

LAND TAX MANAGEMENT (AMENDMENT) ACT 1992
No. 84

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Land Tax Management Act 1956 No. 26
4. Consequential amendments to other Acts

SCHEDULE 1—AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956 CONCERNING LAND VALUE

SCHEDULE 2—OTHER AMENDMENTS TO THE LAND TAX MANAGEMENT ACT 1956

SCHEDULE 3—CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

LAND TAX MANAGEMENT (AMENDMENT) ACT 1992
No. 84

NEW SOUTH WALES



Act No. 84, 1992

An Act to amend the Land Tax Management Act 1956 to make further provision with respect to the valuation of land for land tax purposes and with respect to exemptions and concessions; to amend various Acts consequentially; and for other purposes. [Assented to 27 November 1992]

Land Tax Management (Amendment) Act 1992 No. 84

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Land Tax Management (Amendment) Act 1992.

Commencement

2. This Act commences on 31 December 1992.

Amendment of Land Tax Management Act 1956 No. 26

3. The Land Tax Management Act 1956 is amended as set out in Schedules 1 and 2.

Consequential amendments to other Acts

4. Each Act specified in Schedule 3 is amended as set out in that Schedule.

**SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE**

(Sec. 3)

(1) Section 3 (Definitions):

From section 3 (1), omit the definitions of "Adjusted value", "Deductible allowance", "Equalisation factor" and "Land tax", insert instead in alphabetical order:

"Register" means the Register of Land Values kept under section 62U.

"Tax year" or **"Land tax year"** means a period of 12 months starting on 1 January for which land tax is leviable and payable.

(2) Section 7:

Omit the section, insert instead:

Land tax on land value

7. (1) Land tax at such rates as may be fixed by any Act is to be levied and paid on the land value of all land situated in New South Wales which is owned by taxpayers (other than land which is exempt from taxation under this Act).

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

(2) The land value of land, in relation to a land tax year, is the value entered in the Register as the land value of the land as at 1 July in the previous year.

(3) The fact that there is no value entered in the Register on 31 December in a year as the land value of the land as at 1 July in that year does not prevent land tax being levied and charged and becoming payable for the following tax year once that land value is entered in the Register.

(3) Section 9:

Omit the section, insert instead:

Taxable value

9. (1) Land tax is payable by the owner of land on the taxable value of all the land owned by that owner which is not exempt from taxation under this Act.

(2) The taxable value of that land is the total sum of the land value of each parcel of that land.

(4) Section 9A:

Omit the section, insert instead:

Postponement of part of land tax attributable to unutilised value

9A. (1) If there is an unutilised value allowance entered in the Register in respect of the land value of land, a person liable to pay land tax on the land in respect of that land value is entitled to a postponement of part of that land tax, as provided by this section.

(2) The entitlement to postponement is an entitlement to postpone payment of the amount by which the land tax assessed would have been reduced had the land value of the land been reduced by that unutilised value allowance.

(3) When the land is sold or otherwise disposed of or when the land ceases to be used or occupied solely as the site of a single dwelling-house:

- (a) the person entitled to the postponement of land tax must within 1 month inform the Chief Commissioner of the date upon which the land was sold or otherwise disposed of or ceased to be so used or occupied; and

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

- (b) the person ceases to be entitled to a postponement of land tax under this section; and
- (c) the amounts of land tax postponed under this section in any assessments made in respect of the year in which land tax ceased to be postponed under this section and the 4 preceding years become due and payable 30 days after service of notice by the Chief Commissioner.
- (4) All amounts of land tax postponed under this section (other than those which are or which may become due and payable under subsection (3)) are to be written off by the Chief Commissioner.
- (5) Unutilised value allowances are ascertained under Division 3 of Part 7.
- (6) In this section “single dwelling-house” has the same meaning as in section 160C of the Local Government Act 1919.
- (5) Sections 9C, 10 (1I), (2), (2A) and (4), 10J, 10R, 21C, 22, 34, 49: Omit “adjusted value” wherever occurring, insert instead “land value”.
- (6) Section 9C (**Reduction in land value of flats**):
- (a) From section 9C (2), omit section 9C (2) (a), insert instead:
- (a) if there is an apportionment factor entered in the Register in respect of that land value—the proportion determined in accordance with the following calculation:
- $$(1 - \text{that apportionment factor}) \times \frac{\text{floor area of the flat}}{\text{total floor area of all flats on the land}}$$
- (b) After section 9C (2), insert:
- (2A) Apportionment factors are ascertained under Division 4 of Part 7.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

(7) Section 16 (Amendment of assessments):

After section 16 (4), insert:

(5) This section extends to the amendment of an assessment to give effect to the alteration under section 62V of any particulars in the Register.

