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CHAPTER 288

VALUATION OF LAND

Act 22 of 2002

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SCHEDULE – Provisions relating to Valuer-General

VALUATION OF LAND

An Act to make provision for the valuation of land; to establish the office of Valuer-General; to provide for the functions and powers of the Principal Valuation Officer in the Ministry of Lands; and for other purposes.

PART 1 – PRELIMINARY

1. Interpretation

(1) In this Act, unless the contrary intention appears:

“authorised person” means:

- (a) the Valuer-General; or
- (b) a member of the staff of the Valuer-General authorised in writing by the Valuer-General; or
- (c) the Principal Valuation Officer; or
- (d) another member of the Valuation Unit authorised in writing by the Principal Valuation Officer;

“Director-General” means the Director-General of the Ministry;

“Minister” means the Minister responsible for lands;

“Ministry” means the Ministry responsible for lands;

“prescribed” means prescribed by the regulations made under this Act;

“Principal Valuation Officer” means a public servant of the Ministry appointed by the Public Service Commission as Principal Valuation Officer for the purposes of this Act;

“rating and taxing authority” means any of the following:

- (a) a Government Ministry responsible for any rates or taxes;
- (b) a local government council within the meaning of the Decentralization Act [Cap. 230];
- (c) a municipal council within the Municipalities Act [Cap. 126];
- (d) any other prescribed body;

“registered land valuer” means a person registered as a land valuer under the Land Valuers Registration Act [Cap. 289];

“regulations” mean regulations made under this Act;

“Valuation Unit” means the section or group of public servants within the Ministry responsible for land valuation that includes the Principal Valuation Officer.

(2) A reference in this Act to valuing land includes valuing improvements and attachments to land and valuing any rights associated with land.

PART 2 – VALUER-GENERAL

Division 1 – Valuer-General

2. Valuer-General

- (1) The President is on the advice of the Judicial Services Commission to appoint a Valuer-General.
- (2) The Judicial Services Commission must not recommend a person for appointment as Valuer-General unless the person is, or is eligible to become, a registered land valuer.
- (3) The Schedule has effect in respect of the Valuer-General.

3. Role of Valuer-General

The general role of the Valuer-General is:

- (a) to exercise functions with respect to the valuation of land in Vanuatu; and
- (b) to ensure the integrity of valuations under this Act; and
- (c) to act as a land referee in disputes regarding rentals and land values.

Division 2 – General functions of Valuer-General

4. Functions of Valuer-General

The functions of the Valuer-General include the following:

- (a) to resolve disputes regarding valuations of land as required by or under this or any other Act;
- (b) to deal with objections and appeals against valuations under this Act;
- (c) subject to this Act, such other functions conferred or imposed on the Valuer-General by or under this or any other Act or law.

Division 3 – Valuer-General's role as a Land Referee

5. Valuer-General's land referee jurisdiction

The Valuer-General has jurisdiction to determine the following matters:

- (a) the amount of rent payable for a lease of land whether originally or on periodic reassessment;
- (b) disputes relating to the value of improvements on or to land;
- (c) any matter referred to the Valuer-General by any party to a lease of land relating to the interpretation of a provision in the lease;
- (d) any matter which is by any other Act or law directed to be determined by the Valuer-General.

6. Referee to act as expert and not as arbitrator

- (1) In exercising jurisdiction under section 5(a) and (b), the Valuer-General is to act as an expert and not as an arbitrator. The Valuer-General must consider any valuation and reasons submitted to him or her by the parties to an application but is not in any way limited or fettered by that valuation and is to reach his or her decision in accordance with his or her own judgement.
- (2) In exercising jurisdiction under section 5(c) and (d), the Valuer-General may act as arbitrator.

PART 3 – VALUATION OF LAND

Division 1 – Valuation

7. Principal Valuation Officer may ascertain land values

- (1) The Principal Valuation Officer is to ascertain the value of each parcel of land in Vanuatu.
- (2) Any land value ascertained under this Act is to be entered in the Valuation Roll.
- (3) The power to ascertain a land value includes the power to reascertain that land value, and references in this Act to the ascertainment of land value are taken to include references to the reascertainment of land value.

