

VALUATION OF LAND (AMENDMENT) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Valuation of Land Act, 1916, so as—

- (a) to make further provision with respect to the office of the Valuer-General and, in particular—
 - (i) to provide that a person is not eligible to be appointed as the Valuer-General if he is of or over the age of 60 years;
 - (ii) to provide for the term of office of the Valuer-General to be specified in the instrument of his appointment;
 - (iii) to require the Valuer-General to devote the whole of his time to the duties of his office;
 - (iv) to authorise the payment of travelling and subsistence allowances to the Valuer-General;
 - (v) to specify the circumstances in which a substitute may be appointed to act for the Valuer-General;
 - (vi) to specify the circumstances in which the Valuer-General vacates his office;
 - (vii) to give the Valuer-General and certain other persons immunity from personal liability in certain circumstances;
 - (viii) to preserve certain superannuation and leave rights of the Valuer-General; and
 - (ix) to provide in certain cases for the re-appointment of the Valuer-General to his former employment
(clauses 2 (b) and (e) and 4);
- (b) to create offences relating to the disclosure and misuse of certain information (clause 2 (c));
- (c) to provide that penalties imposed by that Act or the regulations may be recovered summarily before a court of petty sessions (clause 2 (d)); and
- (d) to make other provisions of a minor, consequential or transitional nature.

**VALUATION OF LAND (AMENDMENT) BILL,
1980**

No. , 1980.

A BILL FOR

An Act to amend the Valuation of Land Act, 1916, with respect to the office of the Valuer-General and the disclosure and misuse of certain information; and in certain other respects.

[MR GORDON—12 November, 1980.]

Valuation of Land (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.** This Act may be cited as the "Valuation of Land Short
(Amendment) Act, 1980". title.

2. The Valuation of Land Act, 1916, is amended—

Amendment
of Act
No. 2,
1916.

(a) by inserting in section 3 after the matter relating to Part VII the following matter :—

Sec. 3.
(Division
into
Parts.)

10 **SCHEDULE 1.—PROVISIONS RELATING TO THE
VALUER-GENERAL.**

(b) by omitting section 8 (2) and (3) and by inserting instead the following subsection :—

Sec. 8.
(Valuer-
General.)

15 (2) Schedule 1 has effect in respect of the Valuer-
General.

(c) by omitting section 11 and by inserting instead the following section :—

Sec. 11.

20 **11. (1)** A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

Disclosure
and misuse
of certain
information.

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the administration or execution of this Act;

25 (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;

Valuation of Land (Amendment).

- (d) in accordance with a requirement imposed under the Ombudsman Act, 1974; or
- (e) with other lawful excuse.

5 (2) A person acting in the administration or execution of this Act shall not use, either directly or indirectly, information acquired by him in that capacity, being information that is not generally known but if generally known might reasonably be expected to affect materially the market value or price of any land, for the purpose of gaining either directly or indirectly any advantage for himself.

Penalty : \$2,000.

(d) by inserting after section 80 the following section :— Sec. 80A.

15 80A. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Proceedings for recovery of penalties to be heard summarily.

(e) by inserting at the end of the Act the following Sch. 1. Schedule :—

20 SCHEDULE 1. Sec. 8 (2).

PROVISIONS RELATING TO THE VALUER-GENERAL.

1. A person who is of or above the age of 60 years is not eligible to be appointed as the Valuer-General or to act in the office of the Valuer-General under clause 6. Ineligibility by reason of age.

25 2. (1) The Valuer-General shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment. Term of office.

30 (2) The Valuer-General shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, not exceeding 7 years, as is specified in the instrument of his re-appointment.

Valuation of Land (Amendment).

3. The Valuer-General shall devote the whole of his time to the duties of his office. **Full-time office.**

4. (1) The Valuer-General is entitled to be paid— **Remuneration.**

5 (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and

(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

10 (2) The remuneration referred to in subclause (1) (a) is payable from the Consolidated Revenue Fund, which is hereby appropriated accordingly.