(8) Section 18 (Evidence):

In section 18 (1) (b), after “particulars of the assessment”, insert “(including any land value, allowance or apportionment factor relevant to the assessment)”.

(9) Section 35 (Objections):

After section 35 (1), insert:

(1A) The right to object to an assessment includes the right to object to any land value on which the assessment is based, on any one or more of the following grounds:

- (a) that the land value was too high or too low;
- (b) that lands which should have been valued together were valued separately;
- (c) that lands which should have been valued separately were valued together.

(1B) For the purposes of the application of this section to an objection to an allowance or apportionment factor, a reference in this section to “value” includes a reference to the amount of the allowance or apportionment factor.

(10) Section 36 (No objection on certain matters):

Omit the section.

(11) Section 37 (Decision on objection):

- (a) From section 37 (1), omit “, subject to section 38,”.
- (b) From section 37 (2), omit “(except under section 38)”.

(12) Section 38 (Certain objections to be referred to Valuer-General):

Omit the section.

Land Tax Management (Amendment) Act 1992 No. 84

**SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
*continued***

- (13) **Section 38A (Appeal etc. against decision on objection):**
 (a) From section 38A (1) and (4), omit “to the Supreme Court” wherever occurring.
 (b) At the end of section 38A (1), insert “The appeal is to the Supreme Court (except to the extent that it concerns land value) or to the Land and Environment Court to the extent that it concerns land value.”.
- (14) **Section 38B (Nature of appeal):**
 (a) From section 38B (1), omit “to the Supreme Court”.
 (b) Omit section 38B (3), insert instead:
 (3) Parts 4 and 7 apply to the Court’s assessment of land tax in the same way as those parts apply to the assessment of land tax by the Chief Commissioner.
- (15) **Section 38BA (Onus on objector):**
 Omit “on the balance of probabilities that the land tax in question was incorrectly assessed”, insert instead “the grounds of the objection on the balance of probabilities”.
- (16) **Section 38BB (Payment of land tax assessed by Court):**
 From section 38BB (1), omit “by the Supreme Court”, insert instead “by a Court”.
- (17) **Section 38BC (Liability not affected by objection etc.):**
 From section 38BC (1), omit “to the Supreme Court”.
- (18) **Section 40 (Additional land tax in case of default):**
 From section 40 (2), omit “section 9A (2) (c)”, insert instead “section 9A (3) (c)”.
- (19) **Part 7:**
 Omit the Part, insert instead:
PART 7—VALUATION OF LAND
Division 1—How land is valued
Interpretation
 54. (1) Expressions used in this Part have the same meanings as in the Valuation of Land Act 1916.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

(2) In this Part, “land” includes strata within the meaning of the Valuation of Land Act 1916.

Chief Commissioner to ascertain land values

55. (1) The Chief Commissioner may, at any time and in such manner as the Chief Commissioner thinks appropriate, ascertain the land value of any land as at 1 July in 1992 or in any subsequent year.

(2) A land value ascertained by the Chief Commissioner is to be entered by the Chief Commissioner in the Register and is to be shown in any assessment to which it is applicable.

(3) A land value need not be ascertained before the start of the land tax year to which it is applicable.

(4) The power to ascertain a land value as at 1 July in a year includes the power to reascertain that land value as at that date, and references in this Part to the ascertainment of land value are taken to include references to the reascertainment of land value.