Division 2 – Valuation Roll

8. Valuation Roll

- (1) The Principal Valuation Officer is to keep a Valuation Roll for Vanuatu in such form as the Principal Valuation Officer thinks fit.
- (2) The Valuation Roll is to contain such of the following kinds of information in relation to all land in Vanuatu as is within the knowledge of the Principal Valuation Officer:
 - (a) information as to the ownership of the land;
 - (b) information as to the occupation of the land;
 - (c) information as to the value of the land;
 - (d) information as to the title or tenure of the land;
 - (e) information as to the location or description of the land;
 - (f) information as to the area of the land;
- (g) such other kinds of information as is permitted or required by this Act or the regulations to be entered in the Register.

9. Alteration of the Valuation Roll

The Principal Valuation Officer is to make such alterations to the Valuation Roll as may be necessary for the following purposes:

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

10. Certificates of land value

- (1) The Principal Valuation Officer may issue a certificate to any person certifying details of an entry in the Valuation Roll.
- (2) The Principal Valuation Officer may determine:
 - (a) the means by which a certificate may be issued, including electronically; and
 - (b) the form of a certificate, including as a document or in an electronic form or a form that may be produced from an electronic message.
- (3) A certificate under this section is conclusive evidence, as at the date specified in the certificate, that the details in the Valuation Roll in relation to a particular matter are as set out in the certificate.

- (4) The Principal Valuation Officer may determine:
- (a) the means by which an application for a certificate may be made; and
 - (b) the form of an application; and
 - (c) the fee to be paid for a certificate; and
 - (d) the means by which the fee may be paid.

Division 3 –Valuation Lists

11. Principal Valuation Officer to furnish valuation lists to authorities

- (1) The Principal Valuation Officer must give each rating or taxing authority a list (a “*valuation list*”) containing such of the information entered in the Valuation Roll as relates to land within the authority’s area.
- (2) Valuation lists are to be given to each such authority at least once every 5 years. However, the Principal Valuation Officer may give a valuation list for an area within 7 years if the Officer is of the opinion that there has been so little movement in values in the area that a new valuation list within 5 years is not warranted.

12. Supplementary lists

- (1) The Principal Valuation Officer must give each rating or taxing authority a list (a “*supplementary list*”) containing such of the information entered in the Valuation Roll in relation to land within the authority’s area as has changed since the authority was last given a valuation list.
- (2) Supplementary lists are to be given to each such authority:
- (a) in accordance with any agreement in force between the Principal Valuation Officer and the authority; or
 - (b) if no such agreement exists, at such times as the Principal Valuation Officer may determine.

13. New lists to replace old

The Principal Valuation Officer is on request by any rating or taxing authority to give the authority a new valuation list for the whole or any part of its area brought up to a specified date and, on the commencement of such authority’s next rating or taxing year as prescribed by law, that list supersedes all previous lists so far as they relate to the lands included in that list.

14. Alteration of boundaries or constitution of new districts

If the boundaries of any rating or taxing authority’s area are altered, or a new area is constituted for any such authority, the Principal Valuation Officer is, as soon as is practicable after that alteration or constitution, to give such new lists or supplementary lists as may be necessary.

15. Lists to be valuation book of authority

- (1) A valuation list, together with any supplementary list is the valuation roll or valuation book or assessment book of the rating or taxing authority until superseded, in whole or part, by a subsequent list.
- (2) Despite anything to the contrary in any Act, each rating or taxing authority must use a valuation list and any supplementary list given to it by the Principal Valuation Officer as the basis of its rate or tax in respect of any land included in the list.

16. Authentication of lists

The Principal Valuation Officer must sign or stamp with the official stamp of the Principal Valuation Officer, all valuation lists and supplementary lists and without that authentication any such list must not be used by any rating or taxing authority.

17. Payment for lists

Each rating and taxing authority to which a list is supplied must pay the prescribed fee to the Ministry.

18. Form of lists

The Principal Valuation Officer is to give valuation lists and supplementary lists to rating and taxing authorities in such form:

- (a) as may be arranged between the Principal Valuation Officer and the authority concerned; or
- (b) if there is no such arrangement, as the Principal Valuation Officer directs.

Division 4 – Notice of valuations in lists

19. Notice of valuation

- (1) The Principal Valuation Officer must, as soon as practicable after the giving a valuation list or supplementary list to a rating or taxing authority notify, in the manner specified in subsection (2), the owners of land covered by the list concerned of that occurrence.
- (2) The notification under subsection (1) must be made:
 - (a) by a notice published in the Gazette; and
 - (b) by an advertisement broadcast on radio broadcasting, or published in a newspaper circulating, generally in the area concerned.
- (3) The Principal Valuation Officer may also personally notify, by such other means determined by the Principal Valuation Officer, the owners of land covered by a valuation list or supplementary list that such a list has been given to a rating or taxing authority.
- (4) A notification given under this section must:
 - (a) state that a valuation list or supplementary list has been prepared and given to the rating and taxing authority concerned; and
 - (b) describe generally the area to which the list relates; and
 - (c) state that the list is available for public inspection at the office of the Valuation Unit; and
 - (d) notify all owners of land that there is a right of objection to a valuation given in the list.

