

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 6 March, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. , 1974.

An Act to provide for the making and levying of differential rates in respect of residential land, non-residential land and mixed development land; to provide for objections to, and the adjustment of, rates levied; to extend the circumstances in which minimum amounts for rates may be levied so as to provide that a building comprised (wholly or partly) of flats may be rated on the basis that each flat is a separate ratable parcel; to provide for the postponement, in certain circumstances, of rates levied; for these and other purposes to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924; and for purposes connected therewith.

Metropolitan Water, Sewerage, and Drainage (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

- 5 **1.** (1) This Act may be cited as the "Metropolitan Water, Sewerage, and Drainage (Amendment) Act, 1974". Short title and construction.
- (2) The Metropolitan Water, Sewerage, and Drainage Act, 1924, is referred to in this Act as the Principal Act.
- 10 **2.** (1) This Act (other than section 3) shall commence on 1st July, 1975. Commencement.
- (2) Section 3 shall commence on the date of assent to this Act.
- 15 **3.** (1) The Metropolitan Water Sewerage and Drainage Board is empowered to fix a scale of rates, and to pass a resolution for the levying of rates, prior to 1st July, 1975, in every respect as if all of the provisions of this Act had commenced. Certain powers conferred on board before 1st July, 1975.
- (2) Subsection (1) does not operate so as to allow the board to levy, before 1st July, 1975, rates to which a resolution referred to in subsection (1) relates.
- 20 **4.** The Principal Act is amended—
- (a) by omitting from section 3 the figures "87" and by inserting instead the matter "86A."; Amendment of Act No. 50, 1924.
- 25 (b) by inserting after the definition of "Treasurer" in section 4 the following definition :— Sec. 3. (Division into Parts.) Sec. 4. (Definitions.)
- "Valuer-General" means the person appointed as such for the purposes of the Valuation of Land Act, 1916.

Metropolitan Water, Sewerage, and Drainage (Amendment).

5. The Principal Act is further amended—

Further
amend-
ment of
Act No. 50,
1924.

(a) by inserting in Division 3 of Part V before section 87 the following section :—

Sec. 86A.

5 86A. (1) Subject to this section, for the purposes of this Division (other than section 100AA)— Interpre-
tation.

10 “flat” means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot ;

“inn” has the meaning ascribed thereto by section 3 of the Innkeepers Act, 1968 ;

15 “mixed development land” means a parcel of land occupied or used solely as the site of one building comprising—

- (a) one, or more than one, flat ; and
- (b) one, or more than one, office ;

“non-residential land” means—

- 20 (a) a parcel of land that is not residential land or mixed development land ;
- (b) a strata lot that is not residential land ;
- 25 (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn ; or
- 30 (d) a stratum separately valued under the Valuation of Land Act, 1916, that is not a stratum referred to in paragraph (g) of the definition of “residential land” ;

“office”

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5 “office” means a room or a suite of rooms
separately occupied or used, or if not
occupied or used so constructed, designed
or adapted as to be capable of being
separately occupied or used, for any
commercial, industrial or professional
purpose;

“residential land” means—

- 10 (a) a parcel of land occupied or used
solely as the site of one single
dwelling;
- 15 (b) a parcel of land (not exceeding six
acres in area) occupied or used
solely as the site of one single
dwelling and for primary
production;
- (c) a parcel of land occupied or used
solely as the site of one building
comprising two or more flats;
- 20 (d) a parcel of land occupied or used
solely as the site of a guest-house, or
a boarding-house, containing not
more than ten bedrooms;
- 25 (e) a strata lot occupied or used, or if
not occupied or used so constructed,
designed or adapted as to be capable
of being occupied or used, as a
residence;
- 30 (f) a strata lot designed and intended
for occupation or use in conjunction
with a lot referred to in paragraph
(e) for the purpose of accommo-
dating one, or more than one, motor
vehicle; or
- 35 (g) a stratum separately valued under
the Valuation of Land Act, 1916,
that is occupied or used, or if not
occupied

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occupied or used so constructed,
designed or adapted as to be capable
of being occupied or used, as a
separate dwelling;

5 “single dwelling” means a house occupied or used,
or if not occupied or used so constructed,
designed or adapted as to be capable of
being occupied or used, as a separate
10 dwelling, but does not include a strata lot or
a property commonly known as a shop and
dwelling;

“strata lot” means—

15 (a) until the Conveyancing (Strata
Titles) Act, 1961, is repealed, a lot
as defined in section 2 of that Act;
and

(b) on and after the commencement of
the Strata Titles Act, 1973, a lot as
defined in section 5 (1) of that Act.

20 (2) A parcel of land occupied or used as
the site of a single building comprising one, or more
than one, office is not mixed development land by
reason only that it comprises (in addition) one, or
more than one, flat if the flat is, or the flats are,
25 intended for use for the purpose of accommodating
a person or persons responsible for the security or
maintenance of the building.

(3) For the purposes of—

30 (a) the definition of “mixed development land”
in subsection (1), a parcel of land does not
cease to be occupied or used solely as the
site of one building comprising one, or more
than one, flat and one, or more than one,
office; and

(b)

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5 (b) the definition of "residential land" in that subsection, a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one building comprising two or more flats, a guest-house or a boarding-house,

10 by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building, guest-house or boarding-house, as the case may be.

15 (4) For the purposes of paragraph (b) of the definition of "residential land" in subsection (1) land is used for primary production if it is used primarily for—

- 20 (a) the cultivation thereof for the purpose of selling the produce of the cultivation ;
- (b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce ; or
- (c) the keeping of bees thereon for the purpose of selling their honey.

25 (b) by omitting section 95 (1) and (2) and by inserting instead the following subsections :— Sec. 95.
(Limit of rates.)

(1) The proceeds of any water or sewerage rate shall not exceed the amount which would be yielded by a rate which would—

- 30 (a) where, pursuant to section 96 (1) (a), land is rated on an assessed annual value, produce an amount equal to $7\frac{1}{2}$ per centum on the assessed annual value of ratable land ; or

(b)

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5 (b) where, pursuant to paragraph (b) or (c) of
subsubsection (1) of section 96, land is rated
partly on an assessed annual value and
partly on an unimproved value, produce an
amount equal to the sum of the amount pro-
duced by applying the provision of para-
graph (a) in respect of the part of the
ratable land rated on an assessed annual
value and of an amount equal to 2 per
centum on the unimproved value of the part
of the ratable land rated on an unimproved
value.

15 (2) The proceeds of any stormwater drainage
rate shall not exceed the amount which would be
yielded by a rate which would—

(a) where, pursuant to section 96 (1) (a), land
is rated on an assessed annual value, pro-
duce a revenue equal to 3 per centum of the
assessed annual value of ratable land ; or

20 (b) where, pursuant to paragraph (b) or (c)
of subsection (1) of section 96, land is
rated partly on an assessed annual value and
partly on an unimproved value, produce an
amount equal to the sum of the amounts
produced by applying the provisions of
paragraph (a) in respect of the part of the
ratable land rated on an assessed annual
value and of an amount equal to 1 per
centum on the unimproved value of the part
of the ratable land rated on an unimproved
value.

35 (2A) In determining for the purposes of this
section the amount which would be yielded by a
rate no regard shall be paid to any amount which
would be yielded by reason of the levying of
minimum amounts pursuant to section 96 (7).

(c)

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- (c) (i) by omitting section 96 (1) and by inserting instead the following subsection :— Sec. 96.
(Basis of
rating.)

5

(1) The board may determine whether for any year the rates to be levied, or any of them—

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(a) shall be levied upon the assessed annual value of ratable land ;

(b) shall be levied partly upon the assessed annual value and partly upon the unimproved value of ratable land ; or

(c) shall be levied—

15

(i) in the case of residential land, being ratable land, upon the unimproved value ;

(ii) in the case of non-residential land, being ratable land, upon the assessed annual value ; and

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(iii) in the case of mixed development land, being ratable land, upon the unimproved value of that part of the mixed development land that is residential land and upon the assessed annual value of that part of the mixed development land that is non-residential land.

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- (ii) by omitting section 96 (7) and by inserting instead the following subsection :—

30

(7) In levying any rate it shall be lawful for the board to levy—

(a) in respect of any ratable land minimum amounts for water rates, sewerage rates and stormwater drainage rates ;

(b)

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- 5 (b) in respect of any ratable land used and occupied as the site of a building comprising (wholly or partly) two or more flats, minimum amounts for any such rates determined on the basis that each flat is a separate ratable parcel;
- 10 (c) in respect of occupied lands and unoccupied lands or of any different classes whatever of ratable lands, different minimum amounts for any such rates; and
- 15 (d) in respect of any strata lot designed and intended for occupation or use for the purposes of accommodating one, or more than one, motor vehicle, water rates, sewerage rates and stormwater drainage rates without regard to minimum amounts for such rates.
- 20 (iii) by omitting from section 96 (8) the word "The" and by inserting instead the words "Subject to this Act, the";
- (iv) by inserting after section 96 (9) the following subsections :—
- 25 (10) Subsection (6) does not apply where rates are levied pursuant to section 96 (1) (c).
- 30 (11) Where the board resolves that the valuation to be adopted for the purpose of levying any rate for any year shall be the valuation in force on the first day of January in the immediately preceding year then, notwithstanding subsection (8) or section 61 or 62 of the Valuation of Land Act, 1916, that valuation shall be adopted for that purpose and for the purpose of a certificate to be given
- 35 by the Government Statistician in respect of the proposed rate.

Metropolitan Water, Sewerage, and Drainage (Amendment).

6. The Principal Act is further amended—

Further amendment of Act No. 50, 1924.

(a) by inserting after section 96 the following section :—

Board may require Valuer-General to determine certain values.

5

96A. The board may, by instrument in writing, require the Valuer-General to determine the assessed annual value of any land, or of any class of land, in the area of operations.

(b) (i) by inserting after section 97 (3) the following subsections :—

Sec. 97. (Valuations.)

10

(3A) A stratum separately valued under any of the said Acts may be separately rated.

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(3B) Where, in respect of any mixed development land, an apportionment factor is determined or redetermined under this Act or the Valuation of Land Act, 1916, the board shall apply the apportionment factor as last so determined or redetermined—

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(a) to the unimproved value of the land by reducing that value by the percentage represented by the apportionment factor; and

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(b) to the assessed annual value of the land by reducing that value by the reciprocal of the percentage referred to in paragraph (a),

and rates in so far as they are leviable on the unimproved value or the assessed annual value of the land shall be levied on those values as so reduced.

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(3C) The reference to the unimproved value of the land in subsection (3B) (a) and to the assessed annual value of the land in sub-

section

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section (3B) (b) means, in the case of land to which section 100c (5) applies, the rating factor in respect of the land referred to in section 100c (5) after deducting the allowance (if any) referred to in section 100c (5).

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(3D) Where the assessed annual value of any land is not determined and the board considers that that value ought to be determined so that a rate may be levied on the land or an adjustment of a rate levied on the land may be made under section 97A, the board may cause that value to be determined.

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(ii) by omitting from section 97 (4) the words "The board shall give notice of any valuation or apportionment so made by it and objection against such valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in the said Act or in any rules or regulations thereunder shall be deemed to be a reference to the board.";

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25

(iii) by inserting after section 97 (4) the following subsections :—

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(4A) Where, for any reason, the board considers that an apportionment factor should be determined in respect of any mixed development land, or that an apportionment factor determined in respect of any mixed development land has ceased to be appropriate, the board may cause the apportionment factor to be determined or redetermined, as the case may be.

35

(4B) The board shall give notice of any valuation made pursuant to subsection (3D) or any valuation or apportionment made pursuant

to

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5 to subsection (4) and objections to the valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

10 (4C) The board shall give notice of any apportionment factor determined or redetermined pursuant to subsection (4A) and
15 objection to the determination or redetermination of the apportionment factor on the ground that it is incorrectly determined or redetermined or that the land in respect of which it is determined or redetermined is not mixed development land shall lie in the manner provided in the case of objection against
20 valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

25 (4D) The right to object under subsection (4B) to a valuation shall include a right to object to the valuation on the ground that an apportionment factor has not been determined in respect of the land concerned.

30 (4E) The provisions of the Valuation of Land Act, 1916, apply for the purpose of the making of a valuation, or for the purpose of the determination or redetermination of an apportionment factor, pursuant to this section, as they would apply if the valuation,
35 determination or redetermination were made under that Act.

(4F) Where the board gives a certificate under section 101 (3) in respect of any land, nothing in or done under subsection (4) in so far

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far as it relates to any period prior to the date of the certificate shall affect a bona fide purchaser for value of the land.

7. The Principal Act is further amended by inserting after section 97 the following sections :—

Further amendment of Act No. 50, 1924. Secs. 97A and 97B.

10 97A. (1) Where a rate is levied on any ratable land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that when the rate was levied the land was rated on the wrong basis, the board shall adjust the rate levied so as to give effect to the decision.

Adjustment of rates.

15 (2) Where a rate is levied on any ratable land, or a rate is adjusted under this subsection, on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that since the date on which the rate was levied or so adjusted the land has ceased to belong to the class of land to which it belonged when the rate was levied or so adjusted, the board shall adjust the rate levied or so adjusted so as to give effect to the decision in respect of the period following the date on which the land ceased to belong to that class of land.

25 (3) Where a rate is levied on any ratable land, being mixed development land, on the basis of an apportionment factor determined in respect of the land, or a rate is adjusted under this subsection following on the redetermination of an apportionment factor, and the apportionment factor determined or so redetermined ceases to be appropriate, and is redetermined pursuant to section 97 (4A), the board shall adjust the rate levied or so adjusted so as to take account of the apportionment factor as redetermined in respect of the period following the date on which the apportionment factor ceased to be appropriate prior to being so redetermined.

(4)

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5 (4) An adjustment made by the board pursuant to subsection (1), (2) or (3) may take account of one, or more than one, change in the class to which land belongs, or of one, or more than one, redetermination of an apportionment factor in respect of land, occurring or made during the period in respect of which the adjustment is made.

10 (5) The board may adjust a rate pursuant to subsection (1), (2) or (3) either on its own motion or on the application of a ratable person requesting the board to adjust the rate.

15 (6) An application referred to in subsection (5) shall be made by posting to, or lodging with, the board an instrument in writing which shall fully state the ground on which the adjustment of the rate concerned is sought.

(7) The board may allow or disallow an application made pursuant to subsection (6), and shall in either event give to the person making the application written notice of its decision.

20 (8) Where an adjustment to a rate is made pursuant to subsection (1), (2) or (3)—

25 (a) the board shall give written notice of the adjustment to the person liable to pay the amount of any increase or entitled to receive the amount of any refund, except where written notice is given pursuant to subsection (7) to that person;

30 (b) any amount by which the rate is increased may be recovered from the person liable to pay the increase and may be so recovered notwithstanding that an objection or an appeal is made by that person under section 97B against the adjustment, but if the rate is altered as a result of the objection or the appeal any amount paid in excess shall be refunded; and

(c)

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(c) any amount by which the rate is decreased shall be refunded to the person entitled to receive the refund.

5 (9) Where the board gives a certificate under section 101 (3) in respect of any land no adjustment under this section, in so far as it relates to any period prior to the date of the certificate, shall affect a bona fide purchaser for value of the land.

10 97B. (1) Where a rate is levied on any land on the basis that the land is residential land, non-residential land or mixed development land the person liable to pay the rate may, within the prescribed period, object to the rate on the ground and in the manner set out in this section. Objection to and appeals against certain rates.

15 (2) Where an adjustment made pursuant to section 97A (1), (2) or (3) results in the increase of a rate in respect of any land, the person liable to pay the amount of the increase may, within the prescribed period, object to the adjustment on the ground and in the manner set out in this section.

20 (3) Where under section 97A a person applies to the board to adjust a rate and the board refuses to adjust the rate or to adjust the rate in accordance with the application, the applicant may, within the prescribed period, object on the ground and in the manner set out in this section.

(4) An objection—

30 (a) under subsection (1) may be made only on the ground that the board was in error in levying a rate upon land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be;

(b)

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5 (b) under subsection (2) may be made only on the ground that the board was in error in adjusting the rate levied upon land on the basis of the land having been, or having ceased to be, residential land, non-residential land or mixed development land, as the case may be; or

10 (c) under subsection (3) may be made only on the ground that the board was in error in refusing to adjust the rate or to adjust the rate in accordance with the application concerned, as the case may be.

15 (5) An objection under subsection (1), (2) or (3) shall be made by posting to, or lodging with, the board an instrument in writing which shall state, in accordance with subsection (4), the ground for the objection and the reasons which, it is alleged, support that ground.

(6) The board may allow or disallow an objection made under subsection (1), (2) or (3).

20 (7) The board shall give to a person making an objection under subsection (1), (2) or (3) written notice of its decision on the objection.

25 (8) A person objecting under subsection (1), (2) or (3) who is dissatisfied with the decision of the board on his objection may, within the prescribed period, appeal to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921 (in this section called "the Court").

30 (9) A person appealing to the Court shall be limited, on the hearing of the appeal, to the same ground as that raised by him in his objection to the board.

