

South Australia



**VALUATION OF LAND (MISCELLANEOUS) AMENDMENT ACT 1998**

No. 43 of 1998

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**SCHEDULE**

*Statute Law Revision Amendments*



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## ELIZABETHAE II REGINAE

A.D. 1998

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No. 43 of 1998

An Act to amend the Valuation of Land Act 1971 and make a consequential amendment to the Local Government Act 1934.

[Assented to 27 August 1998]

The Parliament of South Australia enacts as follows:

### Short title

1. (1) This Act may be cited as the *Valuation of Land (Miscellaneous) Amendment Act 1998*.
- (2) The *Valuation of Land Act 1971* is referred to in this Act as "the principal Act".

### Commencement

2. (1) Section 13(a) and (b) will be taken to have come into operation on the day on which section 22A(1) and (2) of the principal Act came into operation.
- (2) Section 18 will come into operation immediately after section 12(b) of the *Local Government (Miscellaneous) Amendment Act 1997* comes into operation.
- (3) The provisions of this Act, apart from section 13(a) and (b) and section 18, will come into operation on a day to be fixed by proclamation.

### Amendment of s. 6—Valuer-General and Deputy Valuer-General

3. Section 6 of the principal Act is amended—

- (a) by inserting in subsection (2) "or any other" after "by or under this";
- (b) by inserting in subsection (3) "or any other" after "references in this";
- (c) by striking out from subsection (4) "Institute of Valuers Incorporated" and substituting "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 five years".

**Insertion of s. 6A**

4. The following section is inserted after section 6 of the principal Act:

**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.

**Amendment of s. 7—Delegation**

5. Section 7 of the principal Act is amended by inserting in subsection (1) "or any other" after "under this".

**Amendment of s. 9—Term of appointment, etc.**

6. Section 9 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

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

(b) by striking out from subsection (4) "shall become vacant if" and substituting "becomes vacant if the Valuer-General";

(c) by striking out from subsection (4) "he" wherever occurring;

(d) by inserting after paragraph (g) of subsection (4) the following paragraph:

(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.;

(e) by inserting after subsection (5) the following subsection:

(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.

**Amendment of s. 11—General valuations**

7. Section 11 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

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

**Substitution of s. 12**

8. Section 12 of the principal Act is repealed and the following section is substituted:

**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.

**Amendment of s. 13—Notice of general valuation to be published in Gazette**

9. Section 13 of the principal Act is amended—

- (a) by striking out from subsection (2) "the date of completion of the general valuation" and substituting "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";
- (b) by striking out from subsection (3) ", (either before or after the completion of the general valuation) as may be determined by the Valuer-General" and substituting "(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)".

**Amendment of s. 14—Frequency of general valuations**

10. Section 14 of the principal Act is amended by inserting after subsection (2) the following subsection:

(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.

**Amendment of s. 15—Valuer-General may value any land**

11. Section 15 of the principal Act is amended—

- (a) by striking out from subsection (2)(a) "at the time of the completion of the last general valuation" and substituting "at the date as at which values were assigned to land for the purposes of the latest such general valuation";
- (b) by striking out from subsection (3) "either before" and substituting "whether before, on".

**Amendment of s. 22—Adoption of valuations**

12. Section 22 of the principal Act is amended by striking out from subsection (3) "either before" and substituting "whether before, on".

**Amendment of s. 22A—Notional valuations to be made in certain cases**

13. Section 22A of the principal Act is amended—

- (a) by striking out paragraph (c) of subsection (1) and substituting the following paragraph:

(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).;
- (b) by striking out from subsection (2) "potential" and substituting "existing division or potential for division or use";
- (c) by inserting after subsection (2) the following subsection:
- (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.;
- (d) by striking out subsection (5);
- (e) by striking out from subsection (6) the penalty provision at the foot of that subsection and substituting the following:

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

- (f) by inserting after subsection (9) the following subsection:

(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.