5. The Public Service Act, 1979, does not apply to or in respect of the appointment of the Valuer-General and the Valuer-General is not, in his capacity as the Valuer-General, subject to that Act during his term of office. **Public Service Act, 1979, not to apply.**

15 6. (1) The Governor may appoint any person appointed or employed for the purposes of this Act to act in the office of the Valuer-General while the Valuer-General is absent from his office through illness or any other cause or while there is a vacancy in the office of the Valuer-General, and that person while so acting shall be deemed to be the Valuer-General and shall have and may exercise and perform the powers, authorities, duties and functions of the Valuer-General. **Appointment of substitute to act during absence of Valuer-General.**

25 (2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of the Valuer-General, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by the Valuer-General.

30 7. The Valuer-General shall be deemed to have vacated his office— **Vacation of office.**

(a) if he dies;

(b) if he engages in New South Wales or elsewhere during his term of office in any paid employment outside the duties of his office without the approval of the Minister;

Valuation of Land (Amendment).

- 5 (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- 10 (d) if he absents himself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is hereby authorised to grant, or unless the absence is occasioned by illness or other unavoidable cause;
- (e) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 15 (f) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of a crime or offence which, if committed in New South Wales, would be a crime or offence so punishable;
- 20 (g) if he resigns his office by writing under his hand addressed to the Minister;
- (h) if he is removed from office under clause 8; or
- (i) upon his attaining the age of 60 years.
- 25 8. (1) The Valuer-General shall not be removed from office except in accordance with this clause. Removal
from
office.
- (2) The Valuer-General may be suspended from office by the Governor for misbehaviour or incompetence.
- 30 (3) The Minister shall lay or cause to be laid before each House of Parliament, within 7 sitting days of that House after the Valuer-General has been suspended from office, a full statement of the grounds for the suspension.
- 35 (4) The suspension shall be lifted unless each House of Parliament, within 21 sitting days from the time when the statement was laid before it, declares by resolution that the Valuer-General ought to be removed from office.
- (5) If each House does so declare within that period, the Valuer-General shall be removed from office by the Governor.

Valuation of Land (Amendment).

(6) For the purposes of this clause, sitting days shall be counted, whether or not they occur during the same session.

5 9. No matter or thing done by the Valuer-General or by any other person acting under the direction or as delegate of the Valuer-General shall, if the matter or thing was done in good faith for the purposes of executing this Act, subject the Valuer-General or person personally to any action, liability, claim or demand. Protection from liability.

10 10. (1) In this clause—
Preservation of rights of Valuer-General previously public servant, etc.
15 “statutory body” means any body declared under clause 12 to be a statutory body for the purposes of this Schedule;
“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of his appointment, where the Valuer-General was, immediately before his appointment as the Valuer-General—

- 20 (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,
- 25 he—
- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment; and
- 30 (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

Valuation of Land (Amendment).

as if he had continued to be such an officer, contributor or person during his service as the Valuer-General, and—

5 (h) his service as the Valuer-General shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and

10 (i) he shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

15 (3) If the Valuer-General would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme he shall not be so entitled upon his becoming (whether upon his appointment as the Valuer-General or at any later time while he holds office as the Valuer-General) a contributor to any other superannuation scheme, and the provisions of subclause (2)

20 (i) cease to apply to or in respect of him and the Government of New South Wales in any case where he becomes a contributor to such another superannuation scheme.

25 (4) Subclause (3) does not prevent the payment to the Valuer-General upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

30 (5) The Valuer-General shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

11. (1) In this clause—

“retiring age” means—

35 (a) in relation to a person who was, immediately before his appointment as the Valuer-General, an officer of the Public Service—the age of 60 years; and

40 (b) in relation to a person who was, immediately before his appointment as the Valuer-General, an officer or employee of a statutory body—the age at which officers or employees (being officers or

Valuer-General entitled to re-appointment to former employment in certain cases.

Valuation of Land (Amendment).

employees of the class to which that person belonged immediately before his appointment as the Valuer-General), as the case may be, of that statutory body are entitled to retire;

5 "statutory body" means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

10 (2) A person who ceases to be the Valuer-General, otherwise than pursuant to clause 7 (paragraph (g) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as the Valuer-General, he was—

(a) an officer of the Public Service—to some position in the Public Service; or

15 (b) an officer or employee of a statutory body—to some position in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as the Valuer-General.

20 12. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule. Declaration of statutory bodies.

3. (1) The Valuation of Land Act, 1916, is further amended by omitting the word "valuer-general" wherever occurring and by inserting instead the word "Valuer-General". Further amendment of Act No. 2, 1916.