(10) The Court may allow or dismiss an appeal.

(11)

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(11) A person appealing under this section may appear at the hearing of the appeal by his counsel or solicitor, or by his agent authorised by him in writing.

5 (12) No objection to the board or appeal to the Court shall lie under this section in respect of a redetermination by the board of an apportionment factor.

10 (13) A rate levied upon any land may be recovered notwithstanding that an objection is made pursuant to subsection (1), but if the rate is altered as the result of the objection or as the result of an appeal to the Court any amount paid in excess shall be refunded.

(14) In this section "prescribed period" means—

15 (a) in relation to a person wishing to object under subsection (1) to a rate, the period of thirty days after the date of service on him of a rate notice relating to that rate;

20 (b) in relation to a person wishing to object under subsection (2) to the adjustment of a rate, the period of thirty days after the date on which that person is notified of the adjustment of the rate pursuant to section 97A (8);

25 (c) in relation to a person wishing to object under subsection (3) to the refusal of the board to adjust a rate or to adjust a rate in accordance with an application, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to section 97A (7); and

30 (d) in relation to a person wishing to appeal against a decision of the board on an objection, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to subsection (7).

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8. The Principal Act is further amended by inserting after section 100AA the following sections :—

Further
amend-
ment of
Act No.
50, 1924.
Secs. 100B
and 100c.

5 100B. (1) Where part (referred to as the “attributable part”) of the unimproved value of any parcel of land upon which is erected a single dwelling-house is attributable to the fact that the parcel is, under any planning scheme prepared under Part XIIA of the Local Government Act, 1919, within a zone or reservation in which land may be used for the purposes of industry, 10 commerce or the erection of residential flat buildings (as defined in section 304 of that Act) the ratable person in respect of the land may make application to the board for relief from payment of part of the rates levied on the land in the current rating year.

Power to
reduce
rates.

15 (2) If, on receipt of an application, referred to in subsection (1), the board is satisfied that the land concerned is used or occupied solely as the site of a single dwelling-house, it shall require the Valuer-General in cases where the valuation is made under the Valuation of Land Act, 1916, or the valuer appointed by the board, 20 as the case may be, to determine the amount of the attributable part of the unimproved value of the land and the valuer shall furnish the determination to the board.

25 (3) In determining pursuant to subsection (2) the amount of the attributable part the valuer shall not take into consideration any portion of the parcel which he considers is in excess of that which is reasonably necessary to be occupied or used in conjunction with the single dwelling-house and which might, but for the fact 30 that it forms part of the site of a single dwelling-house, be occupied or used for the purposes of industry, commerce or the erection of residential flat buildings (defined as provided in subsection (1)).

35 (4) Where a determination of the attributable part of the unimproved value of a parcel of land has been made by the valuer he shall not be required to make

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5 a further determination of that part while the valuation in respect of which the determination was made remains in use for rating purposes or unless the valuation is altered on objection or correction of a clerical error or misdescription.

10 (5) Where a valuation is altered as provided in subsection (4) the board shall require the valuer to redetermine the amount of such attributable part and the valuer shall furnish such redetermination to the board and a due adjustment shall be made and amounts paid in excess shall be refunded and amounts short-paid shall be recoverable as arrears.

15 (6) The amount determined or redetermined by the valuer under subsection (2) or (5) as the attributable part of the unimproved value shall be the attributable part for the purposes of subsection (1) while the land is used or occupied solely as the site of a single dwelling-house and the valuation in respect of which the determination or redetermination is made remains in use
20 for rating purposes.

25 (7) The board shall postpone such part of the rates levied on the land in any rating year to which a determination or redetermination under subsection (2) or (5) applies as bears to the whole amount of the rates so levied in that year the same proportion as the attributable part bears to the whole of the unimproved value.

30 (8) Where a ratable person pays the whole or part of the rates levied before the board postpones under subsection (7) the payment of part thereof, any amounts paid in excess shall be refunded.

35 (9) Where there is a postponement of rates under this section and the land concerned ceases to be used or occupied solely as the site of a single dwelling-house—

(a) the ratable person shall, within one month, inform the board of the date upon which the land ceased to be so used or occupied;

(b)

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(b) the ratable person shall cease to be entitled to a postponement of rates under this section ;

5 (c) the amount of rates postponed under this section during any rating year which is within the five rating years next preceding the date on which the land ceased to be so used or occupied shall become due and payable to the board and shall be recoverable by the board on the expiration of one month from the date the land ceased to be so used or occupied ; and

10 (d) all amounts of rates postponed under this section (other than those due and payable under paragraph (c)) shall be written off.

15 (10) The provisions of this section shall apply only to a rate made and levied by the board on or after 1st July, 1975.

(11) In this section—

20 “single dwelling-house” means a dwelling used or adapted for use solely for habitation by not more than one family and includes a dwelling in a row of two or more dwellings attached to each other, such as are commonly known as semi-detached or terrace buildings, but does not include a flat ;

25 “valuer” means the Valuer-General or the valuer appointed by the board and directed by the board to make valuations for the purposes of this section.

100c. (1) In this section “valuer” has the meaning ascribed thereto by section 100B (11). Rating of certain classes of lease from the Crown.

30 (2) This section applies to land—

(a) held under any of the following tenures under the Crown Lands Consolidation Act, 1913, that is to say, annual leases, snow leases, occupation

(d) licenses,

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licenses, preferential occupation licenses, permissive occupancies, special leases (not being special leases in perpetuity) and permits to enclose a road or watercourse; or

- 5 (b) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description.

(3) Where a valuation of land to which this section applies is determined pursuant to section 97, or is furnished by a valuer or the Valuer-General has furnished a general valuation list in which is included a valuation of any land to which this section applies, or a supplementary valuation list in which is included a valuation of any such land then, if the valuation of the land is a valuation which may be used for the purpose of levying a rate on the land on or after 1st July, 1975, in addition to the valuation made by the valuer or to the valuation included in any such valuation list or supplementary valuation list, there shall be furnished a statement of an unimproved rating factor and an assessed annual value rating factor determined in respect of the land in accordance with subsection (4).

(4) The rating factor in respect of any land to which this section applies shall be determined as follows—

- 25 (a) in the case of the unimproved rating factor, that factor shall be an amount equal to the unimproved value of the land to which this section applies; and
- 30 (b) in the case of the assessed annual value rating factor, that factor shall be an amount equal to the assessed annual value of the land to which this section applies, or an amount equal to 5 per centum of the unimproved rating factor,
- 35 whichever is the greater,

reduced,

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 reduced, in either case, by an amount, as determined by the valuer, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (2) held by the ratable person applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.

10 (5) Subject to section 97 (3B), a rating factor in respect of any land to which this section applies, after deducting therefrom, in the case of an unimproved rating factor, any allowance made under section 58 (2) of the Valuation of Land Act, 1916, shall, until the land is included in a subsequent valuation, be used by the board to the exclusion of any other valuation as the basis of any rate levied or leviable upon the unimproved value or the assessed annual value, as the case may be, of the land to which the rating factor relates.

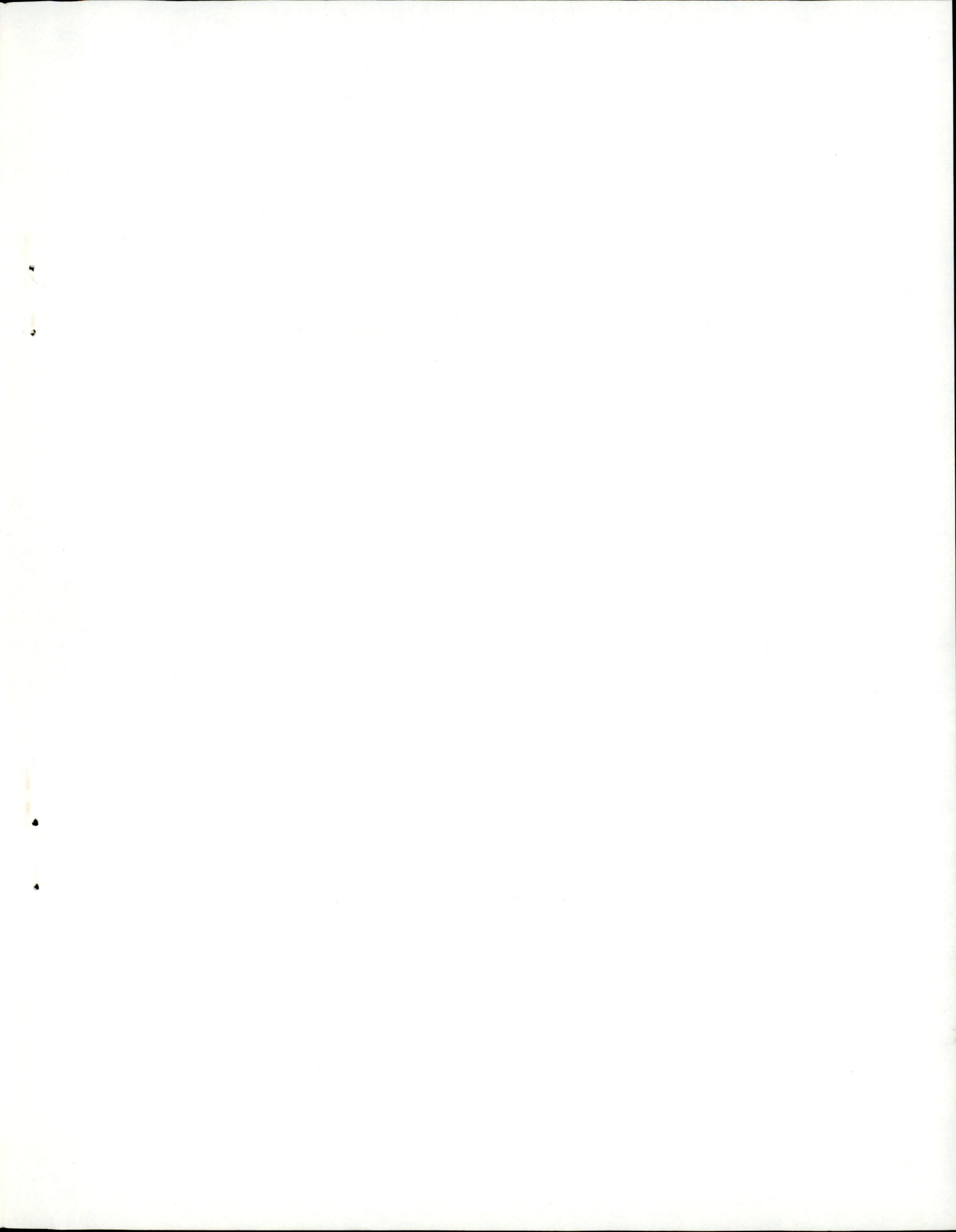
20 (6) Any rating factor determined under this section shall be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation.

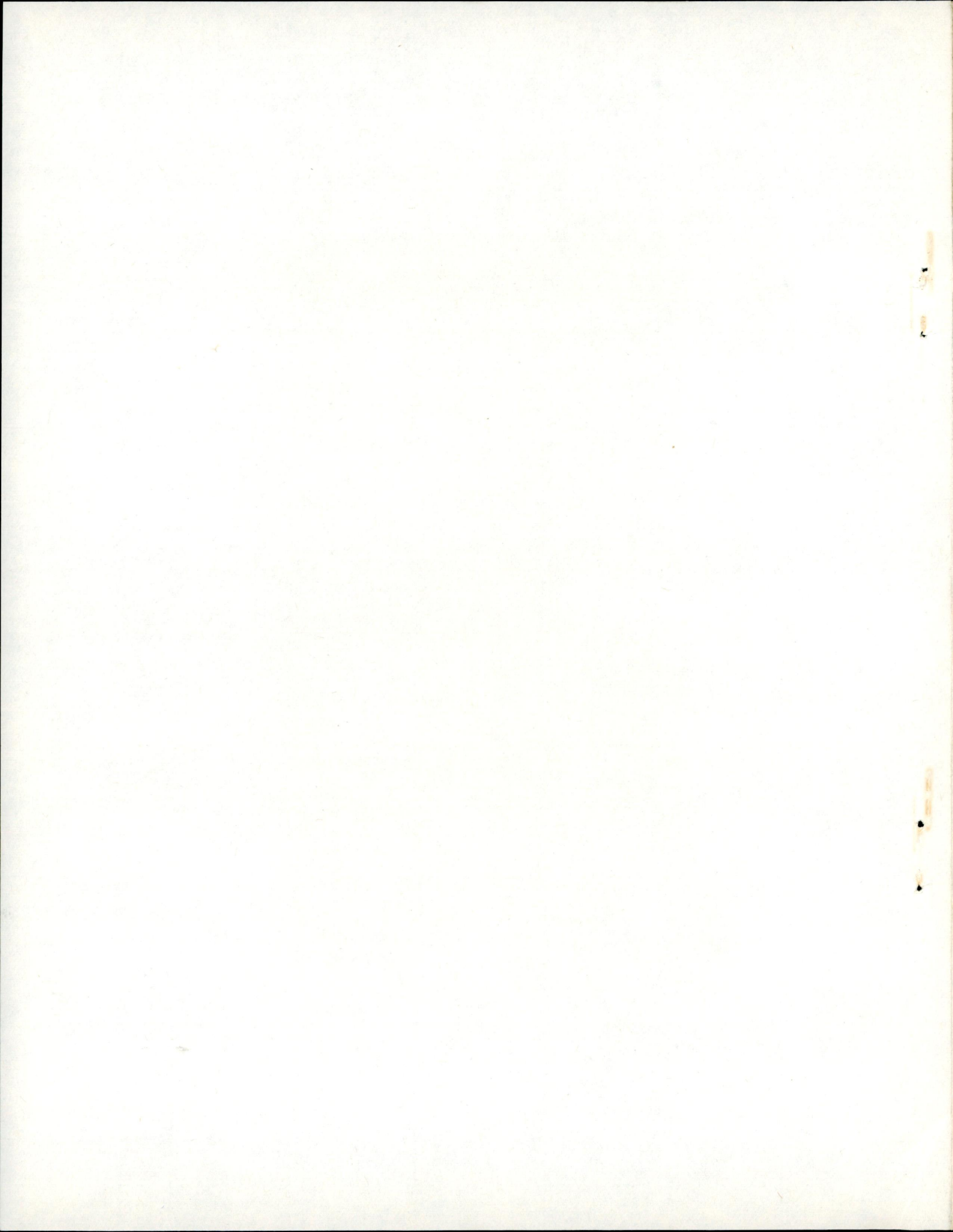
25 (7) Without limiting the generality of subsection (6), an objection may be made by a ratable person on the ground that no rating factor has been determined for the land in respect of which he is ratable.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

[20c]





Metropolitan Water, Sewerage, and Drainage (Amendment) Bill
It is enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

(1) This Act may be cited as the Metropolitan Water, Sewerage, and Drainage (Amendment) Act, 1974.
(2) The Metropolitan Water, Sewerage, and Drainage Act, 1924, is referred to in this Act as the Principal Act.

No. , 1974.

A BILL

To provide for the making and levying of differential rates in respect of residential land, non-residential land and mixed development land; to provide for objections to, and the adjustment of, rates levied; to extend the circumstances in which minimum amounts for rates may be levied so as to provide that a building comprised (wholly or partly) of flats may be rated on the basis that each flat is a separate ratable parcel; to provide for the postponement, in certain circumstances, of rates levied; for these and other purposes to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924; and for purposes connected therewith.

[MR PUNCH—20 February, 1974.]

Metropolitan Water, Sewerage, and Drainage (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Metropolitan Water, Sewerage, and Drainage (Amendment) Act, 1974".

Short title
and con-
struction.

(2) The Metropolitan Water, Sewerage, and Drainage Act, 1924, is referred to in this Act as the Principal Act.

10 2. (1) This Act (other than section 3) shall commence on 1st July, 1975.

Commence-
ment.

(2) Section 3 shall commence on the date of assent to this Act.

15 3. (1) The Metropolitan Water Sewerage and Drainage Board is empowered to fix a scale of rates, and to pass a resolution for the levying of rates, prior to 1st July, 1975, in every respect as if all of the provisions of this Act had commenced.

Certain
powers con-
ferred on
board
before
1st July,
1975.

20 (2) Subsection (1) does not operate so as to allow the board to levy, before 1st July, 1975, rates to which a resolution referred to in subsection (1) relates.

4. The Principal Act is amended—

Amendment
of Act No.
50, 1924.

(a) by omitting from section 3 the figures "87" and by inserting instead the matter "86A.";

Sec. 3.
(Division
into
Parts.)

25 (b) by inserting after the definition of "Treasurer" in section 4 the following definition :—

Sec. 4.
(Defini-
tions.)

"Valuer-General" means the person appointed as such for the purposes of the Valuation of Land Act, 1916.

5.

Metropolitan Water, Sewerage, and Drainage (Amendment).

5. The Principal Act is further amended—

Further
amend-
ment of
Act No. 50,
1924.

- (a) by inserting in Division 3 of Part V before section 87 the following section :—

Sec. 86A.