**Amendment of s. 22B—Heritage land**

- 14.** Section 22B of the principal Act is amended by striking out from subsection (5) the penalty provision at the foot of that subsection and substituting the following:

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

**Substitution of s. 23**

- 15.** Section 23 of the principal Act is repealed and the following section is substituted:

**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.

**Amendment of s. 24—Objection to valuation**

**16.** Section 24 of the principal Act is amended—

(a) by striking out from subsection (1) "A person" and substituting "Subject to this section, a person";

(b) by inserting after subsection (1) the following subsections:

(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.

**Statute law revision amendments**

**17.** The principal Act is further amended in the manner set out in the schedule.

**Amendment of Local Government Act 1934**

18. Section 173 of the *Local Government Act 1934* is amended by striking out paragraph (b) of subsection (3) and substituting the following paragraph:

- (b) must be made within 60 days after the date of service of the notice of the valuation to which the objection relates (unless the council, in its discretion, allows an extension of time for making the objection).

**SCHEDULE**  
**Statute Law Revision Amendments**

Provision Amended	How Amended
Section 2	Strike out this section.
Section 3	Strike out this section.
Section 5(1) definition of "annual value"	Strike out "thereon" (first occurring) and substitute "on the land"; Strike out "per centum" and substitute "per cent"; Strike out from paragraph (a) "shall" (twice occurring) and substitute, in each case, "must"; Strike out from paragraph (b) "thereon" (twice occurring) and substitute, in each case, "on the land"; Strike out from paragraph (b) "shall" and substitute "must"; Strike out from paragraph (c) "thereon" and substitute "on the land"; Strike out from paragraph (c) "shall" and substitute "must"; Strike out from paragraph (d) "shall" and substitute "must".
definition of "area"	Strike out " <i>Local Government Act 1934-1971</i> " and substitute " <i>Local Government Act 1934</i> "; Strike out "deemed" and substitute "taken".
definition of "capital value"	Strike out "thereon" (twice occurring) and substitute, in each case, "on the land"; Strike out "shall" and substitute "must".
definition of "council"	Strike out "deemed" and substitute "taken".
definition of "general valuation"	Strike out "whereupon" and substitute "on which".
definition of "owner"	Strike out "as amended,".
definition of "unimproved value"	Strike out "thereon" and substitute "on the land"; Strike out from paragraph (b) "appertaining thereto" and substitute "ancillary to that reclamation".
Section 6(1)	Strike out "shall" and substitute "will".
Section 6(2)	Strike out "his"; Strike out "he" and substitute "that person"; Strike out "shall" and substitute "will".
Section 6(3)	Strike out "shall" and substitute "will".
Section 7(1)	Insert "or her" after "his".
Section 7(2)	Strike out "shall" and substitute "does".
Section 8(1)	Strike out "shall" and substitute "will".
Section 8(3)	Strike out "of this section shall be" and substitute "are"; Strike out "General Revenue of the State" and substitute "Consolidated Account"; Strike out "hereby".
Section 9(2)	Insert "or her" after "his".
Section 9(3)	Strike out "his".
Section 9(3)(a)	Strike out "therefor shall" and substitute "for the suspension must".