25 (2) A reference in any Act (except this Act) or statutory instrument, or in any other instrument, or in any contract or agreement to "valuer-general" shall be construed as a reference to "Valuer-General". (Statute law revision.)

30 4. (1) Section 8 of, and Schedule 1 to, the Valuation of Land Act, 1916, as amended by this Act, shall apply to and in respect of the person holding the office of Valuer-General immediately before the commencement of this Act. Savings and transitional provisions.

Valuation of Land (Amendment).

(2) The instrument of appointment of the person holding the office of Valuer-General immediately before the commencement of this Act shall, for the purposes of clause 2 of Schedule 1 to the Valuation of Land Act, 1916, as amended by this Act, be
5 deemed to specify a term of office of 7 years from the date of his appointment to that office.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

(30c)

Rehabilitation of Land (Amendment)

22. The instrument of appointment of the person holding the office of Valuer-General immediately before the commencement of this Act shall, for the purposes of clause 2 of section 10 of the Valuation Act, 1970, be deemed to have been issued to the person named in section 22 of the Valuation Act, 1970, and the person named in section 22 of the Valuation Act, 1970, shall be deemed to have been appointed to that office.

**VALUATION OF LAND (AMENDMENT) ACT,
1980, No. 137**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 137, 1980.

An Act to amend the Valuation of Land Act, 1916, with respect to the office of the Valuer-General and the disclosure and misuse of certain information; and in certain other respects. [Assented to, 9th December, 1980.]

Valuation of Land (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.

1. This Act may be cited as the "Valuation of Land (Amendment) Act, 1980".

Amendment
of Act
No. 2,
1916.
Sec. 3.
(Division
into
Parts.)

2. The Valuation of Land Act, 1916, is amended—

(a) by inserting in section 3 after the matter relating to Part VII the following matter :—

SCHEDULE 1.—PROVISIONS RELATING TO THE
VALUER-GENERAL.

Sec. 8.
(Valuer-
General.)

(b) by omitting section 8 (2) and (3) and by inserting instead the following subsection :—

(2) Schedule 1 has effect in respect of the Valuer-General.

Sec. 11.

(c) by omitting section 11 and by inserting instead the following section :—

Disclosure
and misuse
of certain
information.

11. (1) A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;

Valuation of Land (Amendment).

- (d) in accordance with a requirement imposed under the Ombudsman Act, 1974; or
- (e) with other lawful excuse.

(2) A person acting in the administration or execution of this Act shall not use, either directly or indirectly, information acquired by him in that capacity, being information that is not generally known but if generally known might reasonably be expected to affect materially the market value or price of any land, for the purpose of gaining either directly or indirectly any advantage for himself.

Penalty : \$2,000.

- (d) by inserting after section 80 the following section :— Sec. 80A.

80A. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Proceedings for recovery of penalties to be heard summarily.

- (e) by inserting at the end of the Act the following Sch. 1.
Schedule :—

SCHEDULE 1. Sec. 8 (2).

PROVISIONS RELATING TO THE VALUER-GENERAL.

1. A person who is of or above the age of 60 years is not eligible to be appointed as the Valuer-General or to act in the office of the Valuer-General under clause 6. Ineligibility by reason of age.

2. (1) The Valuer-General shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment. Term of office.

(2) The Valuer-General shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, not exceeding 7 years, as is specified in the instrument of his re-appointment.

Valuation of Land (Amendment).

Full-time
office.

3. The Valuer-General shall devote the whole of his time to the duties of his office.

Remunera-
tion.

4. (1) The Valuer-General is entitled to be paid—

(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and

(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(2) The remuneration referred to in subclause (1) (a) is payable from the Consolidated Revenue Fund, which is hereby appropriated accordingly.

Public
Service
Act, 1979,
not to
apply.

5. The Public Service Act, 1979, does not apply to or in respect of the appointment of the Valuer-General and the Valuer-General is not, in his capacity as the Valuer-General, subject to that Act during his term of office.

Appoint-
ment of
substitute
to act
during
absence
of Valuer-
General.

6. (1) The Governor may appoint any person appointed or employed for the purposes of this Act to act in the office of the Valuer-General while the Valuer-General is absent from his office through illness or any other cause or while there is a vacancy in the office of the Valuer-General, and that person while so acting shall be deemed to be the Valuer-General and shall have and may exercise and perform the powers, authorities, duties and functions of the Valuer-General.

