roll for any area or the making of any addition, correction or amendment to a roll and upon payment of such fees as may be prescribed—

- (a) furnish the Minister administering the *Waterworks Act 1932*, the *Water Conservation Act 1936* and the *Sewerage Act 1929*, and the Commissioner of State Taxation, with a copy (which copy may be in writing or transcribed upon magnetic tape or in such other form as the Valuer-General may agree upon with the Minister or the Commissioner) of the valuation roll or the addition, correction or amendment to the roll; and
- (b) if the council for the area has, under the provisions of the *Local Government Act 1934*, requested the Valuer-General to supply to it a copy of the valuation roll, furnish the council with a copy (which copy may be in writing or transcribed upon magnetic tape or in such other form as the Valuer-General may agree upon with the Council) of the valuation roll or the addition, correction or amendment to the roll.

Adoption of valuations

22. (1) The Valuer-General may adopt any valuation made by a council or any other person or body.

(2) A valuation adopted under this section has effect as a valuation of the Valuer-General and must be entered in a valuation roll.

(3) A valuation adopted under this section will come into force under this Act as from such day (whether before, on or after the date of adoption) as may be determined by the Valuer-General.

(4) Where a valuation adopted under this section was made under an Act that allows a right of appeal in respect of the valuation, Part 4 of this Act does not apply in respect of the valuation.

Notional valuations to be made in certain cases

22A. (1) The owner of land is entitled to the benefit of this section in respect of the valuation of land by a valuing authority if—

- (a) the owner—
 - (i) has an estate of fee simple in the land; or
 - (ii) holds the land by virtue of a Crown lease, or an agreement to purchase from the Crown; or
 - (iii) is the occupier of the land by virtue of his or her shareholding in a body corporate of a kind referred to in paragraph (b)(ii); and
- (b) the conditions laid down in any one of the following subparagraphs are satisfied:
 - (i) the owner of the land is a natural person, the land constitutes his or her principal place of residence, and is not used for any commercial or industrial purpose; or
 - (ii) the land is vested in a body corporate and—
 - (A) the whole of the land vested in the body corporate consists of a group of dwellings and land appurtenant to those dwellings; and
 - (B) all issued shares of the body corporate are owned by shareholders who acquire exclusive rights to occupy land of the body corporate by virtue of their shareholdings; and
 - (C) the land constitutes the principal place of residence of a natural person who is a shareholder in the body corporate; and
 - (D) the land is not used for a commercial or industrial purpose; or
 - (iii) the land is used for the business of primary production; and
- (c) the value of the land is, in the opinion of the relevant valuing authority, enhanced by—
 - (i) an existing division of the land; or
 - (ii) a potential for division of the land; or
 - (iii) a potential for use of the land otherwise than in the manner referred to in the relevant subparagraph of paragraph (b).

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(2) Where a valuing authority is satisfied that a person is entitled to the benefit of this section it may, and must at the request of that person, value the land as if the existing division or potential for division or use referred to in subsection (1)(c) did not exist and any such valuation will operate for the purposes of any rating or taxing Act under which rates, taxes or imposts are levied or imposed on the land on the basis of the valuations of that valuing authority.

(2a) A valuation made under subsection (2) at the request of a person only operates in relation to a rate, tax or other impost—

- (a) if the request was made in the last month of a financial year—in respect of a financial year subsequent to the financial year immediately following that in which the request was made; or
- (b) in any other case—in respect of a financial year subsequent to the financial year in which the request was made.

(3) Where a valuing authority makes a valuation under the provisions of subsection (2), it must inform the owner of the land, in writing, of the valuation and of the owner's obligations under subsection (6).

(4) When land is valued under the provisions of subsection (2), it must also be valued as if the owner were not entitled to the benefit of this section, and the latter valuation will take effect for the purpose of a rating or taxing Act if—

- (a) the owner ceases to be entitled to the benefit of this section; or
- (b) a person who is not entitled to the benefit of this section becomes the owner of the land.