Section 9(3)(b)	Strike out "he shall" and substitute "he or she must"; Strike out "him" and substitute "the Valuer-General".
Section 9(4)(b)	Strike out this paragraph and substitute the following paragraphs:  (b) resigns by written notice addressed to the Governor; or  (ba) completes a term of office and is not reappointed; or.
Section 9(4)(c)	Strike out "of this section".
Section 9(4)(d)	Insert "or her" after "his".
Section 9(4)(g)	Insert "or her" after "his".
Section 9(5)	Strike out "shall not" and substitute "cannot"; Strike out "shall" (second occurring) and substitute "does".
Section 10	Strike out this section.
Section 11(2)	Strike out "shall" and substitute "must"; Strike out "thereof" and substitute "of the land".
Section 11(3)	Strike out "shall" and substitute "must".
Section 13(1)	Strike out "shall" and substitute "must".
Section 13(2)	Strike out "of this section shall" and substitute "must".
Section 13(3)	Strike out "shall" and substitute "will".
Section 14(1)	Strike out "shall" and substitute "must".
Section 14(2)	Strike out "thereof, he" and substitute "of land within the area, he or she"; Strike out "shall be deemed" and substitute "will be taken".
Section 15(1)	Insert "or her" after "his"; Strike out "thereof" and substitute "of the land".
Section 15(2)	Strike out "of this section"; Strike out "shall" and substitute "must".
Section 15(3)	Strike out "shall" and substitute "will".
Section 15(4)	Strike out "shall" and substitute "must".
Section 16(1)	Insert "or her" after "his".
Section 16(2)	Strike out "notwithstanding" and substitute "despite".
Section 16(3)	Strike out "of this section"; Strike out "shall" and substitute "must".
Section 17(1)	Strike out "shall" and substitute "must".
Section 17(2)(a)	Strike out "licensed" and substitute "land".
Section 17(2)(b)	Strike out "licensed" and substitute "land".
Section 17(3)	Strike out "shall" (first occurring) and substitute "must"; Strike out "shall" (second occurring) and substitute "do".
Section 17(4)	Insert "or she" after "he"; Strike out "him" and substitute "the Valuer-General".

Section 18	Strike out "shall" (first occurring) and substitute "will"; Strike out "shall" (second occurring) and substitute "must".
Section 19(1)	Strike out "shall" and substitute "must"; Insert "or she" after "he".
Section 19(2)	Strike out "shall" and substitute "must"; Insert "or she" after "he".
Section 21	Strike out "shall" and substitute "must"; Strike out "thereto" and substitute "to a roll".
Section 21(a)	Strike out "Minister of Water Resources and the Commissioner of Land Tax" and substitute "Minister administering the <i>Waterworks Act 1932</i> , the <i>Water Conservation Act 1936</i> and the <i>Sewerage Act 1929</i> , and the <i>Commissioner of State Taxation</i> "; Strike out "thereto" and substitute "to the roll".
Section 21(b)	Strike out "as amended,"; Strike out "thereto" and substitute "to the roll".
Section 22(2)	Strike out "shall have" and substitute "has"; Strike out "shall" (second occurring) and substitute "must".
Section 22(3)	Strike out "shall" and substitute "will".
Section 22(4)	Strike out "shall" and substitute "does".
Section 22A(1)(a)(iii)	Insert "or her" after "his".
Section 22A(1)(b)(i)	Insert "or her" after "his".
Section 22A(2)	Strike out "shall" (first occurring) and substitute "must"; Strike out "shall" (second occurring) and substitute "will".
Section 22A(3)	Strike out "shall" and substitute "must"; Strike out "his" and substitute "the owner's".
Section 22A(4)	Strike out "shall" (first occurring) and substitute "must"; Strike out "shall" (second occurring) and substitute "will".
Section 22A(6)	Strike out "shall" (twice occurring) and substitute, in each case, "must".
Section 22A(9)	Strike out " <i>Land Tax Act 1936-1981</i> " and substitute " <i>Land Tax Act 1936</i> ".
Section 22B(3)	Strike out "shall" and substitute "must".
Section 22B(5)	Strike out "shall" (twice occurring) and substitute, in each case, "must".
Section 25(1)	Strike out "shall" and substitute "must".
Section 25(2)	Strike out "shall" (first occurring) and substitute "must"; Strike out "his decision thereon" and substitute "his or her decision on the objection"; Strike out "he" (first occurring) and substitute "the Valuer-General"; Strike out "he shall" and substitute "he or she must"; Insert "or her" after "his" (second occurring).
Section 25A(1)	Strike out "licensed" and substitute "land".
Section 25A(2)	Strike out "licensed" and substitute "land"; Insert "or she" after "he".