20. Failure to notify

A valuation and any valuation list or supplementary list is not invalid because of any failure to give notice under this Division.

Division 5 – Objections to valuations

21. Objections

- (1) Any person (including a rating or taxing authority) may lodge an objection to a valuation in a valuation list or supplementary list with the Valuer-General.

- (2) An objection must be in writing, must specify the grounds on which it is made and must identify, and be signed by or on behalf of, the objector.
- (3) The only grounds upon which objection may be taken under this Act are as follows:
 - (a) that the values assigned are too high or too low;
 - (b) that the area, dimensions or description of the land are not correctly stated;
 - (c) that the interests held by various persons in the land have not been correctly apportioned;
 - (d) that the apportionment of the valuations is not correct;
 - (e) that lands which should be included in one valuation have been valued separately;
 - (f) that lands which should be valued separately have been included in one valuation;
 - (g) that the person named in the notice is not the lessee or owner of the land;
 - (h) details relating to a lease are incorrectly stated.

22. Time for lodging objection

- (1) Except as provided by subsection (2), an objection must be lodged with the Valuer-General not later than 90 days after the notice referred to in section 19(1) was first published in the Gazette.
- (2) The Valuer-General may permit a person to lodge an objection after the 90-day period.
- (3) The person seeking to lodge the late objection must state fully and in detail, and in writing, the circumstances concerning and the reasons for the failure to lodge the objection within the 90-day period.
- (4) The Valuer-General may grant permission unconditionally or subject to conditions or may refuse permission.
- (5) The Valuer-General must give notice to the person of the Valuer-General's decision and include in the notice the reasons for refusing to grant permission or for imposing conditions on the permission.

23. Determination of objection

- (1) The Valuer-General must consider an objection and allow the objection, disallow the objection or allow the objection in part only.
- (2) If the Valuer-General allows an objection or allows an objection in part only, the Valuer-General may order the Principal Valuation Officer to rectify the valuation list or supplementary list concerned and the Valuation Roll.

24. Notice of determination

- (1) The Valuer-General must give notice to the objector of the determination of the objection.
- (2) The Valuer-General must, in the notice, give the reasons for disallowing an objection or for allowing an objection in part only.

25. Rates and taxes payable despite objection or appeal

The making of an objection under this Division or an appeal under Division 6 does not affect the valuation concerned, and rates, taxes and duties may be imposed and recovered on the basis of the valuation as if the objection or appeal had not been made.

26. Decision of Valuer-General is final

- (1) The determination of an objection by the Valuer-General is final.
- (2) However:
 - (a) a person who believes the determination of the person's objection was wrong on a point of law may appeal the decision to the Supreme Court in accordance with section 27; and
 - (b) the Valuer-General may state a case on any question of law for the opinion of the Supreme Court in accordance with section 30.

Division 6 – Appeals and stated cases

27. Right of appeal

- (1) A person may appeal to the Supreme Court if the person believes the Valuer-General's determination of the person's objection was wrong on a point of law.
- (2) An appeal must be made not later than 60 days after the date of issue of the notice of the Valuer-General's determination of the objection.

28. Powers of Supreme Court on appeal

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

29. Giving effect to decision on appeal

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

30. Valuer-General may state case

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

PART 4 – POWERS OF VALUER-GENERAL AND PRINCIPAL VALUATION OFFICER

31. Power of entry

- (1) An authorised person may at all times during the day enter on any land for the purposes of this Act; and the owner or occupier or manager of that land must answer any questions put by the authorised person and generally give the authorised person all necessary information to enable a correct valuation to be made.
- (2) However, an authorised person must not enter any private building or dwelling-house without having first given at least 3 days' notice of his or her intention to do so. The

authorised person must comply with any reasonable conditions imposed by the owner or occupier on him or her while inside that building or dwelling-house.

- (3) Without limiting the generality of subsection (1), a person, in exercising or performing any function under that subsection:
- (a) may require the owner, occupier or manager of any land to produce any accounts, records, books, instruments, letters, maps, plans, papers or other documents in the possession of or under the control of that owner, occupier or manager that relate to, or that the person believes on reasonable grounds relate to, the description, nature, use or value of the land; and
 - (b) may take copies of, or extracts or notes from, any accounts, records, books, instruments, letters, maps, plans, papers or other documents referred to in paragraph (a).

