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CHAPTER 289

LAND VALUERS REGISTRATION

Act 23 of 2002

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LAND VALUERS REGISTRATION ACT

An Act to provide for the registration of land valuers; to regulate the qualifications for and the effect of such registration and to confer and impose functions on the Valuer-General.

PART 1 – PRELIMINARY

1. Interpretation

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

“land valuer” means a person who values land for a fee or reward that is paid or payable either to him or her or to a person (including the Government or an instrumentality or agency of the Government) that employs him or her, whether in the capacity of employee or agent or in any other capacity;

“Minister” means the Minister responsible for lands;

“Principal Valuation Officer” means the Principal Valuation Officer under the Valuation of Land Act [Cap. 288];

“register” means the Register of Land Valuers kept by the Valuer-General under section 2;

“registered land valuer” means a person registered under Part 2;

“regulations” mean regulations made under this Act;

“Valuer-General” means the Valuer-General under the Valuation of Land Act [Cap. 288].

(2) A reference in this Act (section 2 excepted) to the name of a person in the register includes a reference to the other particulars in the register that relate to that person.

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

PART 2 – REGISTRATION OF LAND VALUERS

Division 1 – Registration

2. Register

(1) The Valuer-General is to keep a register to be called the “Register of Land Valuers”.

(2) A person is to be registered by the entry in the appropriate division of the register with the following information:

(a) the person’s full name and residential address;

(b) the person’s professional address (if any) in Vanuatu;

(c) the date on which the person is registered;

(d) the registration number allotted to the person;

(e) particulars of the qualification by virtue of which the person is registered;

(f) particulars of any limitation imposed by the Valuer-General on the valuer’s right to practise;

- (g) such other particulars (if any) as the Valuer-General may think fit or as may be prescribed.
- (3) A person may, during business hours:
 - (a) inspect the register at the office of the Valuer-General free of charge; and
 - (b) on application and payment of the prescribed fee, obtain from the Valuer-General a copy of such entries in the register as are specified in the application.

3. Applications for registration

- (1) A person may apply to the Valuer-General to be registered as a land valuer.
- (2) An application under subsection (1) must be:
 - (a) in the form prescribed by the regulations; and
 - (b) accompanied by the prescribed fee.
- (3) On receipt of an application under subsection (1), the Valuer-General must register a person if the Valuer-General is satisfied that:
 - (a) the person is of good character; and
 - (b) the person:
 - (i) is the holder of a certificate, diploma or degree granted by a university, technical institute or professional institution in land valuation approved by the Valuer-General; or
 - (ii) is a member of a national or international professional organisation of land valuers approved by the Valuer-General; and
 - (c) the person is sufficiently experienced and competent in valuing land.
- (4) If, on receipt of an application under subsection (1), the Valuer-General, in respect of the person:
 - (a) is satisfied as to the matters referred to in subsection (3)(a) and (3)(b)(i) or (ii); and
 - (b) is not satisfied that the person is sufficiently experienced and competent in valuing land;

the Valuer-General may register that person as a land valuer subject to such limitations on that person's right to practise as the Valuer-General thinks fit.

- (5) Without affecting the generality of subsection (4), a limitation referred to in that subsection may require a land valuer:
 - (a) not to value land specified by reference to:
 - (i) the location of the land; or
 - (ii) the purpose for which the land is being or may be used, or both; or
 - (b) not to value land, whether or not specified by reference to either or both of the matters referred to in paragraph (a)(i) and (ii), except under the supervision of or in conjunction with another person who is registered as a land valuer and whose registration is not subject to any limitation with respect to the land so specified.

4. Duration and renewal of registration

- (1) The registration of a person under this Act remains in force for a period of one year.
- (2) A person may renew their registration by application to the Valuer-General.