Application of Valuation of Land Act 1916

56. (1) The following sections of the Valuation of Land Act 1916 apply to the determination of land value for the purposes of this Act in the same way as they apply to a determination of that value by the Valuer-General:

6A (Land value)

7B (Land value of strata)

7E (Valuation of land in the Western Division)

7F (2) (Protected archaeological areas, wildlife districts, wildlife refuges and game reserves)

7H (Community schemes, neighbourhood schemes and certain strata schemes)

26 (Where lands are to be included in one valuation)

27 (1) and (2) (Where lands are to be separately valued)

27A (Separate valuations of strata)

28 (Land in two or more districts)

28A (Stratum in two or more districts)

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

(2) In sections 26, 27 and 27A of that Act, a reference to the Valuer-General is to be read as a reference to the Chief Commissioner.

Assumptions to be made at time of valuation

57. (1) For the purpose of determining a land value or rental value of land, it is to be assumed that the physical condition of the land and of any other land, and the manner in which any other land may be used, were the same on the date as at which the value is being determined as they are when the determination is made.

(2) Additionally, in the case of stratum, it is to be assumed that the physical condition of the stratum, and the manner in which any lands outside the stratum (including the land of which the stratum forms part), may be used were the same on the date as at which the value is being determined as they are when the determination is made.

Valuing land in a colliery holding

58. Land within a colliery holding (as defined in the Mining Act 1992) is to have its land value determined as if no coal were contained in the land and as if the land did not form part of a coal mine.

Valuing land subject to interim conservation order

59. If land is subject to an interim conservation order under the Heritage Act 1977, Division 6 (Rating and taxing) of Part 6 of that Act applies to a valuation of that land for taxing purposes under this Act as if the order were a permanent conservation order.

Valuing land subject to heritage restrictions under EPI

60. (1) Land that is "heritage restricted" as at the date as at which its land value is to be determined is to have that land value determined on the basis of the following assumptions:

- (a) that the land may be used only for the purpose, if any, for which it was used when the value is determined;

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

- (b) that all improvements on that land when the value is determined may be continued and maintained in order that the use of that land as referred to in paragraph (a) may be continued;
- (c) that no improvements, other than those referred to in paragraph (b), may be made to or on that land.

(2) Land is “**heritage restricted**” as at a particular date if the Chief Commissioner has determined that it would be reasonable to make the assumptions referred to in subsection (1) in respect of the land as at that date because of any provision of a planning instrument concerned with the heritage significance or heritage value of the land or any building, work or other thing on or in the land.

(3) The Chief Commissioner is not required to make a determination as to whether land is heritage restricted except on the application of the owner of the land (made in the form required by the Chief Commissioner and accompanied by such supporting information as the Chief Commissioner may request).

(4) The Chief Commissioner is not to determine that land is heritage restricted as at a particular date if the land is the subject of an interim conservation order or permanent conservation order under the Heritage Act 1977 as at that date.

Valuing rent-controlled land

61. (1) Land that the Chief Commissioner has determined is “**rent-protected**” is to have its land value determined taking into account any restriction imposed by the Landlord and Tenant (Amendment) Act 1948 on the rent at which any premises or part of premises on the land may be let.

(2) Land is “**rent-protected**” if there is a fair rent applicable to any premises or part of premises on the land under the Landlord and Tenant (Amendment) Act 1948.

(3) The Chief Commissioner is not required to make a determination as to whether land is rent-protected unless both the following requirements are satisfied:

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

- (a) the owner of the land has applied to the Chief Commissioner for the determination (in the form required by the Chief Commissioner and accompanied by such supporting information as the Chief Commissioner may request);
 - (b) the Rent Controller under the Landlord and Tenant (Amendment) Act 1948 has certified to the Chief Commissioner that the land is rent-protected within the meaning of this section.
- (4) The Rent Controller is empowered to certify accordingly but such a certificate has no effect other than for the purposes of this section.

Deduction of allowance for profitable expenditure

62. In determining the land value of land, there is to be deducted the amount of any allowance ascertained under Division 2 (Allowances for profitable expenditure).

More than one concession or deduction can apply

62A. If more than one provision of this Division is applicable to the determination of land value in a particular case, the applicable provisions apply cumulatively.