5

86A. (1) Subject to this section, for the purposes of this Division (other than section 100AA)— **Interpre-
tation.**

10

“flat” means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot;

“inn” has the meaning ascribed thereto by section 3 of the Innkeepers Act, 1968;

15

“mixed development land” means a parcel of land occupied or used solely as the site of one building comprising—

- (a) one, or more than one, flat; and
- (b) one, or more than one, office;

20

“non-residential land” means—

- (a) a parcel of land that is not residential land or mixed development land;
- (b) a strata lot that is not residential land;
- (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn; or
- (d) a stratum separately valued under the Valuation of Land Act, 1916, that is not a stratum referred to in paragraph (g) of the definition of “residential land”;

25

30

“office”

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 “office” means a room or a suite of rooms separately occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being separately occupied or used, for any commercial, industrial or professional purpose;

“residential land” means—

10 (a) a parcel of land occupied or used solely as the site of one single dwelling;

15 (b) a parcel of land (not exceeding six acres in area) occupied or used solely as the site of one single dwelling and for primary production;

(c) a parcel of land occupied or used solely as the site of one building comprising two or more flats;

20 (d) a parcel of land occupied or used solely as the site of a guest-house, or a boarding-house, containing not more than ten bedrooms;

25 (e) a strata lot occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a residence;

30 (f) a strata lot designed and intended for occupation or use in conjunction with a lot referred to in paragraph (e) for the purpose of accommodating one, or more than one, motor vehicle; or

35 (g) a stratum separately valued under the Valuation of Land Act, 1916, that is occupied or used, or if not occupied

Metropolitan Water, Sewerage, and Drainage (Amendment).

occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling;

5 “single dwelling” means a house occupied or used,
or if not occupied or used so constructed, designed or adapted as to be capable of
10 being occupied or used, as a separate dwelling, but does not include a strata lot or
a property commonly known as a shop and dwelling;

“strata lot” means—

- 15 (a) until the Conveyancing (Strata Titles) Act, 1961, is repealed, a lot as defined in section 2 of that Act; and
- (b) on and after the commencement of the Strata Titles Act, 1973, a lot as defined in section 5 (1) of that Act.

20 (2) A parcel of land occupied or used as the site of a single building comprising one, or more than one, office is not mixed development land by reason only that it comprises (in addition) one, or more than one, flat if the flat is, or the flats are,
25 intended for use for the purpose of accommodating a person or persons responsible for the security or maintenance of the building.

(3) For the purposes of—

- 30 (a) the definition of “mixed development land” in subsection (1), a parcel of land does not cease to be occupied or used solely as the site of one building comprising one, or more than one, flat and one, or more than one, office; and

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 (b) the definition of "residential land" in that subsection, a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one building comprising two or more flats, a guest-house or a boarding-house,

10 by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building, guest-house or boarding-house, as the case may be.

15 (4) For the purposes of paragraph (b) of the definition of "residential land" in subsection (1) land is used for primary production if it is used primarily for—

- 20 (a) the cultivation thereof for the purpose of selling the produce of the cultivation ;
- (b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce ; or
- (c) the keeping of bees thereon for the purpose of selling their honey.

(b) by omitting section 95 (1) and (2) and by inserting Sec. 95.
instead the following subsections :— (Limit of rates.)

25 (1) The proceeds of any water or sewerage rate shall not exceed the amount which would be yielded by a rate which would—

30 (a) where, pursuant to section 96 (1) (a), land is rated on an assessed annual value, produce an amount equal to $7\frac{1}{2}$ per centum on the assessed annual value of ratable land ; or

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 (b) where, pursuant to paragraph (b) or (c) of
subsubsection (1) of section 96, land is rated
partly on an assessed annual value and
partly on an unimproved value, produce an
amount equal to the sum of the amount pro-
duced by applying the provision of para-
graph (a) in respect of the part of the
ratable land rated on an assessed annual
value and of an amount equal to 2 per
centum on the unimproved value of the part
of the ratable land rated on an unimproved
value.

15 (2) The proceeds of any stormwater drainage
rate shall not exceed the amount which would be
yielded by a rate which would—

(a) where, pursuant to section 96 (1) (a), land
is rated on an assessed annual value, pro-
duce a revenue equal to 3 per centum of the
assessed annual value of ratable land ; or

20 (b) where, pursuant to paragraph (b) or (c)
of subsection (1) of section 96, land is
rated partly on an assessed annual value and
partly on an unimproved value, produce an
amount equal to the sum of the amounts
produced by applying the provisions of
paragraph (a) in respect of the part of the
ratable land rated on an assessed annual
value and of an amount equal to 1 per
centum on the unimproved value of the part
of the ratable land rated on an unimproved
value.

(2A) In determining for the purposes of this
section the amount which would be yielded by a
rate no regard shall be paid to any amount which
would be yielded by reason of the levying of
minimum amounts pursuant to section 96 (7).

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(c) (i) by omitting section 96 (1) and by inserting instead the following subsection :—

Sec. 96.
(Basis of rating.)

5 (1) The board may determine whether for any year the rates to be levied, or any of them—

(a) shall be levied upon the assessed annual value of ratable land ;

10 (b) shall be levied partly upon the assessed annual value and partly upon the unimproved value of ratable land ; or

(c) shall be levied—

15 (i) in the case of residential land, being ratable land, upon the unimproved value ;

(ii) in the case of non-residential land, being ratable land, upon the assessed annual value ; and

20 (iii) in the case of mixed development land, being ratable land, upon the unimproved value of that part of the mixed development land that is residential land and upon the assessed annual value of that part of the mixed development land that is non-residential land.

(ii) by omitting section 96 (7) and by inserting instead the following subsection :—

30 (7) In levying any rate it shall be lawful for the board to levy—

(a) in respect of any ratable land minimum amounts for water rates, sewerage rates and stormwater drainage rates ;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- 5 (b) in respect of any ratable land used and occupied as the site of a building comprising (wholly or partly) two or more flats, minimum amounts for any such rates determined on the basis that each flat is a separate ratable parcel;
- 10 (c) in respect of occupied lands and unoccupied lands or of any different classes whatever of ratable lands, different minimum amounts for any such rates; and
- 15 (d) in respect of any strata lot designed and intended for occupation or use for the purposes of accommodating one, or more than one, motor vehicle, water rates, sewerage rates and stormwater drainage rates without regard to minimum amounts for such rates.
- 20 (iii) by omitting from section 96 (8) the word "The" and by inserting instead the words "Subject to this Act, the";
- (iv) by inserting after section 96 (9) the following subsections :—
- 25 (10) Subsection (6) does not apply where rates are levied pursuant to section 96 (1) (c).
- 30 (11) Where the board resolves that the valuation to be adopted for the purpose of levying any rate for any year shall be the valuation in force on the first day of January in the immediately preceding year then, notwithstanding subsection (8) or section 61 or 62 of the Valuation of Land Act, 1916, that valuation shall be adopted for that purpose
- 35 and for the purpose of a certificate to be given by the Government Statistician in respect of the proposed rate.

Metropolitan Water, Sewerage, and Drainage (Amendment).

6. The Principal Act is further amended—

Further amendment of Act No. 50, 1924.

- (a) by inserting after section 96 the following section :—

Sec. 96A.

5

96A. The board may, by instrument in writing, require the Valuer-General to determine the assessed annual value of any land, or of any class of land, in the area of operations.

Board may require Valuer-General to determine certain values.

- (b) (i) by inserting after section 97 (3) the following subsections :—

Sec. 97. (Valuations.)

10

(3A) A stratum separately valued under any of the said Acts may be separately rated.

15

(3B) Where, in respect of any mixed development land, an apportionment factor is determined or redetermined under this Act or the Valuation of Land Act, 1916, the board shall apply the apportionment factor as last so determined or redetermined—

20

(a) to the unimproved value of the land by reducing that value by the percentage represented by the apportionment factor; and

25

(b) to the assessed annual value of the land by reducing that value by the reciprocal of the percentage referred to in paragraph (a),

and rates in so far as they are leviable on the unimproved value or the assessed annual value of the land shall be levied on those values as so reduced.

30

(3C) The reference to the unimproved value of the land in subsection (3B) (a) and to the assessed annual value of the land in sub-

section

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 section (3B) (b) means, in the case of land to which section 100c (5) applies, the rating factor in respect of the land referred to in section 100c (5) after deducting the allowance (if any) referred to in section 100c (5).

10 (3D) Where the assessed annual value of any land is not determined and the board considers that that value ought to be determined so that a rate may be levied on the land or an adjustment of a rate levied on the land may be made under section 97A, the board may cause that value to be determined.

15 (ii) by omitting from section 97 (4) the words "The board shall give notice of any valuation or apportionment so made by it and objection against such valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in the said Act or in any rules or regulations thereunder shall be deemed to be a reference to the board.";

20 (iii) by inserting after section 97 (4) the following subsections :—

25 (4A) Where, for any reason, the board considers that an apportionment factor should be determined in respect of any mixed development land, or that an apportionment factor determined in respect of any mixed development land has ceased to be appropriate, the board may cause the apportionment factor to be determined or redetermined, as the case may be.

30 (4B) The board shall give notice of any valuation made pursuant to subsection (3D) or any valuation or apportionment made pursuant

to

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 to subsection (4) and objections to the valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

10 (4C) The board shall give notice of any apportionment factor determined or redetermined pursuant to subsection (4A) and objection to the determination or redetermination of the apportionment factor on the ground that it is incorrectly determined or redetermined or that the land in respect of which it is
15 determined or redetermined is not mixed development land shall lie in the manner provided in the case of objection against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

25 (4D) The right to object under subsection (4B) to a valuation shall include a right to object to the valuation on the ground that an apportionment factor has not been determined in respect of the land concerned.

30 (4E) The provisions of the Valuation of Land Act, 1916, apply for the purpose of the making of a valuation, or for the purpose of the determination or redetermination of an apportionment factor, pursuant to this section, as they would apply if the valuation, determination or redetermination were made
35 under that Act.

(4F) Where the board gives a certificate under section 101 (3) in respect of any land, nothing in or done under subsection (4) in so far

Metropolitan Water, Sewerage, and Drainage (Amendment).

far as it relates to any period prior to the date of the certificate shall affect a bona fide purchaser for value of the land.

7. The Principal Act is further amended by inserting after section 97 the following sections :—

Further amendment of Act No. 50, 1924. Secs. 97A and 97B.

10 97A. (1) Where a rate is levied on any ratable land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that when the rate was levied the land was rated on the wrong basis, the board shall adjust the rate levied so as to give effect to the decision.

Adjustment of rates.

15 (2) Where a rate is levied on any ratable land, or a rate is adjusted under this subsection, on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that since the date on which the rate was levied or so adjusted the land has ceased to belong to the class of land to which it belonged when the rate was levied or so adjusted, the board shall adjust the rate levied or so adjusted so as to give effect to the decision in respect of the period following the date on which the land ceased to belong to that class of land.

25 (3) Where a rate is levied on any ratable land, being mixed development land, on the basis of an apportionment factor determined in respect of the land, or a rate is adjusted under this subsection following on the redetermination of an apportionment factor, and the apportionment factor determined or so redetermined ceases to be appropriate, and is redetermined pursuant to section 97 (4A), the board shall adjust the rate levied or so adjusted so as to take account of the apportionment factor as redetermined in respect of the period following the date on which the apportionment factor ceased to be appropriate prior to being so redetermined.

(4)

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 (4) An adjustment made by the board pursuant to subsection (1), (2) or (3) may take account of one, or more than one, change in the class to which land belongs, or of one, or more than one, redetermination of an apportionment factor in respect of land, occurring or made during the period in respect of which the adjustment is made.

10 (5) The board may adjust a rate pursuant to subsection (1), (2) or (3) either on its own motion or on the application of a ratable person requesting the board to adjust the rate.

15 (6) An application referred to in subsection (5) shall be made by posting to, or lodging with, the board an instrument in writing which shall fully state the ground on which the adjustment of the rate concerned is sought.

(7) The board may allow or disallow an application made pursuant to subsection (6), and shall in either event give to the person making the application written notice of its decision.

20 (8) Where an adjustment to a rate is made pursuant to subsection (1), (2) or (3)—

25 (a) the board shall give written notice of the adjustment to the person liable to pay the amount of any increase or entitled to receive the amount of any refund, except where written notice is given pursuant to subsection (7) to that person;

30 (b) any amount by which the rate is increased may be recovered from the person liable to pay the increase and may be so recovered notwithstanding that an objection or an appeal is made by that person under section 97B against the adjustment, but if the rate is altered as a result of the objection or the appeal any amount paid in excess shall be refunded; and

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(c) any amount by which the rate is decreased shall be refunded to the person entitled to receive the refund.

5 (9) Where the board gives a certificate under section 101 (3) in respect of any land no adjustment under this section, in so far as it relates to any period prior to the date of the certificate, shall affect a bona fide purchaser for value of the land.

10 97B. (1) Where a rate is levied on any land on the basis that the land is residential land, non-residential land or mixed development land the person liable to pay the rate may, within the prescribed period, object to the rate on the ground and in the manner set out in this section. Objection to and appeals against certain rates.

15 (2) Where an adjustment made pursuant to section 97A (1), (2) or (3) results in the increase of a rate in respect of any land, the person liable to pay the amount of the increase may, within the prescribed period, object to the adjustment on the ground and in the manner set out in this section.

20 (3) Where under section 97A a person applies to the board to adjust a rate and the board refuses to adjust the rate or to adjust the rate in accordance with the application, the applicant may, within the prescribed period, object on the ground and in the manner set out in this section.

25 (4) An objection—
30 (a) under subsection (1) may be made only on the ground that the board was in error in levying a rate upon land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 (b) under subsection (2) may be made only on the ground that the board was in error in adjusting the rate levied upon land on the basis of the land having been, or having ceased to be, residential land, non-residential land or mixed development land, as the case may be; or

10 (c) under subsection (3) may be made only on the ground that the board was in error in refusing to adjust the rate or to adjust the rate in accordance with the application concerned, as the case may be.

15 (5) An objection under subsection (1), (2) or (3) shall be made by posting to, or lodging with, the board an instrument in writing which shall state, in accordance with subsection (4), the ground for the objection and the reasons which, it is alleged, support that ground.

(6) The board may allow or disallow an objection made under subsection (1), (2) or (3).

20 (7) The board shall give to a person making an objection under subsection (1), (2) or (3) written notice of its decision on the objection.

25 (8) A person objecting under subsection (1), (2) or (3) who is dissatisfied with the decision of the board on his objection may, within the prescribed period, appeal to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921 (in this section called "the Court").

30 (9) A person appealing to the Court shall be limited, on the hearing of the appeal, to the same ground as that raised by him in his objection to the board.

(10) The Court may allow or dismiss an appeal.

(11)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(11) A person appealing under this section may appear at the hearing of the appeal by his counsel or solicitor, or by his agent authorised by him in writing.

5 (12) No objection to the board or appeal to the Court shall lie under this section in respect of a redetermination by the board of an apportionment factor.

10 (13) A rate levied upon any land may be recovered notwithstanding that an objection is made pursuant to subsection (1), but if the rate is altered as the result of the objection or as the result of an appeal to the Court any amount paid in excess shall be refunded.

(14) In this section "prescribed period" means—

15 (a) in relation to a person wishing to object under subsection (1) to a rate, the period of thirty days after the date of service on him of a rate notice relating to that rate;

20 (b) in relation to a person wishing to object under subsection (2) to the adjustment of a rate, the period of thirty days after the date on which that person is notified of the adjustment of the rate pursuant to section 97A (8);

25 (c) in relation to a person wishing to object under subsection (3) to the refusal of the board to adjust a rate or to adjust a rate in accordance with an application, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to section 97A (7); and

30 (d) in relation to a person wishing to appeal against a decision of the board on an objection, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to subsection (7).

Metropolitan Water, Sewerage, and Drainage (Amendment).

8. The Principal Act is further amended by inserting after section 100AA the following sections :—

Further
amend-
ment of
Act No.
50, 1924.
Secs. 100B
and 100C.

5 100B. (1) Where part (referred to as the “attributable part”) of the unimproved value of any parcel of land upon which is erected a single dwelling-house is attributable to the fact that the parcel is, under any planning scheme prepared under Part XIIA of the Local Government Act, 1919, within a zone or reservation in which land may be used for the purposes of industry, 10 commerce or the erection of residential flat buildings (as defined in section 304 of that Act) the ratable person in respect of the land may make application to the board for relief from payment of part of the rates levied on the land in the current rating year.

Power to
reduce
rates.

15 (2) If, on receipt of an application, referred to in subsection (1), the board is satisfied that the land concerned is used or occupied solely as the site of a single dwelling-house, it shall require the Valuer-General in cases where the valuation is made under the Valuation 20 of Land Act, 1916, or the valuer appointed by the board, as the case may be, to determine the amount of the attributable part of the unimproved value of the land and the valuer shall furnish the determination to the board.

25 (3) In determining pursuant to subsection (2) the amount of the attributable part the valuer shall not take into consideration any portion of the parcel which he considers is in excess of that which is reasonably necessary to be occupied or used in conjunction with the single dwelling-house and which might, but for the fact 30 that it forms part of the site of a single dwelling-house, be occupied or used for the purposes of industry, commerce or the erection of residential flat buildings (defined as provided in subsection (1)).