- (3) An application for renewal of a registration must be made at least one month before the date of expiry of that registration and must be accompanied by the prescribed fee.
- (4) A person who applies for renewal of registration under subsection (2) remains registered under this Act until the Valuer-General deals with the person's application.
- (5) An application for renewal of registration under subsection (2) made after the expiration of the period referred to in subsection (3) is taken to have been duly made if the Valuer-General so decides.
- (6) Unless the Valuer-General is of the opinion that a person who has applied for renewal of registration is no longer sufficiently competent in valuing land to be able, by himself or herself, to value land properly the Valuer-General is to renew that person's registration.
- (7) The Valuer-General is to remove from the register the name of a person whose registration has expired.

5. Removal or variation of limitations during currency of registration

The Valuer-General may, at any time during the currency of the registration of a person as a land valuer, cancel or vary any limitation imposed by the Valuer-General on the person's right to practise as a land valuer.

6. Certificate of registration

- (1) The Valuer-General is to issue a certificate of registration to a person registered or whose registration is renewed.
- (2) A certificate of registration as a land valuer issued under subsection (1) must specify any limitations imposed by the Valuer-General on the land valuer's right to practise.
- (3) If the Valuer-General cancels or varies under section 5 any limitation imposed on a person's right to practise as a land valuer, the Valuer-General may amend the person's certificate of registration accordingly, but the cancellation or variation has effect whether or not the certificate has been so amended.
- (4) If the Valuer-General is satisfied that a certificate of registration has been lost, stolen, damaged or destroyed, the Valuer-General may issue a replacement certificate on payment of the prescribed fee.

7. Notice of Valuer-General's decision

The Valuer-General must, within 14 days after making a decision, give notice to a person of:

- (a) the decision of the Valuer-General with respect to an application by the person for registration or renewal of registration; and
- (b) the decision of the Valuer-General to cancel or vary any limitation on the person's right to practise as a land valuer.

8. Removal of name from register

The Valuer-General may remove the name of a person from the register if the person:

- (a) has been registered as a result of fraud or misrepresentation; or
- (b) becomes a physically or mentally incapacitated person; or
- (c) ceases to hold an academic qualification or membership of an organisation that qualifies the person for registration.

Division 2 – Professional Discipline

9. Proceedings before the Valuer-General against registered land valuers

(1) If the Valuer-General is satisfied after inquiry that a registered land valuer has:

- (a) been convicted in Vanuatu or elsewhere by any court of any crime or offence; or
- (b) been guilty of professional misconduct; or
- (c) has valued any class of land in contravention of a limitation to which his or her right to practise is subject; or
- (d) otherwise contravened any limitation or restriction imposed by this Act, the regulations or the Valuer-General on his or her right to practise as a land valuer;

the Valuer-General may by order:

- (e) reprimand or caution that land valuer; or
 - (f) suspend the valuer's registration for such period, not exceeding the unexpired term of the valuer's registration, as the Valuer-General thinks fit; or
 - (g) remove the valuer's name from the register.
- (2) If the Valuer-General removes the name of a registered land valuer from the register, the Valuer-General may in the Valuer-General's order fix a time after which the person may apply for restoration of his or her name to the register.
- (3) The Valuer-General must not make an order directing that a registered land valuer be suspended from registration or that the valuer's name be removed from the register because of a conviction referred to in subsection (1)(a) if the Valuer-General is satisfied that, whether from its trivial nature or from the circumstances in which it occurred or for any other reason, the crime or offence does not in the public interest disqualify the person so registered from practising as a land valuer.
- (4) If the registration of a land valuer is suspended under subsection (1), the Valuer-General is to enter in the register a memorandum of that fact and of the date and cause of that suspension.

10. Inquiry by Valuer-General for the purposes of section 9

Schedule 1 applies with respect to an inquiry by the Valuer-General.

11. Restoration of name to register

- (1) The name of a person whose name has been removed from the register must only be again entered in the register at the direction of the Valuer-General or in pursuance of an order of the Supreme Court.
- (2) If the name of a registered land valuer has been removed from the register and:
- (a) the person whose name has been removed duly applies for registration under this Act; and
 - (b) any disability that caused the removal of the name of that person has ceased to exist;

the Valuer-General is to deal with the application.

