

BERMUDA STATUTORY INSTRUMENT

SR&O 16/1967

**LAND VALUATION AND TAX (OBJECTIONS AND APPEALS)
RULES 1967**

*[made under section 63 of the Land Valuation and Tax Act 1967 [title 14
item 31] and brought into operation on 1 August 1967]*

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Interpretation

- 1 In these Rules —

"the Act" means the Land Valuation and Tax Act 1967 [*title 14 item 31*];

"the Land Valuation Officer" means the Land Valuation Officer, any Assistant Land Valuation Officer, and any officer authorized by the Land Valuation Officer under section 60 of the Act to perform any duties on his behalf pursuant to the Act;

"the Tribunal" means the Land Valuation Appeal Tribunal constituted by section 19 of the Act; and

"valuation unit" has the meaning given in section 1 of the Act.

PART I

Interpretation for Part I

- 2 In this Part —

"objector" means a person who has served upon the Land Valuation Officer, pursuant to section 12 of the Act, a notice of objection, whether such objection be to a draft valuation list or to a proposal by the Land Valuation Officer for the amendment of a draft valuation list, and "objection" shall be construed accordingly;

"proposal" means a proposal made by the Land Valuation Officer under section 17(1) or (2) of the Act.

Application of Part I

3 The rules in this Part shall apply only to the commencement, hearing and determination of proceedings before the Tribunal.

Form of notice of objection

4 Every notice of objection served on the Land Valuation Officer pursuant to section 12 of the Act shall be in Form A in the First Schedule, with such variations as the circumstances may require.

Procedure prior to hearing of objections

5 (1) On receipt by the Tribunal of the documents specified in section 16 of the Act, the Chairman of the Tribunal shall fix a date for the hearing of the objection, which shall not be less than twenty-one days after the receipt by the Tribunal of the said documents.

(2) The Chairman shall then serve upon the objector, the Land Valuation Officer and any other person who is the owner of the valuation unit affected by the objection or who, in the opinion of the Chairman, should be given an opportunity to be heard, written notice of the date fixed for the hearing thereof, and, on such other person, a copy of the notice of objection and a copy of the Land Valuation Officer's reply thereto given pursuant to section 15 of the Act, also.

(3) Prior to or at the hearing of an objection, the Tribunal shall have power to require the production of any document or map which it considers necessary for the proper determination of the objection.

Procedure prior to hearing of proposals

6 (1) On receipt by the Tribunal of a proposal, the Chairman shall fix a date for the hearing of the proposal, which shall not be less than twenty-one days after the receipt by the Tribunal of the proposal.

(2) The Chairman shall then serve written notice of the date fixed for the hearing of the proposal upon the following persons, that is to say—

(a) the Land Valuation Officer; and

(b) except where, in the opinion of the Tribunal, the proposal is formal only, or where no objection to the proposal has been served on the Land Valuation Officer pursuant to section 18(4) of the Act, upon the owner of the valuation unit affected by the proposal and any other person who, in the opinion of the Chairman, should be given an opportunity to be heard.

(3) Where a notice of objection to a proposal is served upon the Land Valuation Officer, Rule 5 shall thereafter apply.

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Procedure at hearing of objections

7 (1) In all proceedings before it, the Tribunal shall proceed in a summary way and shall have the powers of a court of summary jurisdiction in relation to the summoning of witnesses and their examination on oath.

(2) If, during the hearing of an objection, it appears to the Tribunal that some person other than those already notified of the date of hearing should be given an opportunity to be heard, the Tribunal shall adjourn the hearing and serve upon such other person —

- (a) written notice of the date to which the hearing is adjourned; and
- (b) a copy of the notice of objection and such other documents as the Tribunal may consider necessary.

(3) In the hearing and determination of any objection, the decision of a majority of the members of the Tribunal shall prevail:

Provided that —

- (a) any question of law that arises on the hearing and determination of the objection shall be decided by the Chairman alone and he shall decide whether a question is or is not a question of law; and
 - (b) where the Tribunal proceeds with the hearing and determination of an objection in accordance with the provisions of section 21(5) of the Act, and there is a disagreement between the Chairman and the remaining member of the Tribunal, the opinion of the Chairman shall prevail.
- (4) (a) in the determination of any objection, the Tribunal may, if it sees fit, require the submission to it of written evidence sufficient, in the opinion of the Tribunal, to enable it to determine the objection, and may, on the consideration of such written evidence, determine the objection without hearing any oral evidence:

Provided nevertheless that nothing in this Rule shall derogate from the provisions of section 21 of the Act.

- (b) Any such written evidence may be given on affidavit or otherwise as the Tribunal shall direct, and the original thereof shall be accompanied by three copies thereof.

PART II

Interpretation for Part II

8 In this Part, unless the context otherwise requires "appellant" means a person appealing under section 24 of the Act against a decision of the Tribunal.

Application of Part II

9 This Part shall apply only to appeals to the Supreme Court against a decision of the Tribunal.

Filing of notice of appeal

10 Any person wishing to appeal to the Supreme Court against a decision of the Tribunal shall lodge with the Tribunal a notice of appeal which shall be in Form B in the First Schedule, with such variations as the circumstances may require.