35 (4) Where a determination of the attributable part of the unimproved value of a parcel of land has been made by the valuer he shall not be required to make

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 a further determination of that part while the valuation in respect of which the determination was made remains in use for rating purposes or unless the valuation is altered on objection or correction of a clerical error or misdescription.

10 (5) Where a valuation is altered as provided in subsection (4) the board shall require the valuer to redetermine the amount of such attributable part and the valuer shall furnish such redetermination to the board and a due adjustment shall be made and amounts paid in excess shall be refunded and amounts short-paid shall be recoverable as arrears.

15 (6) The amount determined or redetermined by the valuer under subsection (2) or (5) as the attributable part of the unimproved value shall be the attributable part for the purposes of subsection (1) while the land is used or occupied solely as the site of a single dwelling-house and the valuation in respect of which the determination or redetermination is made remains in use for rating purposes.

20 (7) The board shall postpone such part of the rates levied on the land in any rating year to which a determination or redetermination under subsection (2) or (5) applies as bears to the whole amount of the rates so levied in that year the same proportion as the attributable part bears to the whole of the unimproved value.

25 (8) Where a ratable person pays the whole or part of the rates levied before the board postpones under subsection (7) the payment of part thereof, any amounts paid in excess shall be refunded.

30 (9) Where there is a postponement of rates under this section and the land concerned ceases to be used or occupied solely as the site of a single dwelling-house—

35 (a) the ratable person shall, within one month, inform the board of the date upon which the land ceased to be so used or occupied;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) the ratable person shall cease to be entitled to a postponement of rates under this section;
- 5 (c) the amount of rates postponed under this section during any rating year which is within the five rating years next preceding the date on which the land ceased to be so used or occupied shall become due and payable to the board and shall be recoverable by the board on the expiration of one month from the date the land ceased to be so used or occupied; and
- 10 (d) all amounts of rates postponed under this section (other than those due and payable under paragraph (c)) shall be written off.

15 (10) The provisions of this section shall apply only to a rate made and levied by the board on or after 1st July, 1975.

- (11) In this section—
- 20 “single dwelling-house” means a dwelling used or adapted for use solely for habitation by not more than one family and includes a dwelling in a row of two or more dwellings attached to each other, such as are commonly known as semi-detached or terrace buildings, but does not include a flat;
- 25 “valuer” means the Valuer-General or the valuer appointed by the board and directed by the board to make valuations for the purposes of this section.

100c. (1) In this section “valuer” has the meaning ascribed thereto by section 100B (11).

30 (2) This section applies to land—

- (a) held under any of the following tenures under the Crown Lands Consolidation Act, 1913, that is to say, annual leases, snow leases, occupation licenses,

Rating of certain classes of lease from the Crown.

Metropolitan Water, Sewerage, and Drainage (Amendment).

licenses, preferential occupation licenses, permissive occupancies, special leases (not being special leases in perpetuity) and permits to enclose a road or watercourse; or

- 5 (b) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description.

- 10 (3) Where a valuation of land to which this section applies is determined pursuant to section 97, or is furnished by a valuer or the Valuer-General has furnished a general valuation list in which is included a valuation of any land to which this section applies, or a supplementary valuation list in which is included a valuation of any such land then, if the valuation of the land is a valuation which may be used for the purpose of
15 levying a rate on the land on or after 1st July, 1975, in addition to the valuation made by the valuer or to the valuation included in any such valuation list or supplementary valuation list, there shall be furnished a statement of an unimproved rating factor and an assessed
20 annual value rating factor determined in respect of the land in accordance with subsection (4).

- 25 (4) The rating factor in respect of any land to which this section applies shall be determined as follows—

- (a) in the case of the unimproved rating factor, that factor shall be an amount equal to the unimproved value of the land to which this section applies; and
30 (b) in the case of the assessed annual value rating factor, that factor shall be an amount equal to the assessed annual value of the land to which this section applies, or an amount equal to 5 per centum of the unimproved rating factor,
35 whichever is the greater,

reduced,

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 reduced, in either case, by an amount, as determined by the valuer, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (2) held by the ratable person applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.

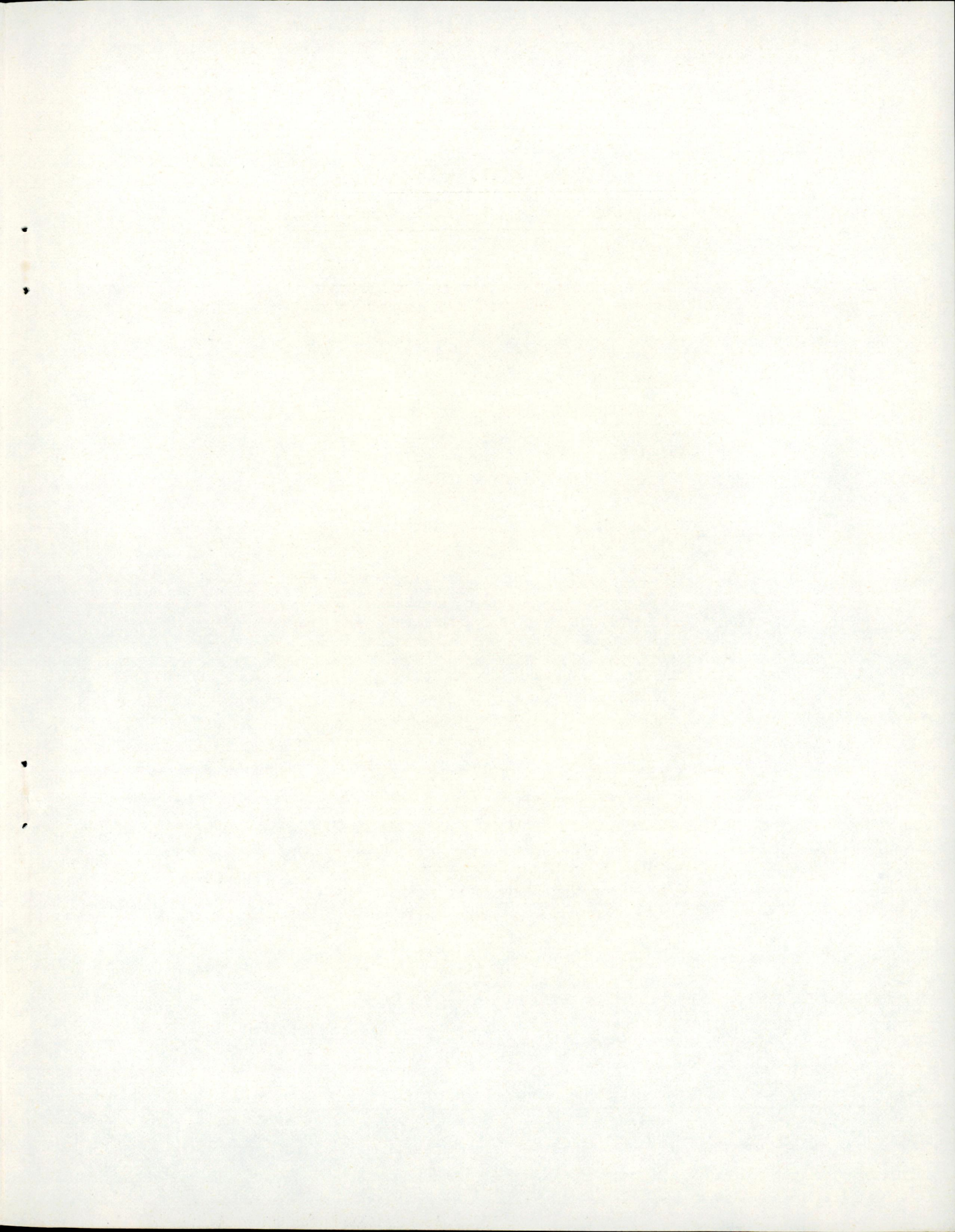
10 (5) Subject to section 97 (3B), a rating factor in respect of any land to which this section applies, after deducting therefrom, in the case of an unimproved rating factor, any allowance made under section 58 (2) of the Valuation of Land Act, 1916, shall, until the land is included in a subsequent valuation, be used by the board
15 to the exclusion of any other valuation as the basis of any rate levied or leviable upon the unimproved value or the assessed annual value, as the case may be, of the land to which the rating factor relates.

20 (6) Any rating factor determined under this section shall be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation.

25 (7) Without limiting the generality of subsection (6), an objection may be made by a ratable person on the ground that no rating factor has been determined for the land in respect of which he is ratable.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974
[20c]



**METROPOLITAN WATER, SEWERAGE, AND DRAINAGE
(AMENDMENT) BILL, 1974**

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to enable the Metropolitan Water Sewerage and Drainage Board (hereinafter called "the Board") to make and levy differential rates on residential land, non-residential land and mixed development land;
- (b) to provide that where the Board makes differential rates the rates shall be levied—
 - (i) in the case of residential land, on the unimproved value of the land;
 - (ii) in the case of non-residential land, on the assessed annual value of the land; and
 - (iii) in the case of mixed development land, partly on the unimproved value and partly on the assessed annual value of the land;
- (c) to provide a procedure for the adjustment by the Board of rates levied on any land where the rates were levied on the incorrect assumption that the land was either residential land, non-residential land or mixed development land;
- (d) to provide a procedure for the adjustment of rates levied on any land (being residential land, non-residential land or mixed development land) if the character of the land changes;
- (e) to provide for objections to the Board against the levying of rates in respect of any land on the basis of the land being residential land, non-residential land or mixed development land, and for appeals to the Land and Valuation Court against a decision of the Board on any such objection;
- (f) to extend the provisions of the Principal Act relating to the levying of minimum amounts for rates so as to provide that a building wholly or partly comprised of flats may be rated on the basis that each flat is a separate ratable parcel;
- (g) to provide for the postponement in certain circumstances of a part of any rates levied;
- (h) to make other provisions of a consequential or ancillary character.

PROOF

No. , 1974.

A BILL

To provide for the making and levying of differential rates in respect of residential land, non-residential land and mixed development land; to provide for objections to, and the adjustment of, rates levied; to extend the circumstances in which minimum amounts for rates may be levied so as to provide that a building comprised (wholly or partly) of flats may be rated on the basis that each flat is a separate ratable parcel; to provide for the postponement, in certain circumstances, of rates levied; for these and other purposes to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924; and for purposes connected therewith.

[MR PUNCH—20 February, 1974.]

Metropolitan Water, Sewerage, and Drainage (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Metropolitan Water, Sewerage, and Drainage (Amendment) Act, 1974".

Short title and construction.

(2) The Metropolitan Water, Sewerage, and Drainage Act, 1924, is referred to in this Act as the Principal Act.

10 2. (1) This Act (other than section 3) shall commence on 1st July, 1975.

Commencement.

(2) Section 3 shall commence on the date of assent to this Act.

15 3. (1) The Metropolitan Water Sewerage and Drainage Board is empowered to fix a scale of rates, and to pass a resolution for the levying of rates, prior to 1st July, 1975, in every respect as if all of the provisions of this Act had commenced.

Certain powers conferred on board before 1st July, 1975.

20 (2) Subsection (1) does not operate so as to allow the board to levy, before 1st July, 1975, rates to which a resolution referred to in subsection (1) relates.

4. The Principal Act is amended—

Amendment of Act No. 50, 1924.

(a) by omitting from section 3 the figures "87" and by inserting instead the matter "86A.";

Sec. 3. (Division into Parts.)

25 (b) by inserting after the definition of "Treasurer" in section 4 the following definition :—

Sec. 4. (Definitions.)

"Valuer-General" means the person appointed as such for the purposes of the Valuation of Land Act, 1916.

Metropolitan Water, Sewerage, and Drainage (Amendment).

5. The Principal Act is further amended—

Further
amend-
ment of
Act No. 50,
1924.

- (a) by inserting in Division 3 of Part V before section 87 the following section :—

Sec. 86A.

5 86A. (1) Subject to this section, for the purposes of this Division (other than section 100AA)— Interpre-
tation.

10 “flat” means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot;

“inn” has the meaning ascribed thereto by section 3 of the Innkeepers Act, 1968;

15 “mixed development land” means a parcel of land occupied or used solely as the site of one building comprising—

- (a) one, or more than one, flat; and
- (b) one, or more than one, office;

“non-residential land” means—

- 20 (a) a parcel of land that is not residential land or mixed development land;
- (b) a strata lot that is not residential land;
- 25 (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn; or
- 30 (d) a stratum separately valued under the Valuation of Land Act, 1916, that is not a stratum referred to in paragraph (g) of the definition of “residential land”;

“office”

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 "office" means a room or a suite of rooms separately occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being separately occupied or used, for any commercial, industrial or professional purpose;

"residential land" means—

- 10 (a) a parcel of land occupied or used solely as the site of one single dwelling;
- 15 (b) a parcel of land (not exceeding six acres in area) occupied or used solely as the site of one single dwelling and for primary production;
- 20 (c) a parcel of land occupied or used solely as the site of one building comprising two or more flats;
- 25 (d) a parcel of land occupied or used solely as the site of a guest-house, or a boarding-house, containing not more than ten bedrooms;
- 30 (e) a strata lot occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a residence;
- 35 (f) a strata lot designed and intended for occupation or use in conjunction with a lot referred to in paragraph (e) for the purpose of accommodating one, or more than one, motor vehicle; or
- (g) a stratum separately valued under the Valuation of Land Act, 1916, that is occupied or used, or if not occupied

Metropolitan Water, Sewerage, and Drainage (Amendment).

occupied or used so constructed,
designed or adapted as to be capable
of being occupied or used, as a
separate dwelling;

5 “single dwelling” means a house occupied or used,
or if not occupied or used so constructed,
designed or adapted as to be capable of
being occupied or used, as a separate
10 dwelling, but does not include a strata lot or
a property commonly known as a shop and
dwelling;

“strata lot” means—

15 (a) until the Conveyancing (Strata
Titles) Act, 1961, is repealed, a lot
as defined in section 2 of that Act;
and

(b) on and after the commencement of
the Strata Titles Act, 1973, a lot as
defined in section 5 (1) of that Act.

20 (2) A parcel of land occupied or used as
the site of a single building comprising one, or more
than one, office is not mixed development land by
reason only that it comprises (in addition) one, or
more than one, flat if the flat is, or the flats are,
25 intended for use for the purpose of accommodating
a person or persons responsible for the security or
maintenance of the building.

(3) For the purposes of—

30 (a) the definition of “mixed development land”
in subsection (1), a parcel of land does not
cease to be occupied or used solely as the
site of one building comprising one, or more
than one, flat and one, or more than one,
office; and

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 (b) the definition of "residential land" in that subsection, a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one building comprising two or more flats, a guest-house or a boarding-house,

10 by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building, guest-house or boarding-house, as the case may be.

15 (4) For the purposes of paragraph (b) of the definition of "residential land" in subsection (1) land is used for primary production if it is used primarily for—

- 20 (a) the cultivation thereof for the purpose of selling the produce of the cultivation ;
- (b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce ; or
- (c) the keeping of bees thereon for the purpose of selling their honey.

(b) by omitting section 95 (1) and (2) and by inserting Sec. 95.
instead the following subsections :— (Limit of rates.)

25 (1) The proceeds of any water or sewerage rate shall not exceed the amount which would be yielded by a rate which would—

- 30 (a) where, pursuant to section 96 (1) (a), land is rated on an assessed annual value, produce an amount equal to $7\frac{1}{2}$ per centum on the assessed annual value of ratable land ; or

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 (b) where, pursuant to paragraph (b) or (c) of
subsubsection (1) of section 96, land is rated
partly on an assessed annual value and
partly on an unimproved value, produce an
amount equal to the sum of the amount pro-
duced by applying the provision of para-
graph (a) in respect of the part of the
ratable land rated on an assessed annual
value and of an amount equal to 2 per
centum on the unimproved value of the part
of the ratable land rated on an unimproved
value.

15 (2) The proceeds of any stormwater drainage
rate shall not exceed the amount which would be
yielded by a rate which would—

(a) where, pursuant to section 96 (1) (a), land
is rated on an assessed annual value, pro-
duce a revenue equal to 3 per centum of the
assessed annual value of ratable land ; or

20 (b) where, pursuant to paragraph (b) or (c)
of subsubsection (1) of section 96, land is
rated partly on an assessed annual value and
partly on an unimproved value, produce an
amount equal to the sum of the amounts
produced by applying the provisions of
paragraph (a) in respect of the part of the
ratable land rated on an assessed annual
value and of an amount equal to 1 per
centum on the unimproved value of the part
of the ratable land rated on an unimproved
value.

35 (2A) In determining for the purposes of this
section the amount which would be yielded by a
rate no regard shall be paid to any amount which
would be yielded by reason of the levying of
minimum amounts pursuant to section 96 (7).

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(c) (i) by omitting section 96 (1) and by inserting instead the following subsection :— Sec. 96.
(Basis of rating.)