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(6) Where land has been valued under this section and—

- (a) circumstances occur by virtue of which the owner ceases to be entitled to the benefit of this section; or
- (b) the owner enters into a transaction by virtue of which a change in the ownership of the land may occur,

the owner must, subject to subsection (7), within 28 days inform the relevant valuing authority of those circumstances, or that transaction, and must furnish such further information as the valuing authority may require.

Maximum penalty: \$5 000.
Expiation fee: \$315.

(7) Where by virtue of an Act a right to rescind or avoid a transaction exists, the obligation to inform a valuing authority of the transaction does not arise unless the time within which the right may be exercised expires and the right has not been exercised within that time.

(8) In this section—

"rating or taxing Act" means any of the rating or taxing Acts or any other Act under which a rate, tax or impost is levied or imposed on land;

"valuing authority" means the Valuer-General or other authority responsible for valuing land for the purposes of a rating or taxing Act.

(9) For the purposes of the *Land Tax Act 1936* a valuation under subsection (2) operates only in relation to land used for the business of primary production.

(10) An apparently genuine document purporting to be issued by a valuing authority and to certify the date of receipt of a request under subsection (2) will, in the absence of proof to the contrary, constitute proof of the matter so certified.

Heritage land

22B. (1) Where land forms part of the State heritage, a valuing authority that values the land for the purpose of levying rates, taxes or imposts must, in making the valuation—

- (a) take into account the fact that the land forms part of the State heritage; and
- (b) disregard any potential use of the land that is inconsistent with its preservation as part of the State heritage.

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(3) Where a valuing authority makes a valuation under subsection (1), it must inform the owner of the land, in writing, of the valuation and of the owner's obligations under subsection (5).

(4) The fact that land becomes part of the State heritage does not invalidate pre-existing valuations.

(5) Where land has been valued under this section and the land ceases to be land that forms part of the State heritage, the owner must within 28 days inform the relevant valuing authority accordingly and must furnish such further information as the valuing authority may require.

Maximum penalty: \$5 000.
Expiation fee: \$315.

- (6) For the purposes of this Act, land forms part of the State heritage if—
- (a) the land, or any building or structure on the land, is registered in the *State Heritage Register* under the *Heritage Act 1993* or;
 - (b) the land forms part of a State Heritage Area; or
 - (c) the land is, by virtue of the regulations, to be treated as forming part of the State heritage.

(7) In this section—

"rating or taxing Act" means any of the rating or taxing Acts or any other Act under which a rate, tax or impost is levied or imposed on land;

"State Heritage Area" means an area established as a State Heritage Area by a Development Plan under the *Development Act 1993*;

"valuing authority" means the Valuer-General or other authority responsible for valuing land for the purposes of a rating or taxing Act.

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**PART 4
OBJECTIONS, REVIEWS AND APPEALS**

DIVISION 1—NOTICES AND OBJECTIONS

Notice of valuation

23. (1) The Valuer-General must serve notice of a valuation under this Act on the owner or occupier of the land, or both, as the Valuer-General considers appropriate.

(2) Where particulars of the valuation are included in an account, assessment or notice for rates, land tax or some other impost, that document will, subject to the regulations, be taken to constitute the notice of valuation required under subsection (1) and service of that document under the Act imposing the rates, tax or other impost will be taken to constitute service of the notice under subsection (1).

(3) A valuation is not invalid, nor is its operation affected, by reason only of a failure to serve notice of the valuation under this section.

Objection to valuation

24. (1) Subject to this section, a person who is dissatisfied with a valuation of land in force under this Act may, by notice in writing served personally or by post on the Valuer-General, object to the valuation.

(1a) After notice of a valuation (whenever made) is first served after the commencement of this subsection on the owner or occupier of the land, an objection to the valuation may only be made by the owner or occupier so served within 60 days after the date of service of the notice.

(1b) However, if the owner or occupier is served with a further notice of the valuation, the person so served will have a further right to object to the valuation provided that—

(a) the further notice is the first notice of the valuation served on the person under the Act under which the notice is served; and

(b) the objection is made within 60 days after the date of service of that further notice.