Division 2—Allowances for profitable expenditure

Expenditure for which allowance is to be made

62B. (1) For the purpose of ascertaining the land value of any land, the Chief Commissioner is to ascertain a reasonable allowance for profitable expenditure by the owner, occupier or lessee in respect of:

- (a) any effective land improvements on or appertaining to the land; and
- (b) any visible and effective improvements which, although not on the land, have been constructed for its drainage, for its protection from inundation, or otherwise for its more beneficial use; and
- (c) any improvement comprising a joint water supply scheme (whether or not on the land) the construction or use of which is authorised under Division 4 or 4A of Part 2 of the Water Act 1912, and which supplies water to the land.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

(2) In the case of a stratum, the Chief Commissioner is also to ascertain a reasonable allowance for profitable expenditure by the owner or occupier on any visible and effective improvements which although not in the stratum have been constructed exclusively for the benefit of the stratum or the improvements therein.

(3) An allowance ascertained by the Chief Commissioner under this Division is to be entered by the Chief Commissioner in the Register in respect of a land value to which it relates and is to be shown in any assessment to which it is applicable.

No allowance in certain cases

62C. (1) No allowance is to be ascertained under this Division if:

- (a) the owner of the land was not the owner of the land when the profitable expenditure was incurred; or
- (b) the profitable expenditure was incurred by an occupier or lessee of the land and the occupancy or lease has been transferred or surrendered or has expired since that expenditure was incurred; or
- (c) in the case of land zoned or otherwise designated for use for any purpose (other than rural or non-urban purposes) under a planning instrument—any building or structure has been erected or any works have been carried out on the land; or
- (d) the profitable expenditure was incurred more than 15 years before the date as at which the land value is being determined.

(2) Subsection (1) (c) does not apply to an allowance in respect of a stratum.

Allowance not to exceed cost of improvements

62D. The amount of an allowance under this Division is not to exceed the cost of the improvements determined as at the date as at which the land value is being determined.

**SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
*continued***

No allowance for expenditure by the Crown etc.

62E. If land has been leased by the Crown or a statutory body, no allowance is to be ascertained under this Division if the expenditure was incurred by the Crown or body except to the extent to which the Crown or body has been reimbursed in respect of the expenditure by the lessee (otherwise than by payment of rent, rates or taxes).

Time at which allowance is to be calculated

62F. The allowance to be ascertained in respect of a particular land value is to be calculated as at the date as at which that land value is ascertained but is to be calculated on the assumption that the improvements in existence when it is being calculated were in existence as at that date.

Apportionment of joint expenditure on water supply scheme

62G. In calculating the allowance for expenditure on a joint water supply scheme which a number of occupiers are authorised under Division 4 or 4A of Part 2 of the Water Act 1912 to construct and use, the expenditure by any one of those occupiers in respect of the scheme is the amount that bears the same proportion to the total profitable expenditure on that scheme as the amount contributed to those works by the occupier bears to the total cost of the works.

Allowance can be objected against

62H. (1) An objection may be made to an allowance under this Division as if it were a land value.

(2) The right to object in respect of the land value of land includes the right to object on the ground that an allowance under this Division in respect of the land value has not been made.

Division 3—Unutilised value allowances

Purpose and interpretation of Division

62I. (1) This Division applies for the purposes of section 9A (Postponement of part of land tax attributable to unutilised value).

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

(2) Expressions used in this Division have the same meanings as in section 160C of the Local Government Act 1919, except to the extent that such a meaning would be inconsistent with the meaning given by this Act.

Land that is eligible to have unutilised value ascertained

62J. (1) Land is eligible to have an unutilised value allowance ascertained for its land value as at 1 July in a year if it satisfies the description in either of the following paragraphs as at midnight on 30 June in that year:

- (a) a parcel of land on which there is a single dwelling-house used or occupied as such which is, under an environmental planning instrument, zoned or otherwise designated for use for the purposes of industry, commerce or the erection of residential flat buildings;
- (b) a parcel of land (which may comprise one or more lots or portions in a current plan) on which there is a single dwelling-house used or occupied as such which is, under an environmental planning instrument, zoned or otherwise designated, so as to permit its subdivision for residential purposes.

(2) However, land is not eligible if it is rural land.

Unutilised value allowance to be ascertained on application of owner

62K. (1) The owner of land may apply to the Chief Commissioner for an unutilised value allowance to be ascertained for the land value of the land. The application must be in the form required by the Chief Commissioner and be accompanied by such supporting information as the Chief Commissioner may request.