5 (1) The board may determine whether for any year the rates to be levied, or any of them—

(a) shall be levied upon the assessed annual value of ratable land ;

10 (b) shall be levied partly upon the assessed annual value and partly upon the unimproved value of ratable land ; or

(c) shall be levied—

(i) in the case of residential land, being ratable land, upon the unimproved value ;

15 (ii) in the case of non-residential land, being ratable land, upon the assessed annual value ; and

20 (iii) in the case of mixed development land, being ratable land, upon the unimproved value of that part of the mixed development land that is residential land and upon the assessed annual value of that part of the mixed development land that is non-residential land.

(ii) by omitting section 96 (7) and by inserting instead the following subsection :—

30 (7) In levying any rate it shall be lawful for the board to levy—

(a) in respect of any ratable land minimum amounts for water rates, sewerage rates and stormwater drainage rates ;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- 5 (b) in respect of any ratable land used and occupied as the site of a building comprising (wholly or partly) two or more flats, minimum amounts for any such rates determined on the basis that each flat is a separate ratable parcel;
- 10 (c) in respect of occupied lands and unoccupied lands or of any different classes whatever of ratable lands, different minimum amounts for any such rates; and
- 15 (d) in respect of any strata lot designed and intended for occupation or use for the purposes of accommodating one, or more than one, motor vehicle, water rates, sewerage rates and stormwater drainage rates without regard to minimum amounts for such rates.
- 20 (iii) by omitting from section 96 (8) the word "The" and by inserting instead the words "Subject to this Act, the";
- (iv) by inserting after section 96 (9) the following subsections :—
- 25 (10) Subsection (6) does not apply where rates are levied pursuant to section 96 (1) (c).
- 30 (11) Where the board resolves that the valuation to be adopted for the purpose of levying any rate for any year shall be the valuation in force on the first day of January in the immediately preceding year then, notwithstanding subsection (8) or section 61 or 62 of the Valuation of Land Act, 1916, that valuation shall be adopted for that purpose and for the purpose of a certificate to be given
- 35 by the Government Statistician in respect of the proposed rate.

Metropolitan Water, Sewerage, and Drainage (Amendment).

6. The Principal Act is further amended—

Further
amend-
ment of
Act No.
50, 1924.

- (a) by inserting after section 96 the following section :—

Board may
require
Valuer-
General to
determine
certain
values.

5

96A. The board may, by instrument in writing, require the Valuer-General to determine the assessed annual value of any land, or of any class of land, in the area of operations.

- (b) (i) by inserting after section 97 (3) the following subsections :—

Sec. 97.
(Valua-
tions.)

10

(3A) A stratum separately valued under any of the said Acts may be separately rated.

15

(3B) Where, in respect of any mixed development land, an apportionment factor is determined or redetermined under this Act or the Valuation of Land Act, 1916, the board shall apply the apportionment factor as last so determined or redetermined—

20

(a) to the unimproved value of the land by reducing that value by the percentage represented by the apportionment factor; and

25

(b) to the assessed annual value of the land by reducing that value by the reciprocal of the percentage referred to in paragraph (a),

and rates in so far as they are leviable on the unimproved value or the assessed annual value of the land shall be levied on those values as so reduced.

30

(3C) The reference to the unimproved value of the land in subsection (3B) (a) and to the assessed annual value of the land in sub-

section

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 section (3B) (b) means, in the case of land to which section 100c (5) applies, the rating factor in respect of the land referred to in section 100c (5) after deducting the allowance (if any) referred to in section 100c (5).

10 (3D) Where the assessed annual value of any land is not determined and the board considers that that value ought to be determined so that a rate may be levied on the land or an adjustment of a rate levied on the land may be made under section 97A, the board may cause that value to be determined.

15 (ii) by omitting from section 97 (4) the words "The board shall give notice of any valuation or apportionment so made by it and objection against such valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in the said Act or in any rules or regulations thereunder shall be deemed to be a reference to the board.";

20 (iii) by inserting after section 97 (4) the following subsections :—

25 (4A) Where, for any reason, the board considers that an apportionment factor should be determined in respect of any mixed development land, or that an apportionment factor determined in respect of any mixed development land has ceased to be appropriate, the board may cause the apportionment factor to be determined or redetermined, as the case may be.

30 (4B) The board shall give notice of any valuation made pursuant to subsection (3D) or any valuation or apportionment made pursuant

to

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 to subsection (4) and objections to the valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

10 (4C) The board shall give notice of any apportionment factor determined or redetermined pursuant to subsection (4A) and objection to the determination or redetermination of the apportionment factor on the ground that it is incorrectly determined or redetermined or that the land in respect of which it is determined or redetermined is not mixed development land shall lie in the manner provided in the case of objection against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

25 (4D) The right to object under subsection (4B) to a valuation shall include a right to object to the valuation on the ground that an apportionment factor has not been determined in respect of the land concerned.

30 (4E) The provisions of the Valuation of Land Act, 1916, apply for the purpose of the making of a valuation, or for the purpose of the determination or redetermination of an apportionment factor, pursuant to this section, as they would apply if the valuation, determination or redetermination were made under that Act.

35 (4F) Where the board gives a certificate under section 101 (3) in respect of any land, nothing in or done under subsection (4) in so far

Metropolitan Water, Sewerage, and Drainage (Amendment).

far as it relates to any period prior to the date of the certificate shall affect a bona fide purchaser for value of the land.

7. The Principal Act is further amended by inserting after section 97 the following sections :—

Further amendment of Act No. 50, 1924. Secs. 97A and 97B.

10 97A. (1) Where a rate is levied on any ratable land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that when the rate was levied the land was rated on the wrong basis, the board shall adjust the rate levied so as to give effect to the decision.

Adjustment of rates.

15 (2) Where a rate is levied on any ratable land, or a rate is adjusted under this subsection, on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that since the date on which the rate was levied or so adjusted the land has ceased to belong to the class of land to which it belonged when the rate was levied or so adjusted, the board shall adjust the rate levied or so adjusted so as to give effect to the decision in respect of the period following the date on which the land ceased to belong to that class of land.

25 (3) Where a rate is levied on any ratable land, being mixed development land, on the basis of an apportionment factor determined in respect of the land, or a rate is adjusted under this subsection following on the redetermination of an apportionment factor, and the apportionment factor determined or so redetermined ceases to be appropriate, and is redetermined pursuant to section 97 (4A), the board shall adjust the rate levied or so adjusted so as to take account of the apportionment factor as redetermined in respect of the period following the date on which the apportionment factor ceased to be appropriate prior to being so redetermined.

(4)

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 (4) An adjustment made by the board pursuant to subsection (1), (2) or (3) may take account of one, or more than one, change in the class to which land belongs, or of one, or more than one, redetermination of an apportionment factor in respect of land, occurring or made during the period in respect of which the adjustment is made.

10 (5) The board may adjust a rate pursuant to subsection (1), (2) or (3) either on its own motion or on the application of a ratable person requesting the board to adjust the rate.

15 (6) An application referred to in subsection (5) shall be made by posting to, or lodging with, the board an instrument in writing which shall fully state the ground on which the adjustment of the rate concerned is sought.

(7) The board may allow or disallow an application made pursuant to subsection (6), and shall in either event give to the person making the application written notice of its decision.

20 (8) Where an adjustment to a rate is made pursuant to subsection (1), (2) or (3)—

25 (a) the board shall give written notice of the adjustment to the person liable to pay the amount of any increase or entitled to receive the amount of any refund, except where written notice is given pursuant to subsection (7) to that person;

30 (b) any amount by which the rate is increased may be recovered from the person liable to pay the increase and may be so recovered notwithstanding that an objection or an appeal is made by that person under section 97B against the adjustment, but if the rate is altered as a result of the objection or the appeal any amount paid in excess shall be refunded; and

(b)

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(c) any amount by which the rate is decreased shall be refunded to the person entitled to receive the refund.

5 (9) Where the board gives a certificate under section 101 (3) in respect of any land no adjustment under this section, in so far as it relates to any period prior to the date of the certificate, shall affect a bona fide purchaser for value of the land.

10 97B. (1) Where a rate is levied on any land on the basis that the land is residential land, non-residential land or mixed development land the person liable to pay the rate may, within the prescribed period, object to the rate on the ground and in the manner set out in this section. Objection to and appeals against certain rates.

15 (2) Where an adjustment made pursuant to section 97A (1), (2) or (3) results in the increase of a rate in respect of any land, the person liable to pay the amount of the increase may, within the prescribed period, object to the adjustment on the ground and in the manner set out in this section.

20 (3) Where under section 97A a person applies to the board to adjust a rate and the board refuses to adjust the rate or to adjust the rate in accordance with the application, the applicant may, within the prescribed period, object on the ground and in the manner set out in this section.

(4) An objection—

30 (a) under subsection (1) may be made only on the ground that the board was in error in levying a rate upon land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 (b) under subsection (2) may be made only on the ground that the board was in error in adjusting the rate levied upon land on the basis of the land having been, or having ceased to be, residential land, non-residential land or mixed development land, as the case may be; or

10 (c) under subsection (3) may be made only on the ground that the board was in error in refusing to adjust the rate or to adjust the rate in accordance with the application concerned, as the case may be.

15 (5) An objection under subsection (1), (2) or (3) shall be made by posting to, or lodging with, the board an instrument in writing which shall state, in accordance with subsection (4), the ground for the objection and the reasons which, it is alleged, support that ground.

(6) The board may allow or disallow an objection made under subsection (1), (2) or (3).

20 (7) The board shall give to a person making an objection under subsection (1), (2) or (3) written notice of its decision on the objection.

25 (8) A person objecting under subsection (1), (2) or (3) who is dissatisfied with the decision of the board on his objection may, within the prescribed period, appeal to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921 (in this section called "the Court").

30 (9) A person appealing to the Court shall be limited, on the hearing of the appeal, to the same ground as that raised by him in his objection to the board.

(10) The Court may allow or dismiss an appeal.

(11)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(11) A person appealing under this section may appear at the hearing of the appeal by his counsel or solicitor, or by his agent authorised by him in writing.

5 (12) No objection to the board or appeal to the Court shall lie under this section in respect of a redetermination by the board of an apportionment factor.

10 (13) A rate levied upon any land may be recovered notwithstanding that an objection is made pursuant to subsection (1), but if the rate is altered as the result of the objection or as the result of an appeal to the Court any amount paid in excess shall be refunded.

(14) In this section "prescribed period" means—

- 15 (a) in relation to a person wishing to object under subsection (1) to a rate, the period of thirty days after the date of service on him of a rate notice relating to that rate;
- 20 (b) in relation to a person wishing to object under subsection (2) to the adjustment of a rate, the period of thirty days after the date on which that person is notified of the adjustment of the rate pursuant to section 97A (8);
- 25 (c) in relation to a person wishing to object under subsection (3) to the refusal of the board to adjust a rate or to adjust a rate in accordance with an application, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to section 97A (7); and
- 30 (d) in relation to a person wishing to appeal against a decision of the board on an objection, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to subsection (7).

Metropolitan Water, Sewerage, and Drainage (Amendment).

8. The Principal Act is further amended by inserting after section 100AA the following sections :—

Further amendment of Act No. 50, 1924. Secs. 100B and 100C.

5 100B. (1) Where part (referred to as the "attributable part") of the unimproved value of any parcel of land upon which is erected a single dwelling-house is attributable to the fact that the parcel is, under any planning scheme prepared under Part XIA of the Local Government Act, 1919, within a zone or reservation in which land may be used for the purposes of industry, 10 commerce or the erection of residential flat buildings (as defined in section 304 of that Act) the ratable person in respect of the land may make application to the board for relief from payment of part of the rates levied on the land in the current rating year.

Power to reduce rates.

15 (2) If, on receipt of an application, referred to in subsection (1), the board is satisfied that the land concerned is used or occupied solely as the site of a single dwelling-house, it shall require the Valuer-General 20 in cases where the valuation is made under the Valuation of Land Act, 1916, or the valuer appointed by the board, as the case may be, to determine the amount of the attributable part of the unimproved value of the land and the valuer shall furnish the determination to the board.

25 (3) In determining pursuant to subsection (2) the amount of the attributable part the valuer shall not take into consideration any portion of the parcel which he considers is in excess of that which is reasonably necessary to be occupied or used in conjunction with the single dwelling-house and which might, but for the fact 30 that it forms part of the site of a single dwelling-house, be occupied or used for the purposes of industry, commerce or the erection of residential flat buildings (defined as provided in subsection (1)).

35 (4) Where a determination of the attributable part of the unimproved value of a parcel of land has been made by the valuer he shall not be required to make

Metropolitan Water, Sewerage, and Drainage (Amendment).

5 a further determination of that part while the valuation in respect of which the determination was made remains in use for rating purposes or unless the valuation is altered on objection or correction of a clerical error or misdescription.

10 (5) Where a valuation is altered as provided in subsection (4) the board shall require the valuer to redetermine the amount of such attributable part and the valuer shall furnish such redetermination to the board and a due adjustment shall be made and amounts paid in excess shall be refunded and amounts short-paid shall be recoverable as arrears.

15 (6) The amount determined or redetermined by the valuer under subsection (2) or (5) as the attributable part of the unimproved value shall be the attributable part for the purposes of subsection (1) while the land is used or occupied solely as the site of a single dwelling-house and the valuation in respect of which the determination or redetermination is made remains in use for rating purposes.

20 (7) The board shall postpone such part of the rates levied on the land in any rating year to which a determination or redetermination under subsection (2) or (5) applies as bears to the whole amount of the rates so levied in that year the same proportion as the attributable part bears to the whole of the unimproved value.

25 (8) Where a ratable person pays the whole or part of the rates levied before the board postpones under subsection (7) the payment of part thereof, any amounts paid in excess shall be refunded.

30 (9) Where there is a postponement of rates under this section and the land concerned ceases to be used or occupied solely as the site of a single dwelling-house—

35 (a) the ratable person shall, within one month, inform the board of the date upon which the land ceased to be so used or occupied;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) the ratable person shall cease to be entitled to a postponement of rates under this section;
- 5 (c) the amount of rates postponed under this section during any rating year which is within the five rating years next preceding the date on which the land ceased to be so used or occupied shall become due and payable to the board and shall be recoverable by the board on the expiration of one month from the date the land ceased to be so used or occupied;
- 10 (d) all amounts of rates postponed under this section (other than those due and payable under paragraph (c)) shall be written off.

15 (10) The provisions of this section shall apply only to a rate made and levied by the board on or after 1st July, 1975.

(11) In this section—

- 20 “single dwelling-house” means a dwelling used or adapted for use solely for habitation by not more than one family and includes a dwelling in a row of two or more dwellings attached to each other, such as are commonly known as semi-detached or terrace buildings, but does not include a flat;
- 25 “valuer” means the Valuer-General or the valuer appointed by the board and directed by the board to make valuations for the purposes of this section.

100c. (1) In this section “valuer” has the meaning ascribed thereto by section 100B (11).

Rating of certain classes of lease from the Crown.

30 (2) This section applies to land—

- (a) held under any of the following tenures under the Crown Lands Consolidation Act, 1913, that is to say, annual leases, snow leases, occupation licenses,

Metropolitan Water, Sewerage, and Drainage (Amendment).

licenses, preferential occupation licenses, permissive occupancies, special leases (not being special leases in perpetuity) and permits to enclose a road or watercourse; or

- 5 (b) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description.

10 (3) Where a valuation of land to which this section applies is determined pursuant to section 97, or is furnished by a valuer or the Valuer-General has furnished a general valuation list in which is included a valuation of any land to which this section applies, or a supplementary valuation list in which is included a valuation of any such land then, if the valuation of the land is a valuation which may be used for the purpose of
15 levying a rate on the land on or after 1st July, 1975, in addition to the valuation made by the valuer or to the valuation included in any such valuation list or supplementary valuation list, there shall be furnished a state-
20 ment of an unimproved rating factor and an assessed annual value rating factor determined in respect of the land in accordance with subsection (4).

(4) The rating factor in respect of any land to which this section applies shall be determined as
25 follows—

- (a) in the case of the unimproved rating factor, that factor shall be an amount equal to the unimproved value of the land to which this section applies; and
30 (b) in the case of the assessed annual value rating factor, that factor shall be an amount equal to the assessed annual value of the land to which this section applies, or an amount equal to 5 per centum of the unimproved rating factor, whichever is the greater,

reduced,

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5 reduced, in either case, by an amount, as determined by the valuer, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (2) held by the ratable person applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.

10 (5) Subject to section 97 (3B), a rating factor in respect of any land to which this section applies, after deducting therefrom, in the case of an unimproved rating factor, any allowance made under section 58 (2) of the Valuation of Land Act, 1916, shall, until the land is included in a subsequent valuation, be used by the board to the exclusion of any other valuation as the basis of any rate levied or leviabie upon the unimproved value or the assessed annual value, as the case may be, of the land to which the rating factor relates.

20 (6) Any rating factor determined under this section shall be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation.

25 (7) Without limiting the generality of subsection (6), an objection may be made by a ratable person on the ground that no rating factor has been determined for the land in respect of which he is ratable.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 13, 1974.