(1c) A person may not make an objection to a valuation if the Valuer-General has previously considered an objection by that person to the valuation.

(1d) For the purposes of determining the period within which an objection to a valuation must be made—

(a) notice of the valuation sent by post to a person at a proper address for service of the person will be taken to be served at that address at the end of the second day after the day on which it was sent by post unless it is proved that it was not delivered to that address at all; and

(b) an apparently genuine document purporting to be issued by the authority that sent the notice and to certify that a specified notice was sent by post on a specified day to a specified person at a specified address will, in the absence of proof to the contrary, constitute proof of the matters so certified.

(2) A notice of objection under subsection (1) must contain a full and detailed statement of the grounds on which the objection is based.

Valuer-General to consider and decide upon objection

25. (1) The Valuer-General must, as soon as practicable, consider any objection made under this Act and may either allow or disallow the objection.

(2) On the determination of any such objection, the Valuer-General must serve upon the person by whom the objection was made notice in writing of his or her decision on the objection and, if the Valuer-General decides to allow an objection, either wholly or in part, he or she must alter the valuation and valuation roll to conform with his or her decision.

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DIVISION 2—VALUATION REVIEWS

Panels of land valuers

25A. (1) The Governor may, for the purposes of this Division, divide the State into regions and establish a panel of land valuers in relation to each region.

(2) Subject to this section, the Governor may appoint such land valuers to a panel as he or she thinks expedient.

(3) A land valuer will be appointed to a panel for such term, not exceeding 3 years, as the Governor may determine and specifies in the instrument of appointment and, upon the expiration of his or her term, will be eligible for reappointment.

(4) A land valuer is not eligible for appointment to a panel established under this section unless the valuer—

(a) has been nominated in the prescribed manner and form for appointment to the panel by the Real Estate Institute of South Australia Incorporated or the Australian Property Institute Incorporated; and

(b) has experience in valuing land in the region in relation to which the panel is established.

(5) No person who is employed in a department of the Government, by an agency or instrumentality of the Crown or by a council is entitled to be a member of a panel established under this section.

(6) The Governor may, for proper cause, remove a land valuer from a panel.

(7) A land valuer may resign from a panel by written notice addressed to the Minister.

(8) The members of panels established under this section are entitled to such allowances as may be prescribed.

Review of valuation

25B. (1) A person who is dissatisfied with the decision of the Valuer-General upon an objection under this Part may, within 21 days of the day on which he or she receives notice of the decision, apply for a review of the valuation.

(2) An application under this section—

(a) must be made in the prescribed manner and form; and

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(b) must be lodged at the office of the Valuer-General or served, by post, on the Valuer-General; and

(c) must be accompanied by the prescribed fee.

(3) No application for review of a valuation may be made under this section if the objection to the valuation involves a question of law.

(4) Where due application for review of a valuation is made under this section, a land valuer (in this section referred to as "the valuer") must be selected in accordance with the regulations from the appropriate panel of land valuers to conduct the review.

(5) Subject to this section, the valuer must, in conducting a review under this section, take into account—

(a) the matters set out in the application for review; and

(b) any representations of the applicant and the Valuer-General made under subsection (7); and

(c) any other matter that the valuer considers relevant to the review of the valuation.

(6) The matters to be considered upon a review under this section must be confined to questions of fact and must not involve questions of law.

(7) The valuer must afford the applicant and the Valuer-General a reasonable opportunity to make representations to the valuer on the subject matter of the review.

(8) Representations may be made under subsection (7) personally, by a land valuer acting on behalf of the applicant or the Valuer-General, or by any other representative.

(9) Subject to subsection (10), the valuer must, upon the determination of the review, confirm, increase or decrease the valuation.

(10) A valuer must not make any alteration to a valuation under subsection (9) which has the effect of increasing or decreasing the valuation by a proportion of one-tenth or less.