(2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of the Valuer-General, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by the Valuer-General.

Vacation
of office.

7. The Valuer-General shall be deemed to have vacated his office—

(a) if he dies;

(b) if he engages in New South Wales or elsewhere during his term of office in any paid employment outside the duties of his office without the approval of the Minister;

Valuation of Land (Amendment).

- (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- (d) if he absents himself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is hereby authorised to grant, or unless the absence is occasioned by illness or other unavoidable cause;
- (e) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (f) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of a crime or offence which, if committed in New South Wales, would be a crime or offence so punishable;
- (g) if he resigns his office by writing under his hand addressed to the Minister;
- (h) if he is removed from office under clause 8; or
- (i) upon his attaining the age of 60 years.

8. (1) The Valuer-General shall not be removed from office except in accordance with this clause. Removal
from
office.

(2) The Valuer-General may be suspended from office by the Governor for misbehaviour or incompetence.

(3) The Minister shall lay or cause to be laid before each House of Parliament, within 7 sitting days of that House after the Valuer-General has been suspended from office, a full statement of the grounds for the suspension.

(4) The suspension shall be lifted unless each House of Parliament, within 21 sitting days from the time when the statement was laid before it, declares by resolution that the Valuer-General ought to be removed from office.

(5) If each House does so declare within that period, the Valuer-General shall be removed from office by the Governor.

Valuation of Land (Amendment).

(6) For the purposes of this clause, sitting days shall be counted, whether or not they occur during the same session.

Protection
from
liability.

9. No matter or thing done by the Valuer-General or by any other person acting under the direction or as delegate of the Valuer-General shall, if the matter or thing was done in good faith for the purposes of executing this Act, subject the Valuer-General or person personally to any action, liability, claim or demand.

Preserva-
tion of
rights of
Valuer-
General
previously
public
servant,
etc.

10. (1) In this clause—

“statutory body” means any body declared under clause 12 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of his appointment, where the Valuer-General was, immediately before his appointment as the Valuer-General—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

Valuation of Land (Amendment).

as if he had continued to be such an officer, contributor or person during his service as the Valuer-General, and—

(h) his service as the Valuer-General shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and

(i) he shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If the Valuer-General would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme he shall not be so entitled upon his becoming (whether upon his appointment as the Valuer-General or at any later time while he holds office as the Valuer-General) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him and the Government of New South Wales in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) does not prevent the payment to the Valuer-General upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

(5) The Valuer-General shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

11. (1) In this clause—

“retiring age” means—

(a) in relation to a person who was, immediately before his appointment as the Valuer-General, an officer of the Public Service—the age of 60 years; and

(b) in relation to a person who was, immediately before his appointment as the Valuer-General, an officer or employee of a statutory body—the age at which officers or employees (being officers or

Valuer-General entitled to re-appointment to former employment in certain cases.

Valuation of Land (Amendment).

employees of the class to which that person belonged immediately before his appointment as the Valuer-General), as the case may be, of that statutory body are entitled to retire;

“statutory body” means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be the Valuer-General, otherwise than pursuant to clause 7 (paragraph (g) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as the Valuer-General, he was—

- (a) an officer of the Public Service—to some position in the Public Service; or
- (b) an officer or employee of a statutory body—to some position in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as the Valuer-General.

Declara-
tion of
statutory
bodies.

12. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Further
amendment
of Act
No. 2,
1916.
(Statute
law re-
vision.)

3. (1) The Valuation of Land Act, 1916, is further amended by omitting the word “valuer-general” wherever occurring and by inserting instead the word “Valuer-General”.

(2) A reference in any Act (except this Act) or statutory instrument, or in any other instrument, or in any contract or agreement to “valuer-general” shall be construed as a reference to “Valuer-General”.

Savings
and tran-
sitional
provisions.

4. (1) Section 8 of, and Schedule 1 to, the Valuation of Land Act, 1916, as amended by this Act, shall apply to and in respect of the person holding the office of Valuer-General immediately before the commencement of this Act.

Valuation of Land (Amendment).

(2) The instrument of appointment of the person holding the office of Valuer-General immediately before the commencement of this Act shall, for the purposes of clause 2 of Schedule 1 to the Valuation of Land Act, 1916, as amended by this Act, be deemed to specify a term of office of 7 years from the date of his appointment to that office.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 9th December, 1980.*