An Act to provide for the making and levying of differential rates in respect of residential land, non-residential land and mixed development land; to provide for objections to, and the adjustment of, rates levied; to extend the circumstances in which minimum amounts for rates may be levied so as to provide that a building comprised (wholly or partly) of flats may be rated on the basis that each flat is a separate ratable parcel; to provide for the postponement, in certain circumstances, of rates levied; for these and other purposes to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924; and for purposes connected therewith. [Assented to, 3rd April, 1974.]

BE

Metropolitan Water, Sewerage, and Drainage (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and con-
struction.

1. (1) This Act may be cited as the "Metropolitan Water, Sewerage, and Drainage (Amendment) Act, 1974".

(2) The Metropolitan Water, Sewerage, and Drainage Act, 1924, is referred to in this Act as the Principal Act.

Commence-
ment.

2. (1) This Act (other than section 3) shall commence on 1st July, 1975.

(2) Section 3 shall commence on the date of assent to this Act.

Certain
powers con-
ferred on
board
before
1st July,
1975.

3. (1) The Metropolitan Water Sewerage and Drainage Board is empowered to fix a scale of rates, and to pass a resolution for the levying of rates, prior to 1st July, 1975, in every respect as if all of the provisions of this Act had commenced.

(2) Subsection (1) does not operate so as to allow the board to levy, before 1st July, 1975, rates to which a resolution referred to in subsection (1) relates.

Amendment
of Act No.
50, 1924.

4. The Principal Act is amended—

Sec. 3.
(Division
into
Parts.)

(a) by omitting from section 3 the figures "87" and by inserting instead the matter "86A.";

Sec. 4.
(Defini-
tions.)

(b) by inserting after the definition of "Treasurer" in section 4 the following definition :—

"Valuer-General" means the person appointed as such for the purposes of the Valuation of Land Act, 1916.

5.

Metropolitan Water, Sewerage, and Drainage (Amendment).

5. The Principal Act is further amended—

Further
amend-
ment of
Act No. 50,
1924.

- (a) by inserting in Division 3 of Part V before section 87 the following section :—

Sec. 86A.

86A. (1) Subject to this section, for the purposes of this Division (other than section 100AA)—

Interpre-
tation.

“flat” means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot;

“inn” has the meaning ascribed thereto by section 3 of the Innkeepers Act, 1968;

“mixed development land” means a parcel of land occupied or used solely as the site of one building comprising—

- (a) one, or more than one, flat; and
- (b) one, or more than one, office;

“non-residential land” means—

- (a) a parcel of land that is not residential land or mixed development land;
- (b) a strata lot that is not residential land;
- (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn; or
- (d) a stratum separately valued under the Valuation of Land Act, 1916, that is not a stratum referred to in paragraph (g) of the definition of “residential land”;

“office”

Metropolitan Water, Sewerage, and Drainage (Amendment).

“office” means a room or a suite of rooms separately occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being separately occupied or used, for any commercial, industrial or professional purpose;

“residential land” means—

- (a) a parcel of land occupied or used solely as the site of one single dwelling;
- (b) a parcel of land (not exceeding six acres in area) occupied or used solely as the site of one single dwelling and for primary production;
- (c) a parcel of land occupied or used solely as the site of one building comprising two or more flats;
- (d) a parcel of land occupied or used solely as the site of a guest-house, or a boarding-house, containing not more than ten bedrooms;
- (e) a strata lot occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a residence;
- (f) a strata lot designed and intended for occupation or use in conjunction with a lot referred to in paragraph (e) for the purpose of accommodating one, or more than one, motor vehicle; or
- (g) a stratum separately valued under the Valuation of Land Act, 1916, that is occupied or used, or if not occupied

Metropolitan Water, Sewerage, and Drainage (Amendment).

occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling;

“single dwelling” means a house occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot or a property commonly known as a shop and dwelling;

“strata lot” means—

- (a) until the Conveyancing (Strata Titles) Act, 1961, is repealed, a lot as defined in section 2 of that Act; and
- (b) on and after the commencement of the Strata Titles Act, 1973, a lot as defined in section 5 (1) of that Act.

(2) A parcel of land occupied or used as the site of a single building comprising one, or more than one, office is not mixed development land by reason only that it comprises (in addition) one, or more than one, flat if the flat is, or the flats are, intended for use for the purpose of accommodating a person or persons responsible for the security or maintenance of the building.

(3) For the purposes of—

- (a) the definition of “mixed development land” in subsection (1), a parcel of land does not cease to be occupied or used solely as the site of one building comprising one, or more than one, flat and one, or more than one, office; and
- (b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) the definition of "residential land" in that subsection, a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one building comprising two or more flats, a guest-house or a boarding-house,

by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building, guest-house or boarding-house, as the case may be.

(4) For the purposes of paragraph (b) of the definition of "residential land" in subsection (1) land is used for primary production if it is used primarily for—

- (a) the cultivation thereof for the purpose of selling the produce of the cultivation;
- (b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or
- (c) the keeping of bees thereon for the purpose of selling their honey.

Sec. 95.
(Limit of
rates.)

- (b) by omitting section 95 (1) and (2) and by inserting instead the following subsections :—

(1) The proceeds of any water or sewerage rate shall not exceed the amount which would be yielded by a rate which would—

- (a) where, pursuant to section 96 (1) (a), land is rated on an assessed annual value, produce an amount equal to $7\frac{1}{2}$ per centum on the assessed annual value of ratable land; or

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) where, pursuant to paragraph (b) or (c) of subsection (1) of section 96, land is rated partly on an assessed annual value and partly on an unimproved value, produce an amount equal to the sum of the amount produced by applying the provision of paragraph (a) in respect of the part of the ratable land rated on an assessed annual value and of an amount equal to 2 per centum on the unimproved value of the part of the ratable land rated on an unimproved value.

(2) The proceeds of any stormwater drainage rate shall not exceed the amount which would be yielded by a rate which would—

- (a) where, pursuant to section 96 (1) (a), land is rated on an assessed annual value, produce a revenue equal to 3 per centum of the assessed annual value of ratable land; or
- (b) where, pursuant to paragraph (b) or (c) of subsection (1) of section 96, land is rated partly on an assessed annual value and partly on an unimproved value, produce an amount equal to the sum of the amounts produced by applying the provisions of paragraph (a) in respect of the part of the ratable land rated on an assessed annual value and of an amount equal to 1 per centum on the unimproved value of the part of the ratable land rated on an unimproved value.

(2A) In determining for the purposes of this section the amount which would be yielded by a rate no regard shall be paid to any amount which would be yielded by reason of the levying of minimum amounts pursuant to section 96 (7).

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

Sec. 96.
(Basis of
rating.)

(c) (i) by omitting section 96 (1) and by inserting instead the following subsection :—

(1) The board may determine whether for any year the rates to be levied, or any of them—

(a) shall be levied upon the assessed annual value of ratable land ;

(b) shall be levied partly upon the assessed annual value and partly upon the unimproved value of ratable land ; or

(c) shall be levied—

(i) in the case of residential land, being ratable land, upon the unimproved value ;

(ii) in the case of non-residential land, being ratable land, upon the assessed annual value ; and

(iii) in the case of mixed development land, being ratable land, upon the unimproved value of that part of the mixed development land that is residential land and upon the assessed annual value of that part of the mixed development land that is non-residential land.

(ii) by omitting section 96 (7) and by inserting instead the following subsection :—

(7) In levying any rate it shall be lawful for the board to levy—

(a) in respect of any ratable land minimum amounts for water rates, sewerage rates and stormwater drainage rates ;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) in respect of any ratable land used and occupied as the site of a building comprising (wholly or partly) two or more flats, minimum amounts for any such rates determined on the basis that each flat is a separate ratable parcel;
 - (c) in respect of occupied lands and unoccupied lands or of any different classes whatever of ratable lands, different minimum amounts for any such rates; and
 - (d) in respect of any strata lot designed and intended for occupation or use for the purposes of accommodating one, or more than one, motor vehicle, water rates, sewerage rates and stormwater drainage rates without regard to minimum amounts for such rates.
- (iii) by omitting from section 96 (8) the word "The" and by inserting instead the words "Subject to this Act, the";
- (iv) by inserting after section 96 (9) the following subsections :—

(10) Subsection (6) does not apply where rates are levied pursuant to section 96 (1) (c).

(11) Where the board resolves that the valuation to be adopted for the purpose of levying any rate for any year shall be the valuation in force on the first day of January in the immediately preceding year then, notwithstanding subsection (8) or section 61 or 62 of the Valuation of Land Act, 1916, that valuation shall be adopted for that purpose and for the purpose of a certificate to be given by the Government Statistician in respect of the proposed rate.

Metropolitan Water, Sewerage, and Drainage (Amendment).

Further amend-
ment of
Act No.
50, 1924.

Sec. 96A.

6. The Principal Act is further amended—

- (a) by inserting after section 96 the following section :—

Board may
require
Valuer-
General to
determine
certain
values.

96A. The board may, by instrument in writing, require the Valuer-General to determine the assessed annual value of any land, or of any class of land, in the area of operations.

Sec. 97.
(Valua-
tions.)

- (b) (i) by inserting after section 97 (3) the following subsections :—

(3A) A stratum separately valued under any of the said Acts may be separately rated.

(3B) Where, in respect of any mixed development land, an apportionment factor is determined or redetermined under this Act or the Valuation of Land Act, 1916, the board shall apply the apportionment factor as last so determined or redetermined—

- (a) to the unimproved value of the land by reducing that value by the percentage represented by the apportionment factor; and

- (b) to the assessed annual value of the land by reducing that value by the reciprocal of the percentage referred to in paragraph (a),

and rates in so far as they are leviable on the unimproved value or the assessed annual value of the land shall be levied on those values as so reduced.

(3C) The reference to the unimproved value of the land in subsection (3B) (a) and to the assessed annual value of the land in sub-

section

Metropolitan Water, Sewerage, and Drainage (Amendment).

section (3B) (b) means, in the case of land to which section 100c (5) applies, the rating factor in respect of the land referred to in section 100c (5) after deducting the allowance (if any) referred to in section 100c (5).

(3D) Where the assessed annual value of any land is not determined and the board considers that that value ought to be determined so that a rate may be levied on the land or an adjustment of a rate levied on the land may be made under section 97A, the board may cause that value to be determined.

- (ii) by omitting from section 97 (4) the words "The board shall give notice of any valuation or apportionment so made by it and objection against such valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in the said Act or in any rules or regulations thereunder shall be deemed to be a reference to the board.";
- (iii) by inserting after section 97 (4) the following subsections :—

(4A) Where, for any reason, the board considers that an apportionment factor should be determined in respect of any mixed development land, or that an apportionment factor determined in respect of any mixed development land has ceased to be appropriate, the board may cause the apportionment factor to be determined or redetermined, as the case may be.

(4B) The board shall give notice of any valuation made pursuant to subsection (3D) or any valuation or apportionment made pursuant

Metropolitan Water, Sewerage, and Drainage (Amendment).

to subsection (4) and objections to the valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

(4C) The board shall give notice of any apportionment factor determined or redetermined pursuant to subsection (4A) and objection to the determination or redetermination of the apportionment factor on the ground that it is incorrectly determined or redetermined or that the land in respect of which it is determined or redetermined is not mixed development land shall lie in the manner provided in the case of objection against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

(4D) The right to object under subsection (4B) to a valuation shall include a right to object to the valuation on the ground that an apportionment factor has not been determined in respect of the land concerned.

(4E) The provisions of the Valuation of Land Act, 1916, apply for the purpose of the making of a valuation, or for the purpose of the determination or redetermination of an apportionment factor, pursuant to this section, as they would apply if the valuation, determination or redetermination were made under that Act.

(4F) Where the board gives a certificate under section 101 (3) in respect of any land, nothing in or done under subsection (4) in so far

Metropolitan Water, Sewerage, and Drainage (Amendment).

far as it relates to any period prior to the date of the certificate shall affect a bona fide purchaser for value of the land.

7. The Principal Act is further amended by inserting after section 97 the following sections :—

Further amendment of Act No. 50, 1924. Secs. 97A and 97B.

97A. (1) Where a rate is levied on any ratable land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that when the rate was levied the land was rated on the wrong basis, the board shall adjust the rate levied so as to give effect to the decision.

Adjustment of rates.

(2) Where a rate is levied on any ratable land, or a rate is adjusted under this subsection, on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that since the date on which the rate was levied or so adjusted the land has ceased to belong to the class of land to which it belonged when the rate was levied or so adjusted, the board shall adjust the rate levied or so adjusted so as to give effect to the decision in respect of the period following the date on which the land ceased to belong to that class of land.

(3) Where a rate is levied on any ratable land, being mixed development land, on the basis of an apportionment factor determined in respect of the land, or a rate is adjusted under this subsection following on the redetermination of an apportionment factor, and the apportionment factor determined or so redetermined ceases to be appropriate, and is redetermined pursuant to section 97 (4A), the board shall adjust the rate levied or so adjusted so as to take account of the apportionment factor as redetermined in respect of the period following the date on which the apportionment factor ceased to be appropriate prior to being so redetermined.

(4)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(4) An adjustment made by the board pursuant to subsection (1), (2) or (3) may take account of one, or more than one, change in the class to which land belongs, or of one, or more than one, redetermination of an apportionment factor in respect of land, occurring or made during the period in respect of which the adjustment is made.

(5) The board may adjust a rate pursuant to subsection (1), (2) or (3) either on its own motion or on the application of a ratable person requesting the board to adjust the rate.

(6) An application referred to in subsection (5) shall be made by posting to, or lodging with, the board an instrument in writing which shall fully state the ground on which the adjustment of the rate concerned is sought.

(7) The board may allow or disallow an application made pursuant to subsection (6), and shall in either event give to the person making the application written notice of its decision.

(8) Where an adjustment to a rate is made pursuant to subsection (1), (2) or (3)—

- (a) the board shall give written notice of the adjustment to the person liable to pay the amount of any increase or entitled to receive the amount of any refund, except where written notice is given pursuant to subsection (7) to that person;
- (b) any amount by which the rate is increased may be recovered from the person liable to pay the increase and may be so recovered notwithstanding that an objection or an appeal is made by that person under section 97B against the adjustment, but if the rate is altered as a result of the objection or the appeal any amount paid in excess shall be refunded; and

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(c) any amount by which the rate is decreased shall be refunded to the person entitled to receive the refund.

(9) Where the board gives a certificate under section 101 (3) in respect of any land no adjustment under this section, in so far as it relates to any period prior to the date of the certificate, shall affect a bona fide purchaser for value of the land.

97B. (1) Where a rate is levied on any land on the basis that the land is residential land, non-residential land or mixed development land the person liable to pay the rate may, within the prescribed period, object to the rate on the ground and in the manner set out in this section. Objection to and appeals against certain rates.

(2) Where an adjustment made pursuant to section 97A (1), (2) or (3) results in the increase of a rate in respect of any land, the person liable to pay the amount of the increase may, within the prescribed period, object to the adjustment on the ground and in the manner set out in this section.

(3) Where under section 97A a person applies to the board to adjust a rate and the board refuses to adjust the rate or to adjust the rate in accordance with the application, the applicant may, within the prescribed period, object on the ground and in the manner set out in this section.

(4) An objection—

(a) under subsection (1) may be made only on the ground that the board was in error in levying a rate upon land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) under subsection (2) may be made only on the ground that the board was in error in adjusting the rate levied upon land on the basis of the land having been, or having ceased to be, residential land, non-residential land or mixed development land, as the case may be; or
 - (c) under subsection (3) may be made only on the ground that the board was in error in refusing to adjust the rate or to adjust the rate in accordance with the application concerned, as the case may be.
- (5) An objection under subsection (1), (2) or (3) shall be made by posting to, or lodging with, the board an instrument in writing which shall state, in accordance with subsection (4), the ground for the objection and the reasons which, it is alleged, support that ground.
- (6) The board may allow or disallow an objection made under subsection (1), (2) or (3).
- (7) The board shall give to a person making an objection under subsection (1), (2) or (3) written notice of its decision on the objection.
- (8) A person objecting under subsection (1), (2) or (3) who is dissatisfied with the decision of the board on his objection may, within the prescribed period, appeal to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921 (in this section called "the Court").
- (9) A person appealing to the Court shall be limited, on the hearing of the appeal, to the same ground as that raised by him in his objection to the board.
- (10) The Court may allow or dismiss an appeal.

(11)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(11) A person appealing under this section may appear at the hearing of the appeal by his counsel or solicitor, or by his agent authorised by him in writing.

(12) No objection to the board or appeal to the Court shall lie under this section in respect of a redetermination by the board of an apportionment factor.

(13) A rate levied upon any land may be recovered notwithstanding that an objection is made pursuant to subsection (1), but if the rate is altered as the result of the objection or as the result of an appeal to the Court any amount paid in excess shall be refunded.