Division 3 – Appeals to Supreme Court

12. Appeal

- (1) A person may appeal to the Supreme Court in accordance with the rules of court, if the person is aggrieved:
 - (a) by a decision of the Valuer-General with respect to an application by the person; or
 - (b) by the decision of the Valuer-General to vary any limitation on the person's right to practise as a land valuer; or
 - (c) by any neglect or delay by the Valuer-General to give within sixty days after receipt by the Valuer-General of an application by the person for registration or renewal of registration a decision with respect to that application; or
 - (d) by a decision of the Valuer-General to remove the name of the person from the register under section 8; or
 - (e) by an order of the Valuer-General under section 9.
- (2) An appeal under subsection (1) is to be dealt with by way of rehearing.
- (3) The Supreme Court, in deciding an appeal under subsection (1), may:
 - (a) confirm the decision of the Valuer-General appealed against; or
 - (b) substitute for that decision any decision that the Valuer-General might have made.

PART 3 – OFFENCES

13. Land valuing by non-registered persons prohibited

- (1) A person who is not registered under this Act must not:
 - (a) practise as a land valuer; or
 - (b) advertise himself or herself or hold himself or herself out as being entitled or prepared to practise as a land valuer.

Penalty:

 - (a) a fine not exceeding VT one million; or
 - (b) imprisonment for not more than 2 years; or
 - (c) both a fine and a term of imprisonment.
- (2) Subsection (1) does not apply to:
 - (a) the Valuer-General, the Principal Valuation Officer and any other person employed by the Government in relation to the exercise of their functions under this or any other Act; and
 - (b) a person who is undertaking a course of study and training and who, for that purpose, carries out duties under the supervision of a person registered as a land valuer in connection with valuations of land that are made by that valuer.
- (3) A person must not advertise that he or she or any person employed by him or her, whether in the capacity of an employee or in any other capacity, is prepared to value land, either for fee or reward or for no fee or reward, unless he or she or, as the case may be, the person so employed is registered under this Act.

Penalty:

- (a) a fine not exceeding VT one million; or
- (b) imprisonment for not more than 2 years; or
- (c) both a fine and a term of imprisonment.

14. Penalties for false statements etc.

A person must not:

- (a) make, or cause to be made, any false entry in or falsification of the register; or
- (b) procure or attempt to procure himself or herself or any other person to be registered under this Act by the making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing; or
- (c) in connection with a matter into which the Valuer-General is inquiring for the purposes of this Act:
 - (i) make a false statement; or
 - (ii) present to the Valuer-General a false, forged or counterfeit academic award, testimonial or other document or writing; or
 - (iii) impersonate or represent himself or herself as being the person referred to in any academic award, testimonial or other document or writing presented to the Valuer-General; or
- (d) aid or assist in the commission of any such offence.

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 4 – MISCELLANEOUS

15. Code of Ethics

- (1) The Valuer-General may from time to time prepare and publish a Code of Ethics.
- (2) In the preparation of a Code of Ethics, the Valuer-General is to have regard to any Code of Ethics published by a recognized Property Institute in relation to professional conduct.
- (3) The Valuer-General may adopt the Code of Ethics published by a recognized Property Institute as in force from time to time with or without modifications.
- (4) A copy of any Code of Ethics published or adopted by the Valuer-General is to be sent to each registered valuer.
- (5) A contravention of a provision of a Code of Ethics published or adopted under this section is *prima facie* evidence of professional misconduct.

16. 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) fees payable under this Act;

- (b) applications for registration (and renewal of registration) under this Act;
 - (c) the form of a certificate of registration as a land valuer;
 - (d) prescribing the procedure to be followed at and any matters incidental to the holding of an inquiry under section 9.
- (3) The regulations may be made so as to apply differently according to such factors as are specified in the regulations.
- (4) A regulation may create an offence punishable by a penalty of a fine not exceeding VT 50,000.
17. *(Omitted)*

SCHEDULE 1

(Section 10)

INQUIRIES BY THE VALUER-GENERAL

1. Postponement or adjournment

An inquiry may be postponed or adjourned by the Valuer-General.