32. Penalty for refusing information

A person must not obstruct or hinder an authorised person in the exercise of any functions under this Act, or refuse to answer any relevant questions or to afford any information in the person's power when duly required to do.

Penalty:

- (a) a fine not exceeding VT 100,000; or
- (b) imprisonment for not more than one year; or
- (c) both a fine and a term of imprisonment.

PART 5 – MISCELLANEOUS

33. Public access to Valuation Roll and valuation lists

- (1) The Valuation Roll, all valuation lists and supplementary lists are public documents and are open to inspection in the office of the Principal Valuation Officer at all reasonable times on the payment of the prescribed fee.
- (2) A person may on the payment of the prescribed fee make copies of or take extracts from the Valuation Roll, a valuation list or a supplementary list.

34. Indemnity

An individual is not liable to an action or other proceeding for damages for or in respect to an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of a power, function or duty conferred on him or her by this Act.

35. Recovery of moneys

Money due to the Government under this Act may be recovered as a debt in any court of competent jurisdiction.

36. Delegation

- (1) The Valuer-General may delegate to any person any of the functions conferred or imposed on the Valuer-General by or under this or any other Act or law, other than this power of delegation.
- (2) The Principal Valuation Officer may delegate to any person any of the functions conferred or imposed on the Principal Valuation Officer by or under this or any other Act or law, other than this power of delegation.

37. References to Lands Referee

A reference in any other Act or instrument to the Lands Referee is taken to be a reference to the Valuer-General.

38. Repeals

The following are repealed:

- (a) the Lands Referee Act [Cap. 148];
- (b) the Rating Valuation (Entry on Premises) Act [Cap. 93].

39. Regulations

- (1) The Minister may, by order, make regulations, not inconsistent with this Act, prescribing all matters that by this Act are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), a regulation may prescribe all or any of the following:
 - (a) defining the duties and powers of the Valuer-General, members of the Valuer-General's staff, and members of the staff of the Valuation Unit;
 - (b) determining the form and contents of the Valuation Roll; and making provision for the proper preparation, completion, alteration, amendment, and custody of that Roll;
 - (c) determining the mode in which valuation lists shall be prepared for and supplied to rating and taxing authorities, and making provision in connection with those lists;
 - (d) for giving effect to the provisions of this Act as to notices and objections and prescribing the manner of serving notices and what is to be conclusive proof of service;
 - (e) determining the fees payable under the Act and the mode in which those fees are to be paid and recovered.

SCHEDULE

(Section 2(3))

Provisions relating to Valuer-General

1. Term of office

- (1) The Valuer-General, subject to this Act, is to be appointed for a term of not less than 3 years but not exceeding 5 years, as is specified in the instrument of his or her appointment.
- (2) The Valuer-General is eligible for reappointment.

2. Remuneration

Subject to the provisions of any other enactment, the salary, and any allowances and other entitlements of the Valuer-General are to be determined by the Judicial Service Commission.

3. Appointment of Acting Valuer-General

The President on the advice of the Judicial Services Commission may appoint a person to act in the office of the Valuer-General while the Valuer-General is absent from his or her office through illness or any other cause or while there is a vacancy in the office of the Valuer-General, and that person while so acting is taken to be the Valuer-General and has and may exercise and perform the powers, authorities, duties and functions of the Valuer-General.

4. Vacation of office

The Valuer-General vacates office:

- (a) if he or she dies; or
- (b) if he or she engages in Vanuatu or elsewhere during his or her term of office in any paid employment outside the duties of his or her office without the approval of the Judicial Services Commission; or
- (c) if he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration, allowances or estate for their benefit; or
- (d) if he or she absents himself or herself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister or unless the absence is occasioned by illness or other unavoidable cause; or
- (e) if he or she becomes a mentally incapacitated person; or
- (f) if he or she is convicted in Vanuatu of a crime or offence which is punishable by imprisonment for 12 months or upwards, or if he or she is convicted elsewhere than in Vanuatu of a crime or offence which, if committed in Vanuatu, would be a crime or offence so punishable; or
- (g) if he or she resigns his or her office by writing under his or her hand addressed to the Judicial Services Commission; or
- (h) if he or she is removed from office by the President on the advice of the Judicial Services Commission.