(14) In this section "prescribed period" means—

- (a) in relation to a person wishing to object under subsection (1) to a rate, the period of thirty days after the date of service on him of a rate notice relating to that rate;
- (b) in relation to a person wishing to object under subsection (2) to the adjustment of a rate, the period of thirty days after the date on which that person is notified of the adjustment of the rate pursuant to section 97A (8);
- (c) in relation to a person wishing to object under subsection (3) to the refusal of the board to adjust a rate or to adjust a rate in accordance with an application, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to section 97A (7); and
- (d) in relation to a person wishing to appeal against a decision of the board on an objection, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to subsection (7).

Metropolitan Water, Sewerage, and Drainage (Amendment).

Further
amend-
ment of
Act No.
50, 1924.
Secs. 100B
and 100c.

Power to
reduce
rates.

8. The Principal Act is further amended by inserting after section 100AA the following sections :—

100B. (1) Where part (referred to as the “attributable part”) of the unimproved value of any parcel of land upon which is erected a single dwelling-house is attributable to the fact that the parcel is, under any planning scheme prepared under Part XIIA of the Local Government Act, 1919, within a zone or reservation in which land may be used for the purposes of industry, commerce or the erection of residential flat buildings (as defined in section 304 of that Act) the ratable person in respect of the land may make application to the board for relief from payment of part of the rates levied on the land in the current rating year.

(2) If, on receipt of an application, referred to in subsection (1), the board is satisfied that the land concerned is used or occupied solely as the site of a single dwelling-house, it shall require the Valuer-General in cases where the valuation is made under the Valuation of Land Act, 1916, or the valuer appointed by the board, as the case may be, to determine the amount of the attributable part of the unimproved value of the land and the valuer shall furnish the determination to the board.

(3) In determining pursuant to subsection (2) the amount of the attributable part the valuer shall not take into consideration any portion of the parcel which he considers is in excess of that which is reasonably necessary to be occupied or used in conjunction with the single dwelling-house and which might, but for the fact that it forms part of the site of a single dwelling-house, be occupied or used for the purposes of industry, commerce or the erection of residential flat buildings (defined as provided in subsection (1)).

(4) Where a determination of the attributable part of the unimproved value of a parcel of land has been made by the valuer he shall not be required to make

Metropolitan Water, Sewerage, and Drainage (Amendment).

a further determination of that part while the valuation in respect of which the determination was made remains in use for rating purposes or unless the valuation is altered on objection or correction of a clerical error or misdescription.

(5) Where a valuation is altered as provided in subsection (4) the board shall require the valuer to redetermine the amount of such attributable part and the valuer shall furnish such redetermination to the board and a due adjustment shall be made and amounts paid in excess shall be refunded and amounts short-paid shall be recoverable as arrears.

(6) The amount determined or redetermined by the valuer under subsection (2) or (5) as the attributable part of the unimproved value shall be the attributable part for the purposes of subsection (1) while the land is used or occupied solely as the site of a single dwelling-house and the valuation in respect of which the determination or redetermination is made remains in use for rating purposes.

(7) The board shall postpone such part of the rates levied on the land in any rating year to which a determination or redetermination under subsection (2) or (5) applies as bears to the whole amount of the rates so levied in that year the same proportion as the attributable part bears to the whole of the unimproved value.

(8) Where a ratable person pays the whole or part of the rates levied before the board postpones under subsection (7) the payment of part thereof, any amounts paid in excess shall be refunded.

(9) Where there is a postponement of rates under this section and the land concerned ceases to be used or occupied solely as the site of a single dwelling-house—

- (a) the ratable person shall, within one month, inform the board of the date upon which the land ceased to be so used or occupied;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) the ratable person shall cease to be entitled to a postponement of rates under this section ;
- (c) the amount of rates postponed under this section during any rating year which is within the five rating years next preceding the date on which the land ceased to be so used or occupied shall become due and payable to the board and shall be recoverable by the board on the expiration of one month from the date the land ceased to be so used or occupied ; and
- (d) all amounts of rates postponed under this section (other than those due and payable under paragraph (c)) shall be written off.

(10) The provisions of this section shall apply only to a rate made and levied by the board on or after 1st July, 1975.

(11) In this section—

“single dwelling-house” means a dwelling used or adapted for use solely for habitation by not more than one family and includes a dwelling in a row of two or more dwellings attached to each other, such as are commonly known as semi-detached or terrace buildings, but does not include a flat ;

“valuer” means the Valuer-General or the valuer appointed by the board and directed by the board to make valuations for the purposes of this section.

100C. (1) In this section “valuer” has the meaning ascribed thereto by section 100B (11).

(2) This section applies to land—

- (a) held under any of the following tenures under the Crown Lands Consolidation Act, 1913, that is to say, annual leases, snow leases, occupation licenses,

Rating of
certain
classes
of lease
from the
Crown.

Metropolitan Water, Sewerage, and Drainage (Amendment).

licenses, preferential occupation licenses, permissive occupancies, special leases (not being special leases in perpetuity) and permits to enclose a road or watercourse; or

- (b) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description.

(3) Where a valuation of land to which this section applies is determined pursuant to section 97, or is furnished by a valuer or the Valuer-General has furnished a general valuation list in which is included a valuation of any land to which this section applies, or a supplementary valuation list in which is included a valuation of any such land then, if the valuation of the land is a valuation which may be used for the purpose of levying a rate on the land on or after 1st July, 1975, in addition to the valuation made by the valuer or to the valuation included in any such valuation list or supplementary valuation list, there shall be furnished a statement of an unimproved rating factor and an assessed annual value rating factor determined in respect of the land in accordance with subsection (4).

(4) The rating factor in respect of any land to which this section applies shall be determined as follows—

- (a) in the case of the unimproved rating factor, that factor shall be an amount equal to the unimproved value of the land to which this section applies; and
- (b) in the case of the assessed annual value rating factor, that factor shall be an amount equal to the assessed annual value of the land to which this section applies, or an amount equal to 5 per centum of the unimproved rating factor, whichever is the greater,

reduced,

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reduced, in either case, by an amount, as determined by the valuer, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (2) held by the ratable person applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.

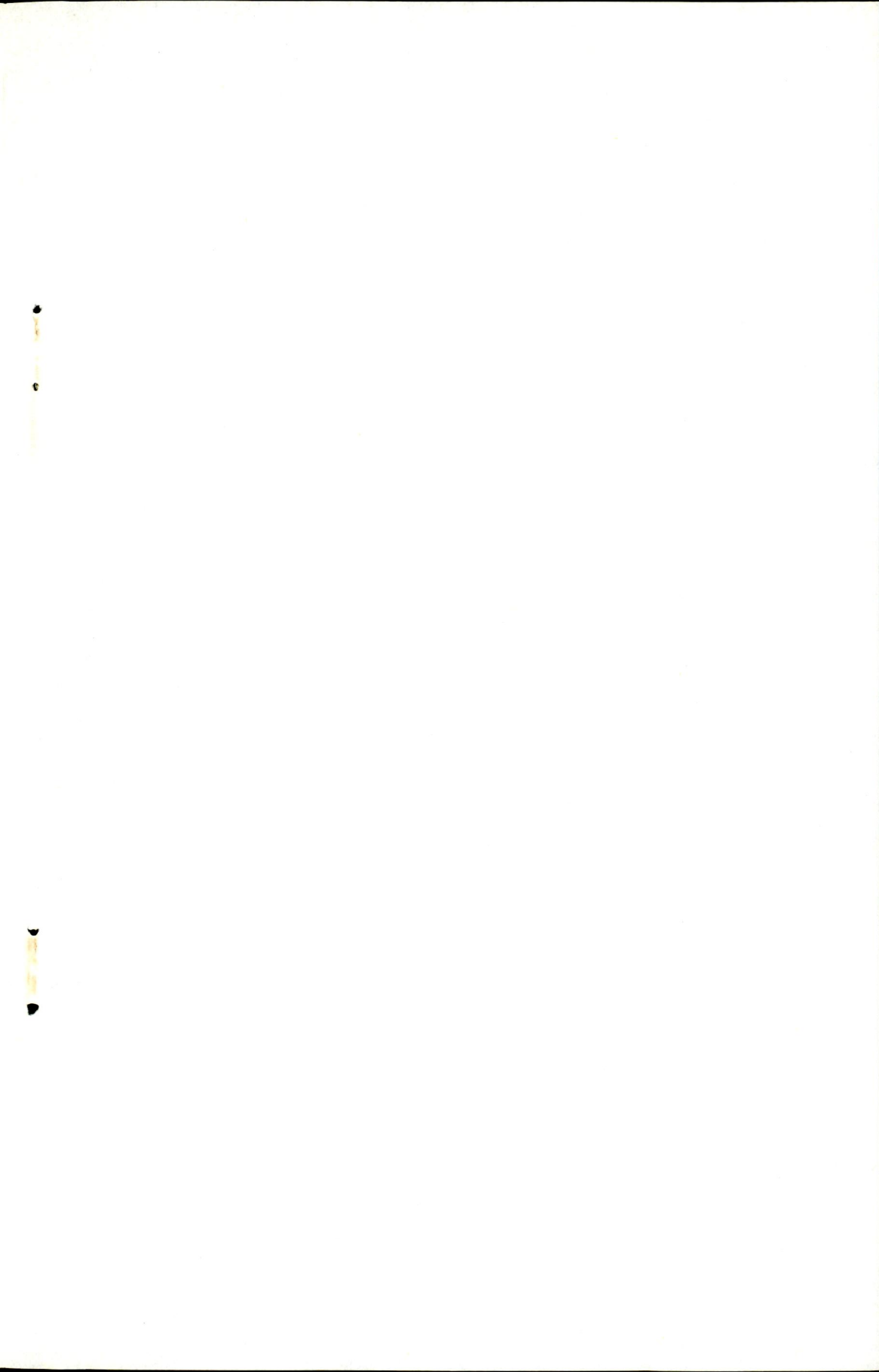
(5) Subject to section 97 (3B), a rating factor in respect of any land to which this section applies, after deducting therefrom, in the case of an unimproved rating factor, any allowance made under section 58 (2) of the Valuation of Land Act, 1916, shall, until the land is included in a subsequent valuation, be used by the board to the exclusion of any other valuation as the basis of any rate levied or leviable upon the unimproved value or the assessed annual value, as the case may be, of the land to which the rating factor relates.

(6) Any rating factor determined under this section shall be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation.

(7) Without limiting the generality of subsection (6), an objection may be made by a ratable person on the ground that no rating factor has been determined for the land in respect of which he is ratable.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974



I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 19 March, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 13, 1974.

An Act to provide for the making and levying of differential rates in respect of residential land, non-residential land and mixed development land; to provide for objections to, and the adjustment of, rates levied; to extend the circumstances in which minimum amounts for rates may be levied so as to provide that a building comprised (wholly or partly) of flats may be rated on the basis that each flat is a separate ratable parcel; to provide for the postponement, in certain circumstances, of rates levied; for these and other purposes to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924; and for purposes connected therewith. [Assented to, 3rd April, 1974.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

J. H. BROWN,
Chairman of Committees of the Legislative Assembly

Metropolitan Water, Sewerage, and Drainage (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and con-
struction.

1. (1) This Act may be cited as the "Metropolitan Water, Sewerage, and Drainage (Amendment) Act, 1974".

(2) The Metropolitan Water, Sewerage, and Drainage Act, 1924, is referred to in this Act as the Principal Act.

Commence-
ment.

2. (1) This Act (other than section 3) shall commence on 1st July, 1975.

(2) Section 3 shall commence on the date of assent to this Act.

Certain
powers con-
ferred on
board
before
1st July,
1975.

3. (1) The Metropolitan Water Sewerage and Drainage Board is empowered to fix a scale of rates, and to pass a resolution for the levying of rates, prior to 1st July, 1975, in every respect as if all of the provisions of this Act had commenced.

(2) Subsection (1) does not operate so as to allow the board to levy, before 1st July, 1975, rates to which a resolution referred to in subsection (1) relates.

Amendment
of Act No.
50, 1924.

Sec. 3.
(Division
into
Parts.)

Sec. 4.
(Defini-
tions.)

4. The Principal Act is amended—

(a) by omitting from section 3 the figures "87" and by inserting instead the matter "86A.";

(b) by inserting after the definition of "Treasurer" in section 4 the following definition :—

"Valuer-General" means the person appointed as such for the purposes of the Valuation of Land Act, 1916.

5.

Metropolitan Water, Sewerage, and Drainage (Amendment).

5. The Principal Act is further amended—

Further
amend-
ment of
Act No. 50,
1924.

(a) by inserting in Division 3 of Part V before section 87 the following section :—

Sec. 86A.

86A. (1) Subject to this section, for the purposes of this Division (other than section 100AA)—

Interpre-
tation.

“flat” means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot;

“inn” has the meaning ascribed thereto by section 3 of the Innkeepers Act, 1968;

“mixed development land” means a parcel of land occupied or used solely as the site of one building comprising—

- (a) one, or more than one, flat; and
- (b) one, or more than one, office;

“non-residential land” means—

- (a) a parcel of land that is not residential land or mixed development land;
- (b) a strata lot that is not residential land;
- (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn; or
- (d) a stratum separately valued under the Valuation of Land Act, 1916, that is not a stratum referred to in paragraph (g) of the definition of “residential land”;

“office”

Metropolitan Water, Sewerage, and Drainage (Amendment).

“office” means a room or a suite of rooms separately occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being separately occupied or used, for any commercial, industrial or professional purpose;

“residential land” means—

- (a) a parcel of land occupied or used solely as the site of one single dwelling;
- (b) a parcel of land (not exceeding six acres in area) occupied or used solely as the site of one single dwelling and for primary production;
- (c) a parcel of land occupied or used solely as the site of one building comprising two or more flats;
- (d) a parcel of land occupied or used solely as the site of a guest-house, or a boarding-house, containing not more than ten bedrooms;
- (e) a strata lot occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a residence;
- (f) a strata lot designed and intended for occupation or use in conjunction with a lot referred to in paragraph (e) for the purpose of accommodating one, or more than one, motor vehicle; or
- (g) a stratum separately valued under the Valuation of Land Act, 1916, that is occupied or used, or if not occupied

Metropolitan Water, Sewerage, and Drainage (Amendment).

occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling;

“single dwelling” means a house occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot or a property commonly known as a shop and dwelling;

“strata lot” means—

(a) until the Conveyancing (Strata Titles) Act, 1961, is repealed, a lot as defined in section 2 of that Act; and

(b) on and after the commencement of the Strata Titles Act, 1973, a lot as defined in section 5 (1) of that Act.

(2) A parcel of land occupied or used as the site of a single building comprising one, or more than one, office is not mixed development land by reason only that it comprises (in addition) one, or more than one, flat if the flat is, or the flats are, intended for use for the purpose of accommodating a person or persons responsible for the security or maintenance of the building.

(3) For the purposes of—

(a) the definition of “mixed development land” in subsection (1), a parcel of land does not cease to be occupied or used solely as the site of one building comprising one, or more than one, flat and one, or more than one, office; and

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(b) the definition of "residential land" in that subsection, a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one building comprising two or more flats, a guest-house or a boarding-house,

by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building, guest-house or boarding-house, as the case may be.

(4) For the purposes of paragraph (b) of the definition of "residential land" in subsection (1) land is used for primary production if it is used primarily for—

- (a) the cultivation thereof for the purpose of selling the produce of the cultivation;
- (b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or
- (c) the keeping of bees thereon for the purpose of selling their honey.

Sec. 95.
(Limit of rates.)

(b) by omitting section 95 (1) and (2) and by inserting instead the following subsections :—

(1) The proceeds of any water or sewerage rate shall not exceed the amount which would be yielded by a rate which would—

- (a) where, pursuant to section 96 (1) (a), land is rated on an assessed annual value, produce an amount equal to 7½ per centum on the assessed annual value of ratable land; or

(c)

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(b) where, pursuant to paragraph (b) or (c) of subsection (1) of section 96, land is rated partly on an assessed annual value and partly on an unimproved value, produce an amount equal to the sum of the amount produced by applying the provision of paragraph (a) in respect of the part of the ratable land rated on an assessed annual value and of an amount equal to 2 per centum on the unimproved value of the part of the ratable land rated on an unimproved value.

(2) The proceeds of any stormwater drainage rate shall not exceed the amount which would be yielded by a rate which would—

(a) where, pursuant to section 96 (1) (a), land is rated on an assessed annual value, produce a revenue equal to 3 per centum of the assessed annual value of ratable land; or

(b) where, pursuant to paragraph (b) or (c) of subsection (1) of section 96, land is rated partly on an assessed annual value and partly on an unimproved value, produce an amount equal to the sum of the amounts produced by applying the provisions of paragraph (a) in respect of the part of the ratable land rated on an assessed annual value and of an amount equal to 1 per centum on the unimproved value of the part of the ratable land rated on an unimproved value.

(2A) In determining for the purposes of this section the amount which would be yielded by a rate no regard shall be paid to any amount which would be yielded by reason of the levying of minimum amounts pursuant to section 96 (7).

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

Sec. 96.
(Basis of
rating.)