2. Conduct of inquiry to be public

An inquiry is to be conducted by the Valuer-General as in open court.

3. Representation

At a hearing, the registered land valuer may appear in person or by a legal counsel, agent or other representative.

4. Discretions

Subject to this Act, the Valuer-General may:

- (a) conduct the inquiry in such manner as the Valuer-General sees fit and is not bound by the rules of practice as to evidence and may be informed of any matter in such manner as the Valuer-General thinks fit, but must conform to the rules of natural justice; and
- (b) call and receive evidence as to any matter relevant to the inquiry; and
- (c) require any evidence at the inquiry to be given on oath and may administer an oath to any person by whom evidence is required to be given.

5. Reopening inquiry

- (1) If, at any time before the Valuer-General makes an order under section 9(1), the Valuer-General requires further evidence on any relevant matter, the Valuer-General may reopen the inquiry for the purpose of obtaining that further evidence before making an order.
- (2) An inquiry that is reopened is taken to have been adjourned and is to proceed accordingly.

6. Absence of registered land valuer

An inquiry may be conducted in the absence of the registered land valuer if the Valuer-General is satisfied that the valuer was served with reasonable notice of the time and place for the inquiry.

7. Notices to attend or produce documents

- (1) The Valuer-General may of the Valuer-General's own motion, or on the application of the registered land valuer, issue a notice requiring the person to whom the notice is addressed:
 - (a) to attend as a witness at the inquiry; or
 - (b) to produce at the inquiry any books, documents or things in his or her possession or under his or her control relating to any matter relevant to the inquiry and specified in the notice; or
 - (c) both.

- (2) A person who is served with such a notice and to whom, at the time of service, is tendered an amount that is sufficient to cover his or her travelling and other out of pocket expenses:
- (a) in attending the inquiry specified in the notice; and
 - (b) for producing anything required by the notice to be produced;
- must not, without reasonable cause, fail to comply with the notice.
Penalty: A fine not exceeding VT 100,000.
- (3) A person on whom a notice is served is entitled to receive payment of his or her reasonable costs, including any loss of earnings, incurred in obeying the notice:
- (a) if the notice was issued by the Valuer-General on the Valuer-General's own motion, from the Valuer-General; or
 - (b) if the notice was issued by the Valuer-General on the application of the registered land valuer, from the valuer.
- (4) On application by the Valuer-General, the Supreme Court may:
- (a) order a person who has failed to comply with such a notice to comply with it within a period specified by the Court; and
 - (b) if, after that period has expired, the Court is satisfied that the person does not have a reasonable excuse for failing to comply with the notice, punish the person in the same way as it would if the person had been guilty of contempt of the Court.
- (5) Such an order may be made by the Supreme Court whether or not an information has been laid alleging the person concerned has committed an offence under subclause (2).

8. Costs of inquiry

- (1) If, following an inquiry, the Valuer-General decides to take no further action, the Valuer-General may pay to the registered land valuer such amount as the Valuer-General thinks fit towards the reasonable costs and expenses incurred by the valuer in connection with the inquiry.
- (2) There is no appeal against a decision of the Valuer-General with respect to the payment of costs or expenses to a registered land valuer.
- (3) If, following an inquiry, the Valuer-General makes any order under section 9(1), the Valuer-General may, by the order, require the registered land valuer to pay to the Valuer-General, towards the costs and expenses incurred in connection with conducting the inquiry, such amount as is specified in the order.
- (4) Any amount ordered to be paid to the Valuer-General may be recovered as a debt due to the Valuer-General in a court of competent jurisdiction.

SCHEDULE 2

(Omitted)

(Section 17)

Table of Amendments

17 and Sched. 2 *Transitional provisions omitted as expired, per Act Cap. 295*