Service of notice of appeal

11 The appellant shall serve a copy of the notice of appeal under this Part on all other persons notified of the date fixed for the hearing of an objection or proposal under Part I.

Procedure after filing notice of appeal

12 Upon receipt of the notice of appeal under this Part, the Chairman of the Tribunal shall forward to the Registrar all documents received by him under section 16 of the Act, together with —

- (i) a copy of the notes of evidence and submissions taken by him at the hearing of the objection or proposal before the Tribunal, and where written evidence has been submitted pursuant to Rule 7(4), the original or a copy of such written evidence;
- (ii) a copy of the order made by the Tribunal;
- (iii) a report setting out the reasons for the making of the order by the Tribunal,

and the Registrar shall cause to be made copies of all documents received by him pursuant to this rule and a copy of all such documents shall be forwarded to the appellant and to all persons on whom the notice of appeal under this Part has been served.

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Procedure at hearing of appeal

13 An appeal to the Supreme Court shall be by way of argument on the record, without prejudice to the power of the Court to admit further evidence, either orally or by affidavit, as the Court shall direct.

Abandonment of appeal

14 An appellant who wishes to abandon his appeal may do so by serving a notice in writing on all persons served with a notice of appeal pursuant to Rule 12.

PART III

Objection to demand note

15 A notice of objection lodged with the Tax Commissioner by a person aggrieved by the terms of a demand note shall be in Form C in the First Schedule.

[Section 15 amended by 1996:15 effective by notice in the Official Gazette]

Procedure on appeal under section 44

16 Any person who desires to appeal under section 44 of the Act to a court of summary jurisdiction against a decision of the Tax Commissioner given under section 43 of the Act shall commence his appeal by serving upon the Tax Commissioner a notice of appeal in Form D in the First Schedule and shall at the same time send a copy of the notice of appeal to the Senior Magistrate, who shall then fix a date for the hearing of the appeal and serve upon the person who has signed the notice of appeal and the Tax Commissioner written notice of the date so fixed.

[Section 16 amended by 1996:15 effective by notice in the Official Gazette]

Powers of court of summary jurisdiction

17 A Court of Summary Jurisdiction bearing any such appeal shall have all the powers conferred by sections 9 and 10 of the Magistrates Act 1948 *[title 8 item 15]*.

Abandonment of appeal

18 Any person who has served upon the Tax Commissioner a notice of appeal under Rule 16 and who wishes to abandon his appeal may do so by serving notice in writing upon the Tax Commissioner and the Senior Magistrate.

[Section 18 amended by 1996:15 effective by notice in the Official Gazette]

Appeal under section 47

19 Subject to section 47(1) of the Act, every appeal to the Supreme Court against a decision of a court of summary jurisdiction under the Act shall be brought in the manner provided by the law for the time being regulating appeals from a court of summary jurisdiction to the Supreme Court in civil matters.

PART IV

General provisions

20 (1) The fees specified in the Second Schedule shall be payable to the Tax Commissioner in respect of the matters to which they relate.

(2) The costs payable to barristers and attorneys shall be, in respect of proceedings in a court of summary jurisdiction, those prescribed by Rule 3 of the Court Fees and Expenses Rules 1972 [*title 8 item 7(a)*], and, in respect of proceedings in the Supreme Court, those set out in Order 62 of the Rules of the Supreme Court 1985 [*title 8 item 1(a)*], so far as the same are respectively applicable to proceedings under the Act.

(3) No fee shall be payable in respect of any matter where—

(a) such fee would be payable by the Crown or any Government Department; or

(b) the Land Valuation Officer, after considering an objection, informs the objector or the owner of the valuation unit concerned (as the case may be) that he concurs therein or concurs therein with modifications and reservations which are acceptable to the objector:

Provided that when any person is ordered to pay the costs of the Crown or any Government Department in any case, all fees which would have been payable but for the provisions of sub-paragraph (a) of this paragraph shall be taken as having been paid and shall be recoverable from such person.

[Section 20 amended by 1996:15 effective by notice in the Official Gazette]

**LAND VALUATION AND TAX (OBJECTIONS AND APPEALS)
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SCHEDULE (Rule 2)

FIRST SCHEDULE (Rule 4)

FORM A

THE LAND VALUATION AND TAX ACT 1967

NOTICE OF OBJECTION

TAKE NOTICE THAT I/We ⁽¹⁾ _____

of ⁽²⁾ _____

(Home) Telephone No. _____

(Work) Telephone No. _____

object to ^{**}

- (a) The Draft Valuation List
- (b) A proposal by the Land Valuation Officer dated _____
to amend the Draft Valuation List.
- (c) A proposal by the Land Valuation Officer dated _____
to amend the Valuation List.

in respect of the following valuation unit ⁽³⁾

description _____

address _____

of which I am/we are (not) the owner(s) and of which the assessment No
is ⁽⁴⁾ _____

(1) Full Christian name(s) and surname(s) of objector(s).