(2) The Chief Commissioner must then ascertain the allowance if the land is eligible to have that allowance ascertained.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

(3) An allowance ascertained by the Chief Commissioner under this Division is to be entered by the Chief Commissioner in the Register in respect of the land value to which it relates and is to be shown in any assessment to which it is applicable.

How unutilised value allowance is ascertained

62L. (1) The unutilised value allowance for a land value is the amount calculated by deducting from the land value of the land the value that the land would have if it could be used only as the site of a single dwelling-house.

(2) However, no account is to be taken of any portion of the land which is in excess of that which is reasonably necessary to be occupied or used in conjunction with the single dwelling-house.

Unutilised value allowance to be reascertained in certain cases

62M. If the land value of land in respect of which an unutilised value allowance was ascertained is altered (whether as the result of being reascertained or on objection or appeal or for the correction of a clerical error or misdescription), the Chief Commissioner must reascertain an unutilised value allowance for that land value.

Unutilised value allowance can be objected to

62N. (1) An objection may be made to an allowance ascertained under this Division as if it were a land value.

(2) The right to object in respect of the land value of land includes the right to object on the ground that an allowance under this Division has not been ascertained for that land value.

**Division 4—Apportionment factors for mixed
development land**

Division applies for purposes of section 9C

62O. This Division applies for the purposes of section 9C (Reduction in land value for flats).

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

Owner may apply for apportionment factor for mixed development land

62P. (1) The Chief Commissioner may ascertain an apportionment factor for the land value of mixed development land.

(2) The owner of mixed development land may apply to the Chief Commissioner for an apportionment factor to be ascertained for the land value of the land. The application must be in the form required by the Chief Commissioner and be accompanied by such supporting information as the Chief Commissioner may request.

(3) If the owner makes such an application, the Chief Commissioner is required to ascertain the apportionment factor but only if an apportionment factor has been determined for the land and included in a valuation list under section 58B of the Valuation of Land Act 1916.

(4) An apportionment factor ascertained by the Chief Commissioner under this Division is to be entered by the Chief Commissioner in the Register in respect of the land value to which it relates and is to be shown in any assessment to which it is applicable.

How apportionment factor is determined

62Q. (1) The apportionment factor is the proportion (expressed as a percentage) which the rental value of the part of that land which is non-residential land bears to the rental value of the mixed development land as a whole.

(2) Rental values are to be ascertained as at the date as at which the land value is ascertained.

Apportionment factors can be objected against

62R. (1) An objection may be made to an apportionment factor ascertained under this Division as if it were a land value.

(2) The right to object in respect of the land value of land includes the right to object on the ground that an apportionment factor has not been ascertained under this Division for that land value.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

Apportionment factor to be reascertained in certain cases

62S. If the land value of land in respect of which an apportionment factor has been ascertained is altered (whether as the result of being reascertained or on objection or appeal or for the correction of a clerical error or misdescription), the Chief Commissioner must reascertain an apportionment factor for that land value.

Interpretation

62T. Expressions used in this Division have the meanings given by section 58C of the Valuation of Land Act 1916, except to the extent that such a meaning would be inconsistent with the meaning given by this Act.

Division 5—Miscellaneous

Register of Land Values

62U. (1) The Chief Commissioner is to keep a Register of Land Values in such form as the Chief Commissioner thinks fit.

(2) An entry in the Register as to a land value, allowance or apportionment factor ascertained under this Part is conclusive evidence of the ascertaining of the value, allowance or factor on the date shown in the entry.

(3) A certificate issued by the Chief Commissioner certifying as to the details of an entry in the Register is conclusive evidence of the matter certified.

Alteration of the Register

62V. (1) The Chief Commissioner is to make such alterations to the Register as may be necessary for the following purposes:

- to give effect to any reascertainment of a land value, allowance or apportionment factor;
- to give effect to any decision on an objection or appeal under this Act;
- to correct any clerical error or misdescription.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

(2) When any particulars entered in the Register are altered, the particulars as so altered become the particulars entered in the Register for the purposes of this Act, in substitution for the particulars that were altered.

(3) If such an alteration results in the alteration of a land value, allowance or apportionment factor, any adjustment that is thereby due is to be made, and amounts paid in excess are to be refunded and amounts under-paid are recoverable as arrears.

Delegation

62W. (1) The Chief Commissioner may delegate any of the Chief Commissioner's powers, authorities, duties or functions under this Part and Part 5 (Objections and appeals) (except this power of delegation) to any of the following persons:

- a person engaged in the administration of this Act;
- the Valuer-General;
- a person registered as a practising real estate valuer under the Valuers Registration Act 1975.

(2) A delegate may subdelegate to another person any power, authority, duty or function delegated under this section if the delegate is authorised by the terms of the delegation to do so.

Chief Commissioner may enter into agreements etc.

62X. The Chief Commissioner may enter into an agreement or other arrangement with any person (including the Valuer-General) for the performance of valuation services or the obtaining of information in connection with the matters which the Chief Commissioner is required to ascertain for the purposes of this Part.

Power to enter premises, request information etc.

62Y. (1) The following persons are authorised persons for the purposes of this section:

- the Chief Commissioner;
- a Judge or assessor of the Land and Environment Court;

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
continued

- a person authorised in writing by the Chief Commissioner to conduct a valuation of land for the purposes of this Act.
- (2) An authorised person may, with the written authority of the Chief Commissioner, enter on any land or stratum for the purposes of this Part and an owner, occupier or manager of the land or stratum must answer any questions put to him or her by the authorised person and generally provide all necessary information to enable a correct valuation to be made.
- (3) In particular, the authorised person may:
- (a) require the owner, occupier or manager of the land or stratum to produce any documents in the possession of or under the control of the owner, occupier or manager which relate to, or which the authorised person believes on reasonable grounds relate to, the description, nature, use or value of the land or stratum; and
 - (b) take copies of, or extracts or notes from, any documents so produced.
- (4) An authority under this section is to contain the following information:
- (a) the fact that the authority is issued under this Act by the Chief Commissioner;
 - (b) the name of the authorised person;
 - (c) the text of subsection (2).
- (5) The powers conferred on an authorised person by this section may be exercised only:
- (a) at a reasonable time; and
 - (b) after giving reasonable notice; and
 - (c) by using no more force than is reasonably necessary.
- (6) If damage is caused by the exercise of powers conferred by this section, the Chief Commissioner is to pay reasonable compensation for the damage unless the exercise of the powers was obstructed by the occupier of the land.

Land Tax Management (Amendment) Act 1992 No. 84

**SCHEDULE 1—AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956 CONCERNING LAND VALUE—
*continued***

(7) This section does not authorise entry to any part of premises used for residential purposes except with the consent of the occupier of that part.

(8) A person must not:

- (a) fail without reasonable excuse to answer any relevant questions or to provide any information when duly required to do so under this section; or
- (b) in response to a question asked or requirement made under this section, give an answer or provide information knowing it to be false or misleading in a material particular.

Maximum penalty: 1 penalty unit.

Protection from liability

62Z. Nothing done or omitted to be done by the Chief Commissioner or by any other person acting under the direction or authority of the Chief Commissioner subjects the Chief Commissioner or person personally to any action, liability, claim or demand if it was done or omitted in good faith for the purposes of executing this Part.

Valuers Registration Act 1975 not affected

62ZA. Nothing in this Part affects the Valuers Registration Act 1975.

**SCHEDULE 2—OTHER AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956**

(Sec. 3)

(1) Section 10 (**Land exempted from tax**):

(a) Omit section 10 (1) (h), insert instead:

(h) land owned by, or in trust for, any club or body of persons, and used primarily and principally for the purposes of any game or sport and not used for the pecuniary profit of the members of that club or body;

(b) Omit section 10 (1) (u) and (5).

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 2—OTHER AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956—*continued*

- (2) Section 10Q (Exemption—boarding-houses for low-income persons):

From section 10Q (3), omit “to which this section applies”.

- (3) Section 10R (Retirement villages and nursing homes—exemption/reduction):

After section 10R (3), insert:

(3A) If part only of a building is used and occupied as referred to in subsection (2), a proportion (“**the allowable proportion**”) of the area of the land occupied by the building is to be included as part of the area of the land so used and occupied for the purpose of determining the value of “B” in the calculation under subsection (3).

(3B) The allowable proportion under subsection (3A) is:

- (a) except when paragraph (b) applies—the proportion specified in an application under subsection (3C) in respect of the land; or
- (b) if the Chief Commissioner is not satisfied as to the fairness and reasonableness of the proportion referred to in paragraph (a)—the proportion that the floor area of that part of the building that is used and occupied as referred to in subsection (2) bears to the total floor area of the building.

(3C) Subsection (3A) does not apply unless application has been made to the Chief Commissioner by the owner of the land specifying the proportion that in the owner’s opinion is a fair and reasonable proportion of the area of land occupied by the building to be attributed to use and occupation as referred to in subsection (2). The application must be in a form approved by the Chief Commissioner and be accompanied by such supporting information as the Chief Commissioner may request.

SCHEDULE 2—OTHER AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956—*continued*

(4) Section 10U:

After section 10T, insert:

Special exemption—residential land over 2,100 square metres

10U. (1) The fact that land exceeded 2,100 square metres in area at midnight on 31 December in a year is to be disregarded for the purposes of the following provisions if the Chief Commissioner determines that the land was “**subdivision restricted**” at that time:

- section 10 (1) (r) (principal place of residence exemption);
- section 10H (new rental accommodation exemption);
- section 9C (reduction for flats on mixed use land).

(2) Land is “**subdivision restricted**” when subdivision of the land for the purposes of the separate occupation of the allotments to be created by the subdivision is prevented or likely to be prevented because of any one or more of the following:

- (a) any provision of a planning instrument; or
- (b) any provision made by or under the Local Government Act 1919; or
- (c) any other circumstance which is beyond the owner’s control.

(3) The Chief Commissioner is not required to make a determination as to whether land is subdivision restricted unless the owner applies to the Chief Commissioner for the determination. The application must be in the form required by the Chief Commissioner and be accompanied by such supporting information as the Chief Commissioner may request.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 2—OTHER AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956—*continued*

(5) Section 21C (**Liability of lessees of land owned by the Crown etc.**):

After section 21C (6), insert:

(7) This section is taken to have applied on and from 31 December 1988 to land owned by the Crown other than land owned by a public authority.

(6) Section 35 (**Objections**):

At the end of section 35, insert:

(4) A taxpayer who is dissatisfied with an alteration of proportional unit entitlement by the Chief Commissioner under section 65A may object to the alteration if an assessment of land tax has been made on the basis of the altered entitlement, on the ground that the altered entitlement is not fair and reasonable.

(7) Section 50 (**Remissions of land tax in cases of hardship**):

Omit section 50 (1D).

(8) Section 65A:

Omit the section, insert instead:

Alteration of strata unit entitlements

65A. (1) If the Chief Commissioner is of the opinion that the “**proportional unit entitlement**” of a lot the subject of a strata scheme is unfair or unreasonable, the Chief Commissioner may alter that entitlement as the Chief Commissioner thinks necessary to ensure that it is fair and reasonable.

(2) The “**proportional unit entitlement**” of a lot is the proportion that the unit entitlement of the lot bears to the aggregate unit entitlement of all the lots that are the subject of the scheme.

(3) The Chief Commissioner alters a proportional unit entitlement by giving written notice of the alteration to the owner of the lot concerned, and the alteration takes effect when that notice is given. Such a notice may be given as part of a notice of assessment.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 2—OTHER AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956—*continued*

(4) The alteration may be made by altering the unit entitlement of the lot or the aggregate unit entitlement of all the lots that are the subject of the scheme, or by altering both those entitlements.

(5) If the proportional unit entitlement of a lot is altered under this section, the Chief Commissioner may for the purpose of levying land tax apply that altered entitlement:

- (a) in respect of the tax year in which the alteration is made (and any subsequent year to which it is applicable); and
- (b) in respect of any tax year before the tax year in which the alteration is made (but not before the 1989 tax year).

(6) For that purpose, the Chief Commissioner may make an assessment of land tax or amend any assessment under section 16. Despite section 16 (2), an amendment of an assessment authorised by this section may be made at any time.

(7) An alteration of unit entitlement under this section applies only for land tax purposes.

(8) In this section, “**strata scheme**” means a strata scheme under the Strata Titles Act 1973 or a leasehold strata scheme under the Strata Titles (Leasehold) Act 1986, and expressions used in this section have the same meanings as in those Acts.

(9) Schedule 2 (**Savings and transitional provisions**):

After clause 17, insert:

Land Tax Management (Amendment) Act 1992

Operation of amendments

18. The amendments made by the Land Tax Management (Amendment) Act 1992 do not (except as specifically provided) apply in respect of a tax year before the tax year that commences on 1 January 1992 and do not affect any existing liability for land tax.

Land Tax Management (Amendment) Act 1992 No. 84

**SCHEDULE 2—OTHER AMENDMENTS TO THE LAND TAX
MANAGEMENT ACT 1956—*continued***

Lessees of Crown land

19. (1) For the purposes of the application of section 21C to land owned by the Crown in respect of the tax years commencing on 1 January 1989, 1990, 1991 and 1992, the amendments made by Schedule 1 (13)–(16) of the Land Tax Management (Amendment) Act 1991 are taken to have commenced on 31 December 1988.

(2) Clause 17 has effect subject to subclause (1) of this clause.

Retirement villages/nursing homes

20. The amendments made to section 10R by the Land Tax Management (Amendment) Act 1992 operate on and from 31 December 1990.

Amounts postponed under section 9A

21. A reference in section 9A to an amount of land tax postponed under that section includes a reference to an amount of land tax postponed under that section before its substitution by the Land Tax Management (Amendment) Act 1992.

Ascertainment of land value before commencement

22. The fact that a land value was ascertained under the provisions of Part 7 as substituted by the Land Tax Management (Amendment) Act 1992 after the date of assent to that Act but before the commencement of that Act does not affect the validity of such a land value and it is taken to have been validly ascertained.

**SCHEDULE 3—CONSEQUENTIAL AMENDMENTS TO
OTHER ACTS**

(Sec. 4)

Land and Environment Court Act 1979 No. 204

Section 19 (Class 3—land tenure, valuation, rating and compensation matters):

After section 19 (b), insert:

- (b1) appeals in respect of an objection under Part 7 of the Land Tax Management Act 1956 to the extent that the objection relates to the land value of land;

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 3—CONSEQUENTIAL AMENDMENTS TO OTHER
ACTS—*continued*

Strata Titles Act 1973 No. 68

(1) Section 89 (**Definitions**):

- (a) After paragraph (a) of the definition of “appropriate valuing Act”, insert:
 - (b) where the Chief Commissioner of Land Tax is the valuing authority—the Land Tax Management Act 1956;
- (b) Omit paragraph (f) of the definition of “appropriate valuing Act”.
- (c) Omit paragraph (d) of the definition of “valuing authority”, insert instead:
 - (d) land tax, the Chief Commissioner of Land Tax.

(2) Section 95 (**Land tax**):

From section 95 (6) and (7), omit “adjusted value” wherever occurring, insert instead “land value”.

Strata Titles (Leasehold) Act 1986 No. 219

(1) Section 121 (**Definitions**):

- (a) Omit paragraph (e) of the definition of “appropriate valuing Act”, insert instead:
 - (e) where the Chief Commissioner of Land Tax is the valuing authority—the Land Tax Management Act 1956;
- (b) Omit paragraph (b) of the definition of “valuing authority”, insert instead:
 - (b) the Chief Commissioner of Land Tax, for the purposes of land tax.

(2) Section 127 (**Land tax**):

From section 127 (6) and (7), omit “adjusted value” wherever occurring, insert instead “land value”.

Land Tax Management (Amendment) Act 1992 No. 84

SCHEDULE 3—CONSEQUENTIAL AMENDMENTS TO OTHER
ACTS—*continued*

Valuation of Land Act 1916 No. 2

- (1) Section 47 (**Rating or taxing authorities**):
Omit “Commissioner of Land Tax.”.
 - (2) Part 6A (**Equalisation factors**):
Omit the Part.
-

*[Minister's second reading speech made in—
Legislative Assembly on 14 October 1992
Legislative Council on 19 November 1992]*