(11) The Valuer-General must make such alterations (if any) to the valuation and valuation roll as are necessary to give effect to the decision of the valuer upon the review.

(12) Where a valuation is reduced upon a review under this section, the fee paid by the applicant for the review must be refunded.

DIVISION 3—APPEALS

Right of appeal

25C. (1) A person who is dissatisfied with—

(a) the decision of the Valuer-General upon an objection under Division 1; or

(b) the decision of a land valuer upon a review under Division 2,

may, in accordance with the appropriate rules of the Supreme Court, appeal to the Land and Valuation Court against the decision.

- (2) The right of appeal conferred by subsection (1)(b) may be exercised by the Valuer-General.
- (3) Upon an appeal under this section, the Land and Valuation Court—
 - (a) may confirm, increase or decrease the valuation to which the appeal relates; and
 - (b) may make such orders in relation to incidental or ancillary matters (including costs) as it thinks just.

DIVISION 4—SAVING PROVISION

Saving provision

25D. A right to recover a rate, tax or impost is not suspended by an objection, review or appeal under this Part and the rate, tax or impost may be recovered on the basis that the valuation is correct but, in the event of a valuation being altered, a due adjustment must be made and any amount paid in excess of the amount that might lawfully have been recovered on the basis of the altered valuation must be refunded and if, on the basis of the altered valuation, a greater amount than that actually recovered might lawfully have been recovered, the difference may be recovered as arrears.

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**PART 5
MISCELLANEOUS**

Access to land, etc.

26. (1) For the purposes of this Act, the Valuer-General or a person authorised in writing by the Valuer-General may—

- (a) enter upon any land and make any inspection, measurement or survey necessary or expedient to determine the value of the land; and
- (b) put to the owner or occupier of the land or any person on the land any questions relating to the value of the land.

(2) A person must not hinder or obstruct the Valuer-General or a person authorised in writing by the Valuer-General in the exercise of the powers conferred by subsection (1) or refuse or fail truthfully to answer a question lawfully put to him or her under that subsection.

Maximum penalty: \$2 500.

Access to documents in possession of public authorities

27. (1) The Valuer-General and any person authorised in writing by the Valuer-General must be given full and free access to all maps, plans, documents and books that are relevant to the determination of the value of any land, in the possession or power of any department of Government or any council within the State.

(2) A person must not prevent or attempt to prevent the Valuer-General or a person authorised in writing by the Valuer-General from having access to any such maps, plans, documents or books.

Maximum penalty: \$2 500.

Returns

28. (1) The Valuer-General may, for the purposes of this Act, serve upon the owner of any land forms to be completed and returned to the Valuer-General within such time as the Valuer-General may determine, and specifies upon the forms.

(2) The forms will contain such questions as the Valuer-General may determine with reference to—

- (a) the use of the land;
- (b) the nature and value of improvements on the land;
- (c) the tenancies (if any) to which the land is subject;
- (d) any other matters relevant to the valuation of the land.

(3) The Valuer-General may, if he or she thinks fit, require any person by whom a form is completed and returned under this section to verify the contents of the form by statutory declaration.

(4) A person must not fail to complete and return a form served upon him or her under subsection (1), or return a form containing information that is false or misleading in any material particular, or fail to comply with a requirement made under subsection (3).

Maximum penalty: \$2 500.
Expiation fee: \$75.

Notice of sale, etc.

29. (1) Subject to subsection (2), if any land is sold or the title to any land is transferred, the vendor or transferor must, within 30 days after the completion of the sale or transfer, give to the Valuer-General a notice containing prescribed particulars of the transaction in writing.

Maximum penalty: \$2 500.

(2) Subsection (1) does not apply in respect of land that has been brought under the provisions of the *Real Property Act 1886*.

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Service of notices

31. A notice that the Valuer-General is required to serve upon any person by or under this Act, may be served upon that person—

- (a) personally; or
- (b) by post; or
- (c) by affixing it in some conspicuous place upon the land to which it relates.

Copies of or extracts from entries in valuation rolls

32. (1) Upon the application in writing of any person and upon payment of the prescribed fee, the Valuer-General must furnish that person with a certified copy of, or extract from, any entry in a valuation roll.

(2) A copy of, or extract from, an entry in a valuation roll certified under the hand of the Valuer-General will in all proceedings and for all purposes be evidence of the matters and things stated in it and that any valuation to which the entry relates has been made in conformity with the provisions of this Act.

(3) The Valuer-General must publish information as to land value in such forms as the Valuer-General thinks appropriate and make publications containing such information available for purchase at prices approved by the Minister.

- (4) The Valuer-General must—
 - (a) at the request of the owner of land, permit the owner to inspect, free of charge, entries in the valuation roll relating to that land;
 - (b) at the request of any person, and on payment of the prescribed fee, provide that person with information from the valuation roll as to the value of land.

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Financial provision

33. (1) All money paid to or recovered by the Valuer-General under this Act must be paid into the Consolidated Account.

(2) The money required for the purposes of this Act (except money for the appropriation of which other provision has been made in this Act) will be paid out of money provided by Parliament for those purposes.

Regulations

34. The Governor may make all such regulations as are necessary or expedient for the purposes of this Act, and, without limiting the generality of the foregoing, those regulations may—

- (a) prescribe and provide for the recovery of fees for the purposes of this Act; and
- (ab) provide that specified fixtures or improvements, or fixtures or improvements of a specified class, will not be taken into account in determining or assessing the annual value or capital value of land generally, or land of a particular class, where the determination or assessment is to be used for the purpose of raising, levying or imposing any rate, tax or impost; and
- (b) prescribe any form for the purposes of this Act.

APPENDIX

LEGISLATIVE HISTORY

Transitional Provisions

(Transitional provision from Valuation of Land (Miscellaneous) Amendment Act 1991, s. 15)

15. The amendments to the definitions of "annual value" and "capital value" made by this Act do not affect the validity of determinations of annual value or capital value made by reference to the earlier definitions.

Legislative History

· Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 11 of The Public General Acts of South Australia 1837-1975 at page 286.

· Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Section 2:	repealed by 43, 1998, s. 17 (Sched.)
Section 3:	amended by 91, 1981, s. 2; 88, 1984, s. 3; repealed by 43, 1998, s. 17 (Sched.)
Section 4:	amended by 29, 1981, s. 5; repealed by 3, 1991, s. 2
Section 5(1):	definition of "annual value" amended by 29, 1981, s. 6(a), (b); 3, 1991, s. 3(a); 43, 1998, s. 17 (Sched.) definition of "area" amended by 93, 1976, s. 2; 43, 1998, s. 17 (Sched.) definition of "business of primary production" inserted by 29, 1981, s. 6(c) definition of "capital value" amended by 3, 1991, s. 3(b); 43, 1998, s. 17 (Sched.) definition of "council" amended by 43, 1998, s. 17 (Sched.) definition of "general valuation" amended by 43, 1998, s. 17 (Sched.) definition of "owner" amended by 43, 1998, s. 17 (Sched.) definition of "the rating or taxing Acts" substituted by 3, 1991, s. 3(d); amended by 63, 1998, Sched. 2 (cl. 3(a)) definition of "rating or taxing authority" repealed by 3, 1991, s. 3(c) definition of "site value" substituted by 29, 1981, s. 6(e); amended by 31, 1987, s. 3(b); paragraph (b) repealed by 31, 1987, s. 3(a) definition of "unimproved value" amended by 31, 1987, s. 3(b); paragraph (c) repealed by 31, 1987, s. 3(b); amended by 43, 1998, s. 17 (Sched.)
Section 5(2):	inserted by 31, 1987, s. 3(c); substituted by 38, 1996, s. 46
Section 6(1):	amended by 43, 1998, s. 17 (Sched.)
Section 6(2):	amended by 43, 1998, ss. 3(a), 17 (Sched.)
Section 6(3):	amended by 43, 1998, ss. 3(b), 17 (Sched.)
Section 6(4):	amended by 93, 1976, s. 3; 43, 1998, s. 3(c)
Section 6A:	inserted by 43, 1998, s. 4
Section 7(1):	amended by 43, 1998, ss. 5, 17 (Sched.)
Section 7(2):	amended by 43, 1998, s. 17 (Sched.)
Section 8(1):	amended by 59, 1985, s. 23(a); 18, 1990, s. 28; 43, 1998, s. 17 (Sched.)
Section 8(2):	repealed by 59, 1985, s. 23(b)
Section 8(3):	amended by 59, 1985, s. 23(c); 43, 1998, s. 17 (Sched.)
Section 9(1):	substituted by 43, 1998, s. 6(a)
Section 9(1a):	inserted by 43, 1998, s. 6(a)
Section 9(2) and (3):	amended by 43, 1998, s. 17 (Sched.)
Section 9(4):	amended by 43, 1998, ss. 6(b)-(d), 17 (Sched.)
Section 9(5):	amended by 43, 1998, s. 17 (Sched.)
Section 9(6):	inserted by 43, 1998, s. 6(e)
Section 10:	repealed by 43, 1998, s. 17 (Sched.)
Section 11(1):	substituted by 43, 1998, s. 7
Section 11(2):	amended by 3, 1991, s. 4; 43, 1998, s. 17 (Sched.)
Section 11(3):	amended by 43, 1998, s. 17 (Sched.)
Section 12:	substituted by 43, 1998, s. 8
Section 13(1):	amended by 43, 1998, s. 17 (Sched.)
Section 13(2):	amended by 43, 1998, ss. 9(a), 17 (Sched.)
Section 13(3):	amended by 43, 1998, ss. 9(b), 17 (Sched.)
Section 14(1) and (2):	amended by 43, 1998, s. 17 (Sched.)
Section 14(3):	inserted by 43, 1998, s. 10
Section 15(1):	amended by 43, 1998, s. 17 (Sched.)

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Section 15(2):	amended by 43, 1998, ss. 11(a), 17 (Sched.)
Section 15(3):	amended by 43, 1998, ss. 11(b), 17 (Sched.)
Section 15(4):	amended by 43, 1998, s. 17 (Sched.)
Section 16:	redesignated as s. 16(1) by 93, 1976, s. 4; amended by 43, 1998, s. 17 (Sched.)
Section 16(2) and (3):	inserted by 93, 1976, s. 4; amended by 43, 1998, s. 17 (Sched.)
Section 16A:	inserted by 38, 1996, s. 47; amended by 63, 1998, Sched. 2 (cl. 3(b))
Section 17(1):	amended by 3, 1991, s. 5(a); 43, 1998, s. 17 (Sched.)
Section 17(2):	inserted by 3, 1991, s. 5(b); amended by 43, 1998, s. 17 (Sched.)
Section 17(3):	amended by 43, 1998, s. 17 (Sched.)
Section 17(4):	amended by 88, 1984, s. 4; 3, 1991, s. 5(c); 43, 1998, s. 17 (Sched.)
Section 18:	amended by 43, 1998, s. 17 (Sched.)
Section 19(1) and (2):	amended by 43, 1998, s. 17 (Sched.)
Section 20:	repealed by 3, 1991, s. 6
Section 21:	amended by 3, 1991, s. 7; 43, 1998, s. 17 (Sched.)
Section 22(2):	amended by 43, 1998, s. 17 (Sched.)
Section 22(3):	amended by 43, 1998, ss. 12, 17 (Sched.)
Section 22(4):	amended by 43, 1998, s. 17 (Sched.)
Section 22A:	inserted by 29, 1981, s. 7
Section 22A(1):	amended by 43, 1998, ss. 13(a), 17 (Sched.)
Section 22A(2):	amended by 43, 1998, ss. 13(b), 17 (Sched.)
Section 22A(2a):	inserted by 43, 1998, s. 13(c)
Section 22A(3):	amended by 43, 1998, s. 17 (Sched.)
Section 22A(4):	amended by 43, 1998, s. 17 (Sched.)
Section 22A(5):	repealed by 43, 1998, s. 13(d)
Section 22A(6):	amended by 3, 1991, s. 14; 71, 1992, s. 3(1) (Sched.); 43, 1998, ss. 13(e), 17 (Sched.)
Section 22A(9):	amended by 43, 1998, s. 17 (Sched.)
Section 22A(10):	inserted by 43, 1998, s. 13(f)
Section 22B:	inserted by 86, 1985, s. 3
Section 22B(1):	substituted by 3, 1991, s. 8(a)
Section 22B(2):	repealed by 3, 1991, s. 8(a)
Section 22B(3):	amended by 3, 1991, s. 8(b); 43, 1998, s. 17 (Sched.)
Section 22B(4):	substituted by 3, 1991, s. 8(c)
Section 22B(5):	amended by 3, 1991, s. 14; 71, 1992, s. 3(1) (Sched.); 43, 1998, ss. 14, 17 (Sched.)
Section 22B(6):	amended by 3, 1991, s. 8(d); 56, 1993, Sched. 2
Section 22B(7):	definition of "item of the State heritage" repealed by 56, 1993, Sched. 2 definition of "State Heritage Area" substituted by 56, 1993, Sched. 2
Heading preceding section 23:	substituted by 91, 1981, s. 3; 88, 1984, s. 5
Section 23:	amended by 91, 1981, s. 4; 3, 1991, s. 9; substituted by 43, 1998, s. 15
Section 24:	substituted by 91, 1981, s. 5
Section 24(1):	amended by 43, 1998, s. 16(a)
Section 24(1a) - (1d):	inserted by 43, 1998, s. 16(b)
Section 25(1) and (2):	amended by 43, 1998, s. 17 (Sched.)
Section 25(3):	repealed by 88, 1984, s. 6
Section 25(4):	amended by 27, 1983, s. 25(1); repealed by 88, 1984, s. 6
Divisions 2, 3 and 4 of Part 4 comprising ss. 25A - 25D and headings inserted by 88, 1984, s. 7	
Section 25A(1) - (8):	amended by 43, 1998, s. 17 (Sched.)
Section 25B(1), (4) - (12):	amended by 43, 1998, s. 17 (Sched.)
Section 25C(1):	amended by 43, 1998, s. 17 (Sched.)
Section 25D:	amended by 3, 1991, s. 10; 43, 1998, s. 17 (Sched.)
Section 26(1):	amended by 43, 1998, s. 17 (Sched.)
Section 26(2):	amended by 3, 1991, s. 14; 43, 1998, s. 17 (Sched.)
Section 27(1):	amended by 43, 1998, s. 17 (Sched.)
Section 27(2):	amended by 3, 1991, s. 14; 43, 1998, s. 17 (Sched.)
Section 28(1):	amended by 3, 1991, s. 11(a)
Section 28(2):	substituted by 3, 1991, s. 11(b)
Section 28(3):	amended by 43, 1998, s. 17 (Sched.)
Section 28(4):	amended by 3, 1991, s. 14; 71, 1992, s. 3(1) (Sched.); 43, 1998, s. 17 (Sched.)
Section 29(1):	amended by 3, 1991, s. 14; 43, 1998, s. 17 (Sched.)
Section 29(2):	amended by 43, 1998, s. 17 (Sched.)
Section 29(3) and (4):	repealed by 3, 1991, s. 12
Section 30:	repealed by 43, 1998, s. 17 (Sched.)

Section 32(1) and (2):	amended by 43, 1998, s. 17 (Sched.)
Section 32(3) and (4):	inserted by 3, 1991, s. 13
Section 33(1):	substituted by 43, 1998, s. 17 (Sched.)
Section 33(2):	amended by 43, 1998, s. 17 (Sched.)
Section 34:	amended by 43, 1998, s. 17 (Sched.)