(2) Full address of objector(s).

** Delete whichever is not applicable.

(3) Description and situation of property as in list.

(4) Insert assessment number from list.

upon the following grounds ⁽⁵⁾

- ☐ (a) that the annual rental value of any valuation unit appearing in the (draft) valuation list is incorrect or unfair having regard to other annual rental values therein;
- ☐ (b) that a valuation unit should not have been included in the (draft) valuation list;
- ☐ (c) that a valuation unit omitted from the (draft) valuation list should be included therein;
- ☐ (d) that a valuation unit included in a series or complex of valuation units as a single valuation unit on the (draft) valuation list should be listed separately in the (draft) valuation list or omitted therefrom;
- ☐ (e) that a valuation unit listed separately in or omitted from the (draft) valuation list should be combined with one or more others of a series or complex of valuation units and listed as one single valuation unit;
- (f) that the (draft) valuation list is incorrect in some other material particular.

(6)

Dated the _____ day of _____ 19__.

Signature of objector, agent or legal representative

⁽⁵⁾ Mark with X in box the ground or grounds relied upon.
⁽⁶⁾ Set out any additional matter either on the dotted lines or in a separate statement.

**LAND VALUATION AND TAX (OBJECTIONS AND APPEALS)
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IF YOU ARE NOT THE OWNER OF THE VALUATION UNIT YOU MUST
SERVE A COPY OF THIS NOTICE ON THE OWNER(S) AND GIVE THE
DATE OF SUCH SERVICE HERE.

Owner's name _____

Address _____

Date of service _____

[Form A substituted by BR25/1989 effective 1 July 1989]

FORM B

**THE LAND VALUATION AND TAX ACT 1967
NOTICE OF APPEAL AGAINST A DECISION OF
THE LAND VALUATION APPEAL TRIBUNAL**

(Section 24 of the Act)

TAKE NOTICE THAT ⁽¹⁾ [blank] of ⁽²⁾ [blank] appeals against the decision
of the Land Valuation Appeal Tribunal dated the [blank] day of [blank]
19 [blank] whereby it was determined that ⁽³⁾ [blank] upon the following
grounds of law ⁽⁴⁾**.

[blank]
Signature of appellant or
his legal representative.

To: The Chairman of the Tribunal.
The Attorney-General.

(1) Full Christian names and surname of appellant.

(2) Full address of appellant.

(3) Set out briefly the decision.

(4) Set out grounds of appeal.

** Under section 24(2) of the Act an appeal lies to the Supreme Court on a ground or grounds of
law alone.

FORM C

THE LAND VALUATION AND TAX ACT 1967

NOTICE OF OBJECTION TO THE TERMS OF A DEMAND

NOTE ISSUED BY THE TAX COMMISSIONER

(Section 41 of the Act)

TAKE NOTICE THAT ⁽¹⁾ [blank] of ⁽²⁾ [blank] object to the terms of the demand note No.⁽³⁾ served upon me on the [blank] day of [blank] 19 [blank] on the following grounds ⁽⁴⁾.

[blank]
Signature of objector or
his legal representative.

To: The Tax Commissioner

[Form C amended by 1996:15 effective by notice in the Official Gazette]

-
- (1) Full Christian name and surname of objector.
 - (2) Full address of objector.
 - (3) Serial number of demand note.
 - (4) Grounds of objection.

**LAND VALUATION AND TAX (OBJECTIONS AND APPEALS)
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FORM D

THE LAND VALUATION AND TAX ACT 1967

NOTICE OF APPEAL TO A COURT OF SUMMARY

JURISDICTION FROM A DECISION OF THE

TAX COMMISSIONER

(Section 44 of the Act)

TAKE NOTICE THAT ⁽¹⁾ [blank] of ⁽²⁾ [blank] hereby appeal on the grounds set out below against the decision of the Tax Commissioner given on the [blank] day of [blank] 19 [blank], rejecting my objection to demand note No. ⁽³⁾ [blank]

Grounds of appeal: — ⁽⁴⁾ [blank]

[blank]
Signature of appellant or
his legal representative.

To: The Tax Commissioner.
The Senior Magistrate.

[Form D amended by 1996:15 effective by notice in the Official Gazette]

-
- (1) Full Christian name and surname of objector.
(2) Full address of objector.
(3) Serial number of demand note.
(4) Grounds of appeal.

SECOND SCHEDULE

**FEES PAYABLE BY AN OBJECTOR
UNDER PART I**

On the hearing of an appeal before the Tribunal \$ 15.00

**FEES PAYABLE BY AN APPELLANT
UNDER PART II**

On the hearing of an appeal, per day or part of a day \$200.00

**FEES PAYABLE BY AN APPELLANT
UNDER SECTION 2 OF PART III**

On the hearing of an appeal, per day or part of a day \$ 20.00

**FEES PAYABLE BY AN APPELLANT
UNDER SECTION 3 OF PART III**

On the hearing of an appeal, per day or part of a day \$ 200.00

[Amended by

1969 : 666

BR 25/1989

1996 : 15]