(c) (i) by omitting section 96 (1) and by inserting instead the following subsection :—

(1) The board may determine whether for any year the rates to be levied, or any of them—

(a) shall be levied upon the assessed annual value of ratable land ;

(b) shall be levied partly upon the assessed annual value and partly upon the unimproved value of ratable land ; or

(c) shall be levied—

(i) in the case of residential land, being ratable land, upon the unimproved value ;

(ii) in the case of non-residential land, being ratable land, upon the assessed annual value ; and

(iii) in the case of mixed development land, being ratable land, upon the unimproved value of that part of the mixed development land that is residential land and upon the assessed annual value of that part of the mixed development land that is non-residential land.

(ii) by omitting section 96 (7) and by inserting instead the following subsection :—

(7) In levying any rate it shall be lawful for the board to levy—

(a) in respect of any ratable land minimum amounts for water rates, sewerage rates and stormwater drainage rates ;

(b)

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) in respect of any ratable land used and occupied as the site of a building comprising (wholly or partly) two or more flats, minimum amounts for any such rates determined on the basis that each flat is a separate ratable parcel;
 - (c) in respect of occupied lands and unoccupied lands or of any different classes whatever of ratable lands, different minimum amounts for any such rates; and
 - (d) in respect of any strata lot designed and intended for occupation or use for the purposes of accommodating one, or more than one, motor vehicle, water rates, sewerage rates and stormwater drainage rates without regard to minimum amounts for such rates.
- (iii) by omitting from section 96 (8) the word "The" and by inserting instead the words "Subject to this Act, the";
- (iv) by inserting after section 96 (9) the following subsections :—

(10) Subsection (6) does not apply where rates are levied pursuant to section 96 (1) (c).

(11) Where the board resolves that the valuation to be adopted for the purpose of levying any rate for any year shall be the valuation in force on the first day of January in the immediately preceding year then, notwithstanding subsection (8) or section 61 or 62 of the Valuation of Land Act, 1916, that valuation shall be adopted for that purpose and for the purpose of a certificate to be given by the Government Statistician in respect of the proposed rate.

Metropolitan Water, Sewerage, and Drainage (Amendment).

Further
amend-
ment of
Act No.
50, 1924.

Sec. 96A.

Board may
require
Valuer-
General to
determine
certain
values.

Sec. 97.
(Valua-
tions.)

6. The Principal Act is further amended—

- (a) by inserting after section 96 the following section :—

96A. The board may, by instrument in writing, require the Valuer-General to determine the assessed annual value of any land, or of any class of land, in the area of operations.

- (b) (i) by inserting after section 97 (3) the following subsections :—

(3A) A stratum separately valued under any of the said Acts may be separately rated.

(3B) Where, in respect of any mixed development land, an apportionment factor is determined or redetermined under this Act or the Valuation of Land Act, 1916, the board shall apply the apportionment factor as last so determined or redetermined—

- (a) to the unimproved value of the land by reducing that value by the percentage represented by the apportionment factor; and

- (b) to the assessed annual value of the land by reducing that value by the reciprocal of the percentage referred to in paragraph (a),

and rates in so far as they are leviable on the unimproved value or the assessed annual value of the land shall be levied on those values as so reduced.

(3C) The reference to the unimproved value of the land in subsection (3B) (a) and to the assessed annual value of the land in sub-

section

Metropolitan Water, Sewerage, and Drainage (Amendment).

section (3B) (b) means, in the case of land to which section 100c (5) applies, the rating factor in respect of the land referred to in section 100c (5) after deducting the allowance (if any) referred to in section 100c (5).

(3D) Where the assessed annual value of any land is not determined and the board considers that that value ought to be determined so that a rate may be levied on the land or an adjustment of a rate levied on the land may be made under section 97A, the board may cause that value to be determined.

- (ii) by omitting from section 97 (4) the words "The board shall give notice of any valuation or apportionment so made by it and objection against such valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in the said Act or in any rules or regulations thereunder shall be deemed to be a reference to the board.";
- (iii) by inserting after section 97 (4) the following subsections :—

(4A) Where, for any reason, the board considers that an apportionment factor should be determined in respect of any mixed development land, or that an apportionment factor determined in respect of any mixed development land has ceased to be appropriate, the board may cause the apportionment factor to be determined or redetermined, as the case may be.

(4B) The board shall give notice of any valuation made pursuant to subsection (3D) or any valuation or apportionment made pursuant

to

Metropolitan Water, Sewerage, and Drainage (Amendment).

to subsection (4) and objections to the valuation or apportionment shall lie in the manner provided in the case of objections against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

(4C) The board shall give notice of any apportionment factor determined or redetermined pursuant to subsection (4A) and objection to the determination or redetermination of the apportionment factor on the ground that it is incorrectly determined or redetermined or that the land in respect of which it is determined or redetermined is not mixed development land shall lie in the manner provided in the case of objection against valuations under the Valuation of Land Act, 1916, and for that purpose a reference to the Valuer-General in that Act, or in any rules or regulations made thereunder, shall be deemed to include a reference to the board.

(4D) The right to object under subsection (4B) to a valuation shall include a right to object to the valuation on the ground that an apportionment factor has not been determined in respect of the land concerned.

(4E) The provisions of the Valuation of Land Act, 1916, apply for the purpose of the making of a valuation, or for the purpose of the determination or redetermination of an apportionment factor, pursuant to this section, as they would apply if the valuation, determination or redetermination were made under that Act.

(4F) Where the board gives a certificate under section 101 (3) in respect of any land, nothing in or done under subsection (4) in so

far

Metropolitan Water, Sewerage, and Drainage (Amendment).

far as it relates to any period prior to the date of the certificate shall affect a bona fide purchaser for value of the land.

7. The Principal Act is further amended by inserting after section 97 the following sections :—

Further
amend-
ment of
Act No.
50, 1924.
Secs. 97A
and 97B.

97A. (1) Where a rate is levied on any ratable land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that when the rate was levied the land was rated on the wrong basis, the board shall adjust the rate levied so as to give effect to the decision.

Adjust-
ment of
rates.

(2) Where a rate is levied on any ratable land, or a rate is adjusted under this subsection, on the basis of the land being residential land, non-residential land or mixed development land, as the case may be, and the board subsequently decides that since the date on which the rate was levied or so adjusted the land has ceased to belong to the class of land to which it belonged when the rate was levied or so adjusted, the board shall adjust the rate levied or so adjusted so as to give effect to the decision in respect of the period following the date on which the land ceased to belong to that class of land.

(3) Where a rate is levied on any ratable land, being mixed development land, on the basis of an apportionment factor determined in respect of the land, or a rate is adjusted under this subsection following on the redetermination of an apportionment factor, and the apportionment factor determined or so redetermined ceases to be appropriate, and is redetermined pursuant to section 97 (4A), the board shall adjust the rate levied or so adjusted so as to take account of the apportionment factor as redetermined in respect of the period following the date on which the apportionment factor ceased to be appropriate prior to being so redetermined.

(4)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(4) An adjustment made by the board pursuant to subsection (1), (2) or (3) may take account of one, or more than one, change in the class to which land belongs, or of one, or more than one, redetermination of an apportionment factor in respect of land, occurring or made during the period in respect of which the adjustment is made.

(5) The board may adjust a rate pursuant to subsection (1), (2) or (3) either on its own motion or on the application of a rateable person requesting the board to adjust the rate.

(6) An application referred to in subsection (5) shall be made by posting to, or lodging with, the board an instrument in writing which shall fully state the ground on which the adjustment of the rate concerned is sought.

(7) The board may allow or disallow an application made pursuant to subsection (6), and shall in either event give to the person making the application written notice of its decision.

(8) Where an adjustment to a rate is made pursuant to subsection (1), (2) or (3)—

(a) the board shall give written notice of the adjustment to the person liable to pay the amount of any increase or entitled to receive the amount of any refund, except where written notice is given pursuant to subsection (7) to that person;

(b) any amount by which the rate is increased may be recovered from the person liable to pay the increase and may be so recovered notwithstanding that an objection or an appeal is made by that person under section 97B against the adjustment, but if the rate is altered as a result of the objection or the appeal any amount paid in excess shall be refunded; and

(c)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(c) any amount by which the rate is decreased shall be refunded to the person entitled to receive the refund.

(9) Where the board gives a certificate under section 101 (3) in respect of any land no adjustment under this section, in so far as it relates to any period prior to the date of the certificate, shall affect a bona fide purchaser for value of the land.

97B. (1) Where a rate is levied on any land on the basis that the land is residential land, non-residential land or mixed development land the person liable to pay the rate may, within the prescribed period, object to the rate on the ground and in the manner set out in this section.

Objection to and appeals against certain rates.

(2) Where an adjustment made pursuant to section 97A (1), (2) or (3) results in the increase of a rate in respect of any land, the person liable to pay the amount of the increase may, within the prescribed period, object to the adjustment on the ground and in the manner set out in this section.

(3) Where under section 97A a person applies to the board to adjust a rate and the board refuses to adjust the rate or to adjust the rate in accordance with the application, the applicant may, within the prescribed period, object on the ground and in the manner set out in this section.

(4) An objection—

(a) under subsection (1) may be made only on the ground that the board was in error in levying a rate upon land on the basis of the land being residential land, non-residential land or mixed development land, as the case may be;

(b)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(b) under subsection (2) may be made only on the ground that the board was in error in adjusting the rate levied upon land on the basis of the land having been, or having ceased to be, residential land, non-residential land or mixed development land, as the case may be; or

(c) under subsection (3) may be made only on the ground that the board was in error in refusing to adjust the rate or to adjust the rate in accordance with the application concerned, as the case may be.

(5) An objection under subsection (1), (2) or (3) shall be made by posting to, or lodging with, the board an instrument in writing which shall state, in accordance with subsection (4), the ground for the objection and the reasons which, it is alleged, support that ground.

(6) The board may allow or disallow an objection made under subsection (1), (2) or (3).

(7) The board shall give to a person making an objection under subsection (1), (2) or (3) written notice of its decision on the objection.

(8) A person objecting under subsection (1), (2) or (3) who is dissatisfied with the decision of the board on his objection may, within the prescribed period, appeal to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921 (in this section called "the Court").

(9) A person appealing to the Court shall be limited, on the hearing of the appeal, to the same ground as that raised by him in his objection to the board.

(10) The Court may allow or dismiss an appeal.

(11)

Metropolitan Water, Sewerage, and Drainage (Amendment).

(11) A person appealing under this section may appear at the hearing of the appeal by his counsel or solicitor, or by his agent authorised by him in writing.

(12) No objection to the board or appeal to the Court shall lie under this section in respect of a redetermination by the board of an apportionment factor.

(13) A rate levied upon any land may be recovered notwithstanding that an objection is made pursuant to subsection (1), but if the rate is altered as the result of the objection or as the result of an appeal to the Court any amount paid in excess shall be refunded.

(14) In this section "prescribed period" means—

(a) in relation to a person wishing to object under subsection (1) to a rate, the period of thirty days after the date of service on him of a rate notice relating to that rate;

(b) in relation to a person wishing to object under subsection (2) to the adjustment of a rate, the period of thirty days after the date on which that person is notified of the adjustment of the rate pursuant to section 97A (8);

(c) in relation to a person wishing to object under subsection (3) to the refusal of the board to adjust a rate or to adjust a rate in accordance with an application, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to section 97A (7); and

(d) in relation to a person wishing to appeal against a decision of the board on an objection, the period of thirty days after the date on which that person is notified of the decision of the board pursuant to subsection (7).

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Further
amend-
ment of
Act No.
50, 1924.
Secs. 100B
and 100C.

Power to
reduce
rates.

8. The Principal Act is further amended by inserting after section 100AA the following sections :—

100B. (1) Where part (referred to as the “attributable part”) of the unimproved value of any parcel of land upon which is erected a single dwelling-house is attributable to the fact that the parcel is, under any planning scheme prepared under Part XIIA of the Local Government Act, 1919, within a zone or reservation in which land may be used for the purposes of industry, commerce or the erection of residential flat buildings (as defined in section 304 of that Act) the ratable person in respect of the land may make application to the board for relief from payment of part of the rates levied on the land in the current rating year.

(2) If, on receipt of an application, referred to in subsection (1), the board is satisfied that the land concerned is used or occupied solely as the site of a single dwelling-house, it shall require the Valuer-General in cases where the valuation is made under the Valuation of Land Act, 1916, or the valuer appointed by the board, as the case may be, to determine the amount of the attributable part of the unimproved value of the land and the valuer shall furnish the determination to the board.

(3) In determining pursuant to subsection (2) the amount of the attributable part the valuer shall not take into consideration any portion of the parcel which he considers is in excess of that which is reasonably necessary to be occupied or used in conjunction with the single dwelling-house and which might, but for the fact that it forms part of the site of a single dwelling-house, be occupied or used for the purposes of industry, commerce or the erection of residential flat buildings (defined as provided in subsection (1)).

(4) Where a determination of the attributable part of the unimproved value of a parcel of land has been made by the valuer he shall not be required to make

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a further determination of that part while the valuation in respect of which the determination was made remains in use for rating purposes or unless the valuation is altered on objection or correction of a clerical error or misdescription.

(5) Where a valuation is altered as provided in subsection (4) the board shall require the valuer to redetermine the amount of such attributable part and the valuer shall furnish such redetermination to the board and a due adjustment shall be made and amounts paid in excess shall be refunded and amounts short-paid shall be recoverable as arrears.

(6) The amount determined or redetermined by the valuer under subsection (2) or (5) as the attributable part of the unimproved value shall be the attributable part for the purposes of subsection (1) while the land is used or occupied solely as the site of a single dwelling-house and the valuation in respect of which the determination or redetermination is made remains in use for rating purposes.

(7) The board shall postpone such part of the rates levied on the land in any rating year to which a determination or redetermination under subsection (2) or (5) applies as bears to the whole amount of the rates so levied in that year the same proportion as the attributable part bears to the whole of the unimproved value.

(8) Where a ratable person pays the whole or part of the rates levied before the board postpones under subsection (7) the payment of part thereof, any amounts paid in excess shall be refunded.

(9) Where there is a postponement of rates under this section and the land concerned ceases to be used or occupied solely as the site of a single dwelling-house—

(a) the ratable person shall, within one month, inform the board of the date upon which the land ceased to be so used or occupied;

(b)

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- (b) the ratable person shall cease to be entitled to a postponement of rates under this section;
- (c) the amount of rates postponed under this section during any rating year which is within the five rating years next preceding the date on which the land ceased to be so used or occupied shall become due and payable to the board and shall be recoverable by the board on the expiration of one month from the date the land ceased to be so used or occupied; and
- (d) all amounts of rates postponed under this section (other than those due and payable under paragraph (c)) shall be written off.

(10) The provisions of this section shall apply only to a rate made and levied by the board on or after 1st July, 1975.

(11) In this section—

“single dwelling-house” means a dwelling used or adapted for use solely for habitation by not more than one family and includes a dwelling in a row of two or more dwellings attached to each other, such as are commonly known as semi-detached or terrace buildings, but does not include a flat;

“valuer” means the Valuer-General or the valuer appointed by the board and directed by the board to make valuations for the purposes of this section.

Rating of
certain
classes
of lease
from the
Crown.

100C. (1) In this section “valuer” has the meaning ascribed thereto by section 100B (11).

(2) This section applies to land—

- (a) held under any of the following tenures under the Crown Lands Consolidation Act, 1913, that is to say, annual leases, snow leases, occupation licenses,

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licenses, preferential occupation licenses, permissive occupancies, special leases (not being special leases in perpetuity) and permits to enclose a road or watercourse; or

- (b) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description.

(3) Where a valuation of land to which this section applies is determined pursuant to section 97, or is furnished by a valuer or the Valuer-General has furnished a general valuation list in which is included a valuation of any land to which this section applies, or a supplementary valuation list in which is included a valuation of any such land then, if the valuation of the land is a valuation which may be used for the purpose of levying a rate on the land on or after 1st July, 1975, in addition to the valuation made by the valuer or to the valuation included in any such valuation list or supplementary valuation list, there shall be furnished a statement of an unimproved rating factor and an assessed annual value rating factor determined in respect of the land in accordance with subsection (4).

(4) The rating factor in respect of any land to which this section applies shall be determined as follows—

- (a) in the case of the unimproved rating factor, that factor shall be an amount equal to the unimproved value of the land to which this section applies; and
- (b) in the case of the assessed annual value rating factor, that factor shall be an amount equal to the assessed annual value of the land to which this section applies, or an amount equal to 5 per centum of the unimproved rating factor, whichever is the greater,

reduced,

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reduced, in either case, by an amount, as determined by the valuer, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (2) held by the ratable person applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.

(5) Subject to section 97 (3B), a rating factor in respect of any land to which this section applies, after deducting therefrom, in the case of an unimproved rating factor, any allowance made under section 58 (2) of the Valuation of Land Act, 1916, shall, until the land is included in a subsequent valuation, be used by the board to the exclusion of any other valuation as the basis of any rate levied or leviable upon the unimproved value or the assessed annual value, as the case may be, of the land to which the rating factor relates.

(6) Any rating factor determined under this section shall be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation.

(7) Without limiting the generality of subsection (6), an objection may be made by a ratable person on the ground that no rating factor has been determined for the land in respect of which he is ratable.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 3rd April, 1974.*