Section 25A(3)	Strike out "licensed" and substitute "land"; Strike out "shall" (first occurring) and substitute "will"; Strike out "his" (first occurring); Insert "or her" after "his" (second occurring); Strike out "shall" (second occurring) and substitute "will".
Section 25A(4)	Strike out "licensed" and substitute "land"; Insert "the valuer" after "unless".
Section 25A(4)(a)	Strike out "he"; Strike out "Institute of Valuers (S.A. Division)" and substitute "Property Institute".
Section 25A(4)(b)	Strike out "he".
Section 25A(5)	Strike out "shall be" and substitute "is".
Section 25A(6)	Strike out "licensed" and substitute "land".
Section 25A(7)	Strike out "licensed" and substitute "land".
Section 25A(8)	Strike out "shall be" and substitute "are".
Section 25B(1)	Insert "or she" after "he".
Section 25B(4)	Strike out "licensed" (twice occurring) and substitute, in each case, "land"; Strike out "shall" and substitute "must".
Section 25B(5)	Strike out "shall" and substitute "must".
Section 25B(6)	Strike out "shall" (twice occurring) and substitute, in each case, "must".
Section 25B(7)	Strike out "shall" and substitute "must"; Strike out "him" and substitute "the valuer".
Section 25B(8)	Strike out "licensed" and substitute "land".
Section 25B(9)	Strike out "shall" and substitute "must".
Section 25B(10)	Strike out "shall" and substitute "must".
Section 25B(11)	Strike out "shall" and substitute "must".
Section 25B(12)	Strike out "shall" and substitute "must".
Section 25C(1)(b)	Strike out "licensed" and substitute "land".
Section 25D	Strike out "shall" (twice occurring) and substitute, in each case, "must".
Section 26(1)	Strike out "him" and substitute "the Valuer-General".
Section 26(1)(b)	Strike out "thereupon" and substitute "on the land".
Section 26(2)	Strike out "shall" and substitute "must"; Strike out "him" (first occurring) and substitute "the Valuer-General"; Strike out "of this section"; Insert "or her" after "him" (second occurring); Strike out the penalty provision at the foot of the subsection and substitute the following penalty: Maximum penalty: \$2 500.

Section 27(1)	Strike out "him shall have" and substitute "the Valuer-General must be given".
Section 27(2)	Strike out "shall" and substitute "must"; Strike out "him" and substitute "the Valuer-General"; Strike out the penalty provision at the foot of the subsection and substitute the following penalty: Maximum penalty: \$2 500.
Section 28(3)	Insert "or she" after "he"; Strike out "thereof" and substitute "of the form".
Section 28(4)	Strike out "shall" and substitute "must"; Insert "or her" after "him"; Strike out "of this section" (twice occurring); Strike out the penalty provision at the foot of the subsection and substitute the following penalty: Maximum penalty: \$2 500. Expiation fee: \$75.
Section 29(1)	Strike out "of this section, whenever" and substitute ", if"; Strike out "shall" and substitute "must"; Strike out the penalty provision at the foot of the subsection and substitute the following penalty: Maximum penalty: \$2 500.
Section 29(2)	Strike out "of this section"; Strike out ", as amended".
Section 30	Strike out this section.
Section 32(1)	Strike out "shall" and substitute "must".
Section 32(2)	Strike out "shall" and substitute "will"; Strike out "therein" and substitute "in it".
Section 33(1)	Strike out this subsection and substitute the following subsection:  (1) All money paid to or recovered by the Valuer-General under this Act must be paid into the Consolidated Account.
Section 33(2)	Strike out "moneys" (wherever occurring) and substitute, in each case, "money"; Strike out "shall" and substitute "will".
Section 34	Strike out "he deems" and substitute "are".
Section 34(ab)	Strike out "shall" and substitute "will".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor