



# LAND VALUATION ACT 2012

Act No. 1 of 2014

## TABLE OF PROVISIONS

### Contents

CHAPTER 1—PRELIMINARY .....	1
1. Short title .....	1
2. Commencement .....	1
3. Definitions .....	1
4. Main purpose of Act .....	1
CHAPTER 2—VALUATIONS .....	1
Part 1—Valuer-general—Valuations and their purposes .....	1
5. Valuer-general .....	1
6. Valuer-general to make valuations .....	1
7. Statutory purposes of valuations .....	1
Part 2—Valuation methodologies .....	2
Division 1—General provisions .....	2
8. What is the value of land .....	2
Division 2—Improved capital value and unimproved value .....	2
Subdivision 1—Preliminary .....	2
9. What division 2 is about .....	2
10. Land taken to be granted in fee simple .....	2
11. What is the land's expected realisation .....	2
12. What is a bona fide sale .....	2
Subdivision 2—Improved capital value of improved land .....	2
13. What is the improved capital value of improved land .....	2
14. What is the improved capital value of stratum .....	3
15. Assumptions for existing uses .....	3
Subdivision 3—Unimproved value of improved land .....	3
16. What is the unimproved value of improved land .....	3
17. Unimproved value of stratum .....	3
18. Unimproved value of Crown lease .....	4
19. Assumptions for existing uses .....	4
20. What is the improved capital value and unimproved value of unimproved land .....	4
Part 3—Periodic valuations .....	4
Division 1—General provisions .....	4
21. General duty to make periodic valuations .....	4
22. Duration of valuation made under this Part .....	4
Division 2—Access to information about valuations .....	5
23. Valuation roll information to be available for inspection .....	5
24. Time and place for inspection .....	5
Note – Cross reference in this section is incorrect. "section 38(1)" should be "subsection 25(1)" .....	5
Division 3—Notices about valuations .....	5
25. Public notice .....	5
26. Valuation notice to owner .....	5
27. Requirements for valuation notice .....	6
Part 4—Amending valuations .....	6
Division 1—General provisions .....	6
28. What division one is about .....	6

29. Amending period.....	6
30. Fixing day of effect of amending valuation .....	6
Division 2—General types of amendment.....	7
31. Separate valuations.....	7
32. Adjoining parcels in same valuation .....	7
33. Public work, service or undertaking.....	7
34. Damage from adverse natural cause.....	7
35. Loss or acquisition of right relating to land.....	7
36. Amendment for uniformity with comparable parcels.....	7
37. General power to correct error or omission.....	7
CHAPTER 3—OBJECTIONS TO VALUATIONS .....	8
Part 1—Making objections .....	8
Division 1—Objection right .....	8
38. Right to object.....	8
39. New owners.....	8
40. When objection for one statutory purpose can be used for another.....	8
41. Objection can be made only under this Part.....	8
Division 2—Period for objection.....	9
42. Usual objection period .....	9
43. Late objections .....	9
Division 3—Properly made objections.....	10
44. What is a properly made objection.....	10
45. Required content of objections.....	10
Part 2—Initial assessment of objections for defects .....	11
Division 1—Assessment and notice of decision.....	11
46. Initial assessment .....	11
47. Notice of decision if no defect .....	11
48. Correction notice if objection defective .....	11
Division 2—Consequence of noncompliance with correction notice .....	12
49. Application of division 2.....	12
50. Failure to correct not properly made objection .....	12
51. Notice of consequence .....	12
Part 3—Conferences about properly made objections.....	12
Division 1—Preliminary.....	12
52. What Part 3 is about .....	12
53. Conditions for holding conference.....	12
Division 2—When objection conference may or must be held .....	12
54. Conference by agreement .....	12
55. When conference is required.....	12
Division 3—Preliminary steps for required conference .....	13
Subdivision 1—Preliminary .....	13
56. Application of division 3.....	13
Subdivision 2—Chairperson.....	13
57. Appointment of chairperson.....	13
58. Chairperson’s functions.....	13
59. Disclosure by parties before conference held.....	13
Subdivision 3—Holding objection conference .....	14
60. Conduct of conference .....	14
61. Attendance and representation .....	14
Division 4—Miscellaneous provisions.....	14
62. Grounds not limited at conference .....	14
63. Evidence.....	14
Part 4—Further information .....	14
Division 1—When objector may give further information.....	14
64. Response to valuer-general’s invitation .....	14
65. Giving information within 28 days after objection conference .....	15
66. Use of further information given.....	15
Division 2—When objector must give further information.....	15
67. Application of division 2.....	15
68. Valuer-general may require further information .....	16

69.	Period to comply with information requirement .....	16
70.	Conditions for making information requirement .....	16
71.	Notice of lapsing of objection for noncompliance with information requirement .....	16
72.	Objection generally lapses if lapsing notice contravened .....	16
73.	Exceptions to lapsing .....	17
74.	.....	17
Part 5—Amendments .....		17
75.	Amendment by objector only under this Part .....	17
76.	Amendment in response to correction notice .....	17
77.	Other permitted amendments .....	17
78.	How to amend .....	18
Part 6—Deciding properly made objections .....		18
79.	Considering objection .....	18
80.	Objector bears the onus of proof .....	18
81.	Decision .....	18
82.	Notice of objection decision .....	18
Part 7—Miscellaneous provisions .....		18
83.	Objection or appeal does not affect valuation .....	18
84.	Address for service for objections .....	19
85.	Adjustment if valuation changed on objection or appeal .....	19
CHAPTER 4—VALUATION APPEALS .....		19
Part 1—Appeal to Administrative Appeals Tribunal .....		19
86.	Appeal right .....	19
87.	.....	19
Part 2—Starting appeal .....		20
88.	How to appeal .....	20
89.	.....	20
Part 3—Amending valuations in response to appeal .....		20
90.	Application of Part 3 .....	20
91.	.....	20
92.	.....	20
93.	.....	20
94.	.....	20
95.	.....	20
96.	.....	20
CHAPTER 5—VALUATION ROLL AND RELATED MATTERS .....		20
Part 1—Keeping valuation roll .....		20
97.	Requirement to keep valuation roll .....	20
98.	Requirements for valuation roll .....	20
99.	How valuation roll may be kept .....	20
100.	When valuation roll must be amended .....	20
Part 2—Valuation roll information and other information .....		21
101.	Obligation to give certified copy .....	21
102.	Exchange of information .....	21
103.	Other information .....	21
Part 3—Distributing valuation rolls .....		21
104.	Supplying copies of valuation roll .....	21
CHAPTER 6—PROVISIONS ABOUT THE VALUER-GENERAL .....		21
Part 1—Functions and powers .....		21
105.	General functions and powers .....	21
106.	Power to contract to supply bulk data or microfiche data .....	22
107.	Power to assess value other than for a valuation .....	22
108.	Use by trustee of assessment by valuer-general .....	22
109.	Independence in performing functions .....	23
Part 2—Miscellaneous provisions .....		23
110.	Right of appearance .....	23
111.	Delegation .....	23
CHAPTER 7—AUTHORISED PERSONS .....		23
Part 1—General matters about authorised persons .....		23

Division 1—Appointment .....	23
112. Functions .....	23
Division 2—Appointment .....	23
113. Appointment and qualifications .....	23
114. Appointment conditions and limit on powers .....	24
115. When authorised person ceases to hold office .....	24
116. Resignation.....	24
Division 3—Identity cards.....	24
117. Issue of identity card .....	24
118. Production or display of identity card .....	24
119. Return of identity card .....	25
Part 2—Entry to places.....	25
120. Valuer-General to have access to buildings, documents, etc.....	25
Part 3—Other powers .....	25
Division 1—Powers after entry .....	25
121. Application of division 1 .....	25
122. General powers after entering places .....	25
Division 2—Information obtaining power.....	26
123. Power to require information .....	26
124. Information stored on computer.....	26
125. Offence to contravene an authorised person’s information requirement.....	26
Part 4—Miscellaneous provisions .....	26
Division 1—Damage in exercising powers .....	26
Subdivision 1—Duty to avoid .....	26
126. Duty to avoid damage .....	26
Subdivision 2—Notice of damage.....	27
127. Application of subdivision 2 .....	27
128. Requirement to give notice .....	27
129. Content of notice .....	27
Division 2—Compensation .....	27
130. Compensation because of exercise of powers .....	27
131. Provisions for compensation orders .....	27
Division 3—Offences relating to authorised persons .....	28
132. Giving authorised person false or misleading information .....	28
133. Obstructing authorised person.....	28
134. Impersonating authorised person.....	28
135. Derivative use immunity for individual complying with requirement by authorised person .....	28
CHAPTER 8—MISCELLANEOUS PROVISIONS.....	29
Part 1—Access by valuer-general to information.....	29
136. Giving Administration information to valuer-general.....	29
Part 2—Notice of change concerning land .....	29
137. Notice of change of ownership.....	29
138. Requirement to fix defective ownership change notice.....	29
Part 3—General service provisions .....	29
139. General address for service .....	29
140. Substituted service .....	30
Part 4—Legal provisions .....	30
Division 1—Proceedings .....	30
141. Offence to give valuer-general false or misleading information .....	30
142. Offences under Act are summary .....	30
Division 2—Evidentiary provisions .....	30
143. Application of division 2 .....	30
144. Valuer-general’s appointment and authority .....	30
145. Certified map or plan .....	31
146. Valuation notices.....	31
147. Publication and availability of valuation roll information.....	31
148. ....	31
149. Other evidentiary provisions .....	31
Part 5—Other provisions .....	32

150. Confidentiality of information .....	32
151. Publication of particular public notices on Administration website.....	32
152. Application of provisions .....	33
153. Approved forms .....	33
154. Regulation making power .....	33
SCHEDULE .....	33
Dictionary .....	33



## Land Valuation Act 2012

### Act No. 1 of 2014

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An Act to enable the valuation of land to establish a basis for raising revenue for purposes of the Administration of Norfolk Island; to assist with the process of tax reform; to provide statistics to assist with economic analysis of the economy; to establish a record of the land values of the Island as they may change from time to time and for related purposes.

[Assented to 17 February 2014]

#### CHAPTER 1—PRELIMINARY

##### 1. Short title

This Act may be cited as the *Land Valuation Act 2012*.

##### 2. Commencement

(1) This Act other than Chapter 4 commences upon notice of assent being published in the Gazette.

(2) Chapter 4 commences on the date of making of AAT regulations.

(3) Until the commencement of Chapter 4 any provision of this Act making reference to the AAT has to that extent only, no force or effect.

##### 3. Definitions

The dictionary in the schedule defines particular words used in this Act.

##### 4. Main purpose of Act

The main purpose of this Act is to provide for how land is to be valued for particular other Acts and for other purposes as may be required from time to time.

#### CHAPTER 2—VALUATIONS

##### Part 1—Valuer-general—Valuations and their purposes

##### 5. Valuer-general

(1) For the purposes of this Act, there shall be a valuer-general for Norfolk Island who shall be appointed by the Minister.

(2) Only a **valuer** can be appointed to be valuer-general.

(3) The valuer-general can be dismissed only by the Minister with the prior approval of the Legislative Assembly.

##### 6. Valuer-general to make valuations

(1) The valuer-general must decide the value of land, as provided for under this Act, for the purposes mentioned in section 7.

(2) A decision under subsection (1) about the value of land is a **valuation** of the land.

(3) A **valuation** may be issued for any or all of the purposes described in this or another Act.

##### 7. Statutory purposes of valuations

(1) The value of land under a valuation is its value for any liability under any Act for the payment of any tax or rate levied upon the value of land in Norfolk Island;

and

- (2) If—
  - (a) another Act refers to the value or rateable or taxable value of land; and
  - (b) a valuation is in effect for the land;
    - the value or rateable or taxable value is that valuation.

## **Part 2—Valuation methodologies**

### **Division 1—General provisions**

#### **8. What is the value of land**

The **value** of land is its improved capital value or its unimproved value.

### **Division 2—Improved capital value and unimproved value**

#### **Subdivision 1—Preliminary**

#### **9. What division 2 is about**

This division defines the **improved capital value** and the **unimproved value** of land.

#### **10. Land taken to be granted in fee simple**

For deciding the value of land, all land is taken to be granted in fee simple.

#### **11. What is the land's expected realisation**

(1) The **expected realisation** of land under a bona fide sale is the capital sum that its unencumbered estate in fee simple might be expected to realise if that estate were negotiated for sale as a bona fide sale.

(2) In this section—

**unencumbered** means unencumbered by any lease, agreement for lease, mortgage or other charge.

#### **12. What is a bona fide sale**

(1) A **bona fide sale**, for land, is its sale on reasonable terms and conditions that a bona fide seller and buyer would require assuming the following (the **bona fide sale tests**)—

- (a) a willing, but not anxious, buyer and seller;
- (b) a reasonable period within which to negotiate the sale;
- (c) that the property was reasonably exposed to the market.

(2) For subsection (1), in considering whether terms and conditions are reasonable, regard must be had to—

- (a) the land's location and nature; and
- (b) the state of the market for land of the same type.

(3) To remove any doubt, it is declared that if—

- (a) there is a sale of the land in question; and
- (b) the bona fide sale tests are complied with;

the sale is a bona fide sale.

(4) In this section—

**land in question** means land whose value is being decided.

### **Subdivision 2—Improved capital value of improved land**

#### **13. What is the improved capital value of improved land**

(1) If land is improved, its improved capital value is its expected realisation under a bona fide sale.

(2) However, the land's improved capital value is affected by any other relevant provisions of this Chapter.

**14. What is the improved capital value of stratum**

For the purposes of this Act, the improved capital value of a stratum is the sum which the fee simple of the stratum might be expected to realize if offered for sale on such reasonable terms and conditions as a seller in good faith would require.

**15. Assumptions for existing uses**

(1) In deciding land's improved capital value, the following must be assumed (the **existing use assumptions**)—

- (a) the land may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used, (each an existing use) on the valuation day;
- (b) improvements may be continued or made to the land to allow it to continue to be used for any existing use.

(2) To remove any doubt, the existing use assumptions do not prevent regard being had under section 11 to any other purpose for which the land might be used.

**Subdivision 3—Unimproved value of improved land****16. What is the unimproved value of improved land**

(1) If land is improved, its unimproved value is its expected realisation under a bona fide sale assuming any improvements on the land had not been made.

(2) However, the land's unimproved value is affected by any other relevant provisions of this Chapter.

**17. Unimproved value of stratum**

(1) For the purposes of this Act, the unimproved value of a stratum is the sum which the fee simple of the stratum might be expected to realize if offered for sale on such reasonable terms and conditions as a seller in good faith would require assuming that:

- (a) the improvements, if any, which form the walls, floors and ceilings containing the stratum and made or acquired by the owner or his predecessor in title had not been made, provided that where the stratum is wholly or partly in an excavation it shall be assumed that the excavation of the stratum had been made;
- (b) means of access to the stratum may be used, and may continue to be used, as they were being used, or could be used, on the date to which the valuation relates; and
- (c) lands outside the stratum, including land of which the stratum forms part, are in the state and condition existing at the date to which the valuation relates, and, in particular, without limiting the generality of this assumption, that where the stratum consists partly of a building, structure or work or is portion of a building, structure or work, such building, structure or work, to the extent that it is outside the stratum, had been made.

(2) In determining the unimproved value of a stratum under subsection (1) it shall be assumed that:

- (a) the stratum may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used at the date to which the valuation relates; and



(b) such improvements may be continued or made in the stratum as may be required in order to enable the stratum to continue to be so used, but nothing in this subsection prevents regard being had, in determining that value, to other purposes for which the stratum may be used on the assumptions set forth in subsection (1).

### **18. Unimproved value of Crown lease**

The **unimproved value** of a parcel of land held under a **Crown lease** is the capital amount that might be expected to have been offered on the **valuation day** for the lease of the parcel, assuming that—

- (a) the only improvements on or to the parcel were improvements (if any) the cost of which was met by the Administration or Commonwealth; and
- (b) on the **valuation day**, the lease had an unexpired term of 99 years; and
- (c) a nominal rent was payable under the lease for the 99 year term.

### **19. Assumptions for existing uses**

(1) In deciding land's unimproved value, the following must be assumed (**the existing use assumptions**)—

- (a) the land may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used, (each an **existing use**) on the valuation day;
  - (b) improvements may be continued, or made to the land, to allow it to continue to be used for any existing use.
- (2) To remove any doubt, the existing use assumptions do not prevent regard being had under section 14 to any other purpose for which the land might be used.

### **20. What is the improved capital value and unimproved value of unimproved land**

If land is unimproved, both its improved capital value and its unimproved value are its expected realisation under a bona fide sale.

## **Part 3—Periodic valuations**

### **Division 1—General provisions**

#### **21. General duty to make periodic valuations**

Following the commencement of this Act, the valuer-general must make a valuation of all land before a date determined by the Minister and notified in the Gazette after which time the valuer-general may —

- (a) assess annually the value of all land having regard to then market prices or if land has been sold before the assessment, having regard to the sale price;
- (b) assess every 5 years the value of all land following inspection of the land; and
- (c) value land where there has been a material change in use or improvements.

#### **22. Duration of valuation made under this Part**

- (1) A valuation takes effect from the next 30 June after its making.
- (2) A valuation continues in effect until the next valuation of the land takes effect.
- (3) However, the effect of a valuation is subject to—
  - (a) an objection decision affecting the valuation; and
  - (b) an amendment of the valuation because of a valuation appeal or further appeal, or an appeal response amendment.

**Division 2—Access to information about valuations****23. Valuation roll information to be available for inspection**

(1) The valuer-general must make valuation roll information about a valuation available in accordance with Chapter 5.

(2) The information—

(a) may be made available at any time after the valuation day; but

(b) must be made available at least 3 months before the 30 June on which the valuation is to take effect.

(3) However, a failure to comply with subsection (2)(b) does not affect the validity of the valuation or its day of effect.

(4) Subsection (1) does not include a valuation made for purposes other than a one referred to in section 7.

**24. Time and place for inspection**

(1) Valuation roll information must be available for public inspection, without fee, as follows—

(a) if it is made available at the office of the Registrar of Titles or at another office of the Administration—when that office is open for the transaction of public business;

(b) if it is made available at another place—at the times stated in a public notice published in the Gazette.

(2) The information must be made available for at least 60 days from the day stated for that purpose under a public notice under section 38(1).

Note — Cross reference in this section is incorrect — “section 38(1)” should be “subsection 25(1)”.

**Division 3—Notices about valuations****25. Public notice**

(1) The valuer-general must, after making a valuation, give a public notice in the Gazette stating the following—

(a) that the valuation has been made;

(b) that valuation roll information about the valuation will be available for inspection by anyone, without fee, for a stated period;

(c) when the stated period starts and ends;

(d) where the information may be inspected if not at the office of the Registrar of Titles.

(2) The stated period must not be less than 60 days.

(3) As well as giving the public notice, the valuer-general may advertise the information’s availability in any other way the valuer-general considers appropriate.

**26. Valuation notice to owner**

(1) After making a valuation of land, the valuer-general must give the owner of the land a notice of the valuation.

(2) The notice must be given as soon as practicable, but no later than 31 March in the year in which the valuation is to take effect.

(3) For subsection (2), notice of valuations for different statutory purposes may be combined in the one document if the valuer-general considers it appropriate.

**27. Requirements for valuation notice**

A valuation notice for a valuation must be in the approved form and state all of the following—

- (a) the valuation;
- (b) whether the valuation is the improved capital value or the unimproved value;
- (c) the valuation day;
- (d) the day of issue of the notice;
- (e) the day of effect of the valuation;
- (f) that the owner may object to the valuation within 60 days after the day of issue;
- (g) how an objection may be made.

**Part 4— Amending valuations****Division 1—General provisions****28. What division one is about**

This division provides for the circumstances in which a valuation may be made to amend another valuation.

**29. Amending period**

- (1) The valuer-general may amend a valuation before it comes into effect.
- (2) An amendment under subsection (1) does not alter the valuation's day of effect.
- (3) The valuer-general may amend any valuation of land at any time during the period—
  - (a) starting 5 years immediately before, and continuing since, the day of effect of the latest valuation that has come into effect for the land; and
  - (b) ending on the day the valuer-general is amending the valuation.
- (4) However, if the period started on a day on which a valuation for the land did not come into effect, the period—
  - (a) starts on the first day before that day on which a valuation for the land came into effect; and
  - (b) ends on the day the valuer-general is amending the valuation.

**30. Fixing day of effect of amending valuation**

- (1) The valuer-general must fix the day of effect of an amending valuation.
- (2) If the amendment is because of the registration of a plan of subdivision, the day of effect must be the day the relevant plan of subdivision was lodged with the Registrar of Titles.
- (3) Otherwise, the day of effect must be the later of the following—
  - (a) the day the amending period started;
  - (b) the day the event that caused the valuation to require amendment happened.
- (4) In this section—

**amending period** means the period under section 29 during which the amendment to the valuation can have effect.

**Division 2—General types of amendment****31. Separate valuations**

A valuation may be amended to provide separate valuations if—

- (a) the valuer-general declares that a separate valuation for a part of a lot will be made; or
- (b) the land is subdivided.

**32. Adjoining parcels in same valuation**

A valuation for 2 or more adjoining parcels may be amended if one or more of the parcels is sold.

**33. Public work, service or undertaking**

A valuation may be amended if—

- (a) a public work, service or undertaking is provided for the land; and
- (b) the valuer-general considers the work, service or undertaking has changed the land's value.

**34. Damage from adverse natural cause**

(1) A valuation may be amended if—

- (a) because of flood, damaging wind or some other adverse natural cause over which the owner had no control, the land has been permanently damaged; and
- (b) the valuer-general considers the damage has changed the land's value.

(2) However, an amendment may be made under subsection (1) only if the owner of the land applies to the valuer-general within 6 months after the permanent damage happens.

(3) The application must be written.

**35. Loss or acquisition of right relating to land**

(1) A valuation may be amended if the land's value has been changed by the loss or acquisition of a right relating to the land.

(2) In this section—  
**right** includes licence and privilege.

**36. Amendment for uniformity with comparable parcels**

(1) A valuation may be amended if the valuer-general considers the amendment is necessary or desirable to achieve or preserve uniformity of values between the valuation and valuations of other comparable parcels.

(2) If the amendment reduces the amount of the valuation, the reduction is a **comparable valuation reduction** of the valuation amended.

**37. General power to correct error or omission**

(1) A valuation may be amended if the valuer-general considers it is affected by an error or omission that it is necessary to correct.

(2) Subsection (1) does not apply for correcting an error of law or mistake of fact that may be corrected if the outcome of an objection or appeal is that the valuation be amended because of an error of law or mistake of fact affecting the valuation.

## CHAPTER 3—OBJECTIONS TO VALUATIONS

### Part 1—Making objections

#### Division 1—Objection right

#### 38. Right to object

- (1) An owner may object to a valuation of the owner's land.
- (2) However, subsection (3) applies if an owner has objected to a valuation for a particular statutory purpose (the **first valuation**).
- (3) The owner can object to a valuation of the same land for a different statutory purpose (the **second valuation**) only if the amount of the first valuation is different from the amount of the second valuation.
- (4) Subject to subsections (2) and (3), only one objection may be made to the same valuation.
- (5) This section does not apply to a valuation amended under Chapter 3, Part 2.

#### 39. New owners

- (1) This section applies if—
  - (a) a valuation notice for a valuation is issued to the person who is then the owner of the land (the **former owner**); and
  - (b) someone else (the **new owner**) later becomes the owner of the land; and
  - (c) the new owner has given an ownership change notice for the change of ownership of the land.
- (2) The new owner—
  - (a) is taken to have received the valuation notice when it was issued to the former owner; and
  - (b) does not have the right to be issued with a fresh valuation notice for the land.
- (3) If the former owner has not already objected (an **existing objection**), the new owner may object, subject to section 41.
- (4) If there is an existing objection—
  - (a) the process under this Part for objections (the **objection process**) applies to the new owner; and
  - (b) the new owner becomes the objector and may carry on the objection in the new owner's name; and
  - (c) any period under this Part applies to the new owner as if the new owner had been the owner of the land since the first day of that period.

#### 40. When objection for one statutory purpose can be used for another

- (1) This section applies if an owner is given a valuation notice or notices for more than one statutory purpose for the same land and the same amount.
- (2) An objection to one of the valuations is taken to be an objection to each of them.

#### 41. Objection can be made only under this Part

To remove any doubt, it is declared that—

- (a) an owner can not make, and the valuer-general can not accept, an objection other than as provided for under this Part; and
- (b) a decision or conduct leading up to or forming part of the process for making a valuation is subject to objection or question only as part of an objection.

**Division 2—Period for objection****42. Usual objection period**

- (1) An objection can be made only if—
  - (a) it is given to the valuer-general within 60 days after the day of issue (the **usual objection period**); and
  - (b) it is properly made.
- (2) The requirement to object within the usual objection period is subject to section 43.
- (3) The requirement for an objection to be properly made is subject to sections 48 and 76.

**43. Late objections**

- (1) This section applies if—
  - (a) an owner objects after the usual objection period has ended but before the first anniversary of the start of that period; and
  - (b) either—
    - (i) the initial assessment decision for the objection is that it is properly made; or
    - (ii) under section 48, the objection is amended so that it is properly made.
- (2) This section applies even if someone other than the objector later becomes the owner of the land.

**Note**—See section 39.

- (3) The valuer-general must accept the objection if satisfied it was not made within the usual objection period because of—
  - (a) the owner's mental or physical incapacity; or
  - (b) an extreme circumstance; or
  - (c) an extraordinary emergency; or
  - (d) another reason the valuer-general considers satisfactory in the circumstances.
- (4) The valuer-general may—
  - (a) at the same time, make the initial assessment decision and decide whether or not to accept the objection; or
  - (b) make the initial assessment decision first and, in the notice of that decision or the correction notice for that decision, seek more information from the objector about why the valuer-general should be satisfied as mentioned in subsection (3).
- (5) If the objection is accepted, the objection process applies to it as if it had been made within the usual objection period.
- (6) To remove any doubt, it is declared that the valuer-general can not accept the objection if any or all of the following apply—
  - (a) when it was made, it was not properly made and it has not, under section 48, been amended so that it is properly made;
  - (b) it was made after the anniversary of the start of the usual objection period;
  - (c) the valuer-general is not satisfied as mentioned in subsection (3).

### Division 3—Properly made objections

#### 44. What is a properly made objection

- (1) An objection is **properly made** only if—
  - (a) it is in the approved form; and
  - (b) either—
    - (i) it is signed by the objector; or
    - (ii) it is signed by an agent or representative of the objector, for the objector, and it is accompanied by the objector’s written consent to the objection; and
  - (c) it complies with all of the requirements under section 45; and
  - (d) it is accompanied by the fee prescribed under a regulation.
- (2) The approved form must state—
  - (a) the matters the valuer-general considers appropriate about the objection process, including, for example, about objections that are not properly made; and
  - (b) that the valuer-general must not consider or decide an objection that is not properly made.
- (3) An objection that does not comply, in relation to at least one of the objection grounds, with the requirement under section 45(1)(e) to give information for each objection ground (the **ground requirement**), is not properly made.
- (4) An objection that complies with the ground requirement for one or more, but not all, objection grounds is properly made.

**Note**—See also section 50(Failure to correct not properly made objection).

- (5) An objection mentioned in subsection (4) is one that only **partially complies** with the ground requirement.
- (6) A ground for which the ground requirement has not been complied with is a **noncompliant** ground.

#### 45. Required content of objections

- (1) An objection must state all of the following—
  - (a) the objector’s address for service of any notices concerning the objection;
  - (b) information that identifies the land, including, for example, its property identification number, real property description or property address shown on the valuation notice;
  - (c) if the valuation is more than the relevant amount—the valuation sought;
  - (d) the grounds of objection to the valuation (each an **objection ground** for the valuation);
  - (e) the information the objector seeks to rely on to establish each objection ground;
  - (f) if an objection ground concerns the comparability of the sale of any other land—
    - (i) details of the sale; and
    - (ii) the reasons why the objector contends the sale is comparable to the valuation of the objector’s land; and
    - (iii) the basis of comparison between the objector’s land and the land the subject of the sale.
- (2) The following may, but need not necessarily, include expert opinion evidence—
  - (a) information relied on to establish an objection ground;
  - (b) reasons or a basis mentioned in paragraph(1)(f).

- (3) In this section—  
**property identification number**, for the land, means its property identification number on the valuation roll.  
**relevant amount** means—
- (a) if an amount of more than \$250,000 has been prescribed under a regulation—the prescribed amount; or
  - (b) otherwise—\$250,000.

## Part 2—Initial assessment of objections for defects

### Division 1—Assessment and notice of decision

#### 46. Initial assessment

- (1) The valuer-general must consider each objection and decide (the **initial assessment decision**) whether or not—
- (a) the objection is properly made; and
  - (b) if it is properly made—it only partially complies with the ground requirement.
- (2) An objection is **defective** if the initial assessment decision for the objection is that it—
- (a) is not properly made; or
  - (b) only partially complies with the ground requirement.

#### 47. Notice of decision if no defect

If the initial assessment decision for an objection is that it is not defective, the valuer-general may, but need not, give the objector notice of the decision.

#### 48. Correction notice if objection defective

- (1) This section applies if the initial assessment decision for an objection is that it is defective.
- (2) The valuer-general must give the objector a notice (a **correction notice**) that—
- (a) states all of the following—
    - (i) the day the valuer-general issued the correction notice;
    - (ii) the initial assessment decision;
    - (iii) the relevant defect;
    - (iv) that the objector must, within 28 days after the day the notice was issued, appropriately amend the objection; and
  - (b) includes a copy of division 2.
- (3) In this section—  
**appropriately amend**, the objection, means to amend the objection—
- (a) if the initial assessment decision for the objection is that it is defective because it is not properly made—so that it is properly made; or
  - (b) if the initial assessment decision for the objection is that it is defective because it only partially complies with the ground requirement—
    - (i) to remove all noncompliant grounds; or
    - (ii) so that the ground requirement is complied with for all noncompliant grounds.
- relevant defect** means—
- (a) the aspects of the objection that the valuer-general considers cause the defect; or
  - (b) if the ground requirement has not been complied with for an objection ground—that the objection states no particulars of the ground.



**Division 2—Consequence of noncompliance with correction notice****49. Application of division 2**

This division applies for an objection if—

- (a) the objector is given a correction notice for the objection; and
- (b) the valuer-general decides the objector has not complied with the correction notice.

**50. Failure to correct not properly made objection**

If the initial assessment decision was that the objection is not properly made, it is taken not to be, and never to have been, properly made.

**51. Notice of consequence**

(1) The valuer-general must, within 28 days after the valuer-general makes the decision under section 49(b), give the objector notice of the consequence, under this Part, of noncompliance with the correction notice.

(2) A failure to comply with subsection (1) does not limit or otherwise affect the operation of this Part.

**Part 3—Conferences about properly made objections****Division 1—Preliminary****52. What Part 3 is about**

(1) This Part provides for the holding of conferences about properly made objections (an **objection conference**).

- (2) An objection conference's purposes are to—
- (a) encourage the settlement of disputes about the objection by facilitating and helping the conduct of negotiations between the parties; and
  - (b) promote between the parties an open exchange of information relevant to any dispute; and
  - (c) give the parties information, relevant to the dispute, about the operation of this Act; and
  - (d) help in the settlement of the dispute in any other way.

**53. Conditions for holding conference**

An objection conference can not be held for an objection if the objection—

- (a) is not properly made; or
- (b) has been decided by the valuer-general.

**Division 2—When objection conference may or must be held****54. Conference by agreement**

If a valuation is not more than the following, the valuer-general and the objector may agree to participate in an objection conference—

- (a) if an amount of more than \$2million has been prescribed under a regulation—the prescribed amount;
- (b) otherwise—\$2million.

**55. When conference is required**

(1) If a valuation is more than the amount mentioned in subsection (2), the valuer-general must—

- (a) offer, to the objector, to participate in an objection conference; and
- (b) if the objector accepts the offer—participate in the objection conference.

- (2) For subsection (1) the amount is—
  - (a) if an amount of more than \$2million has been prescribed under a regulation—the prescribed amount; or
  - (b) otherwise—\$2million.
- (3) The offer may be verbal or by notice.

### **Division 3—Preliminary steps for required conference**

#### **Subdivision 1—Preliminary**

##### **56. Application of division 3**

This division applies only if, under section 55, an objector has accepted an offer by the valuer-general to participate in an objection conference.

#### **Subdivision 2—Chairperson**

##### **57. Appointment of chairperson**

(1) The valuer-general must appoint an independent chairperson for the objection conference.

- (2) Subject to subsection (1) a chairperson—
  - (a) may be appointed—
    - (i) generally; or
    - (ii) for a particular objection conference; and
  - (b) may be appointed for the period of the conference or conferences decided by the valuer-general; and
  - (c) is paid the remuneration and allowances and appointed on the terms prescribed by regulation.

##### **58. Chairperson's functions**

The chairperson's functions are—

- (a) subject to section 59, to arrange the objection conference; and
- (b) to encourage a full exchange of opinion between the parties, including a full disclosure of information relating to the objection; and
- (c) to make recommendations to either party about matters raised at the conference.

##### **59. Disclosure by parties before conference held**

(1) The chairperson must give the parties a notice requiring them to give the chairperson, within 14 days after the notice is given, copies of all documents they have in their possession relevant to the valuation (the **disclosure obligation**).

(2) If the chairperson is satisfied all parties have complied with the disclosure obligation, the chairperson must—

- (a) give copies of the documents given by a party to the other party; and
- (b) arrange the objection conference.

(3) If the chairperson is not satisfied both parties have complied with the disclosure obligation—

- (a) the objection conference must not be held; or
- (b) if the conference has started, the chairperson may end the objection conference; or
- (c) the chairperson may give the party who has not complied with the obligation (the **noncompliant party**) a further period of not more than 14 days to comply with the requirement.

(4) However, the chairperson may give a further period only if the chairperson considers it is reasonably likely that the noncompliant party will comply with the disclosure obligation within that period.

### **Subdivision 3—Holding objection conference**

#### **60. Conduct of conference**

- (1) The objection conference must be conducted—
  - (a) in the way the chairperson considers appropriate; and
  - (b) as quickly and with as little formality and technicality as possible.
- (2) The chairperson may, for the purpose of the conference—
  - (a) accept any document from anyone; and
  - (b) distribute any document to anyone.
- (3) The chairperson may adjourn or end the conference at any time.

#### **61. Attendance and representation**

- (1) A person who is not a party may attend and take part in the objection conference if the chairperson is satisfied the person may help to resolve a dispute relating to the objection.
- (2) A party may use an interpreter in the objection conference.
- (3) A party may, with the chairperson's approval, be represented by an agent or other representative at the objection conference.
- (4) The approval—
  - (a) can be given only if the chairperson is satisfied the agent or other representative is needed to help the objection process; and
  - (b) may be given without conditions or on the conditions the chairperson considers reasonable to ensure the other party is not unfairly disadvantaged by the representation.
- (5) If the approval is given on conditions, the representation is subject to the agent or other representative complying with the conditions.

### **Division 4—Miscellaneous provisions**

#### **62. Grounds not limited at conference**

An objection conference is not limited to the objection grounds.

#### **63. Evidence**

Evidence of anything said or done about an objection in an objection conference is inadmissible in any proceeding.

## **Part 4—Further information**

### **Division 1—When objector may give further information**

#### **64. Response to valuer-general's invitation**

- (1) This section applies for an objection whether or not an objection conference has been held for it.
- (2) The valuer-general may invite the objector to give the valuer-general further written information (the **invited information**)—
  - (a) that supports the objection grounds; or
  - (b) to clarify the objection grounds or anything else stated in the objection.

- (3) The invitation must—
- (a) be by notice to the objector's address for service stated in the objection; and
- (b) state the day the valuer-general issued the invitation.
- (4) The invited information may be given only within the following period—
- (a) generally—the period that ends 28 days after the day the valuer-general issued the invitation (the **usual period**);
- (b) if, within the 28 days, the valuer-general and the objector agree in writing to a longer period that ends not more than 14 days after the usual period ends—the longer period.

**Notes—**

1. The giving, under this Part, of further information does not, of itself, change the objection. For how and when an objection can be amended, see Part 5.
2. Particular amendments relating to the giving of the further information can be made only when the further information is given see section 77(2) (Other permitted amendments).

**65. Giving information within 28 days after objection conference**

If an objection conference has been held for an objection, the objector may, within 28 days after the conference ends, give the valuer-general further written information that—

- (a) supports the objection grounds; or
- (b) raises a proposed new objection ground; or
- (c) relates to another matter raised at the conference.

**66. Use of further information given**

Further information given under this division about an objection—

- (a) may be considered by the valuer-general in deciding the objection; and
- (b) is admissible in any proceeding concerning the objection.

**Division 2—When objector must give further information**

**67. Application of division 2**

- (1) This division applies if—
- (a) the valuer-general considers further information, other than information the subject of legal professional privilege—
- (i) is likely to be in the objector's custody, possession or power; and
- (ii) will likely be relevant to the deciding of an objection;

Examples of possible further information—

- any of the following about the objector's land or other land—
- a valuation report (improved or unimproved)
- a planning report
- a record of discussions with purchasers, vendors or agents
- information about a stated type of cost associated with a development of the objector's land or other land

and

- (b) the valuation objected against is more than the following amount—
- (i) if an amount of more than \$2million has been prescribed under a regulation—the prescribed amount;
- (ii) otherwise—\$2million.
- (2) This division applies—
- (a) whether or not—
- (i) an objection conference has been held for the objection; or
- (ii) the information is the subject of an invitation under section 64(2); and

- (b) whether the information is a document or other information; and
- (c) even if the information came into existence for a purpose unrelated to the objection.

**Examples** of purposes unrelated to the objection—

- the obtaining of finance
- compliance with a requirement under the *Companies Act 1985*.

#### **68. Valuer-general may require further information**

The valuer-general may, by notice (an **information requirement**), require the objector to give all or part of the further information in writing.

#### **69. Period to comply with information requirement**

An objector to whom an information requirement has been given must comply with the requirement within the following period—

- (a) generally—the period that ends 28 days after the day the valuer-general made the information requirement (the **usual period**);
- (b) if, within the 28 days, the valuer-general and the objector agree in writing to a longer period that ends not more than 14 days after the usual period ends—the longer period.

#### **70. Conditions for making information requirement**

(1) An information requirement must—

- (a) describe the further information required to be given; and
- (b) state—
  - (i) the day the valuer-general made the information requirement; and
  - (ii) when, under section 69, the requirement must be complied with.

(2) For subsection (1)(a), the description is sufficient if it is by reference to the information's nature or type.

#### **71. Notice of lapsing of objection for noncompliance with information requirement**

(1) This section applies if the valuer-general considers an objector has not complied with all or part of an information requirement.

(2) The valuer-general may give the objector a notice (a **lapsing notice**) stating—

- (a) the information (the **outstanding information**) the valuer-general considers the objector must give the valuer-general to comply with the information requirement; and
- (b) that, if the objector does not give the valuer-general the outstanding information in writing within 28 days after the day the lapsing notice was given—
  - (i) the objection will lapse; and
  - (ii) the valuer-general will not be required to consider or further consider the objection.

#### **72. Objection generally lapses if lapsing notice contravened**

(1) An objection lapses if the objector—

- (a) has been given a lapsing notice; and
- (b) has not, within the 28 days after the day the lapsing notice was given (the **required period**), given the valuer-general the outstanding information in writing.

(2) If the objection lapses, the valuer-general is not required to consider or further consider the objection.

(3) Subsection (1) is subject to sections 73 and 74.

**73. Exceptions to lapsing**

- (1) An objection does not lapse if—
  - (a) the outstanding information for the information requirement would, at common law, be privileged from production in a proceeding; or
  - (b) within the required period, the objector gives the valuer-general a statutory declaration declaring that the outstanding information is not in the objector's custody, possession or power.
- (2) The statutory declaration must be sworn by—
  - (a) if the objector is an individual—the objector; or
  - (b) if the objector is a corporation—an individual with knowledge of the matter who is lawfully authorised to swear the declaration for the objector.

74           ....

**Part 5—Amendments****75. Amendment by objector only under this Part**

- (1) An objector can amend the objection only under this Part.

**Note**—An objection can also be amended by operation of law under section 39(4)(b) (New owners).

- (2) If an objector purports to amend an objection other than under this Part, the valuer-general must disregard the purported amendment when deciding the objection.

**76. Amendment in response to correction notice**

- (1) This section applies if, under section 48, a correction notice is given for an objection.

- (2) The objection may, within 28 days after the day the notice was issued, be amended as provided for under that section.

**Note**—For the consequence of not amending, see section 50(Failure to correct not properly made objection).

**77. Other permitted amendments**

- (1) An objection may be amended to change—
  - (a) information that identifies the land; or
  - (b) the objector's address for service of any notices concerning the objection; or
  - (c) the valuation sought; or
  - (d) an objection ground, or particulars of an objection ground, if the change is to—
    - (i) withdraw the objection ground or the particulars; or
    - (ii) reflect an additional matter raised in further information given under Part 4; or
  - (e) the information stated in the objection that the objector seeks to rely on to include further information given under Part 4.

- (2) However, an objection can not be amended if—
- (a) the objection as amended—
- (i) would not be properly made; or
- (ii) would have a noncompliant ground; or
- (b) the amendment is sought to be made—
- (i) for an amendment mentioned in subsection (1)(a), (b),(c) or (d)(i)—after the objection has been decided, whether or not notice of the decision has been given to the objector; or
- (ii) for an amendment mentioned in subparagraph(1)(d)(ii) or (e)—other than when the further information is given.

### **78. How to amend**

An amendment to an objection permitted under this Part can be made only by signed notice to the valuer-general.

## **Part 6—Deciding properly made objections**

### **79. Considering objection**

- (1) The valuer-general must consider and decide a properly made objection.
- (2) A properly made objection must be decided at any time the valuer-general considers appropriate, having regard to the stage the objection has reached under the objection process.
- (3) The valuer-general can not consider or decide an objection if it is not properly made.

*Note*For other circumstances in which an objection must not be considered, see section 72(Objection generally lapses if lapsing notice contravened).

### **80. Objector bears the onus of proof**

The objector has the onus of proving the objector's case.

### **81. Decision**

The decision on the objection must be to—

- (a) allow the objection on the terms and to the extent the valuer-general considers appropriate; or
- (b) disallow the objection; or
- (c) disallow the objection and change the amount of the valuation.

### **82. Notice of objection decision**

- (1) The valuer-general must, as soon as practicable after deciding an objection, give the objector notice of the decision on the objection.
- (2) An objection decision notice must state the following—
- (a) the day the notice was issued;
- (b) the reasons for the decision;
- ....

## **Part 7—Miscellaneous provisions**

### **83. Objection or appeal does not affect valuation**

- (1) This section applies if a valuation is objected to or an appeal is made against an objection decision concerning a valuation.
- (2) The making of the objection or appeal does not affect or interfere with the valuation or any purpose to which it may be put as mentioned in section 7.
- (3) The valuation can not be stayed in any proceeding.

**84. Address for service for objections**

(1) An objector's address for service for any notice concerning the objection (an **objection-related notice**) is the objector's address for service stated in the objection.

(2) If there is more than one objector, the address for service must be the same for each of them.

(3) The valuer-general is taken to have given the objector an objection-related notice by giving it to the objector at the address for service.

**Notes**1. See also the *Interpretation Act 1979*, sections 20E (Service of documents) and 21 (Service by post etc.).

2. For other provisions about service, see Chapter8, Part 3 (General service provisions).

(4) Subsections (1) to (3) apply despite any actual change of the objector's address, even though the valuer-general is aware, or might by enquiry become aware, of the change.

(5) To remove any doubt, it is declared that the valuer-general may give the objector an objection-related notice in another way as permitted under the *Interpretation Act 1979*.

**85. Adjustment if valuation changed on objection or appeal**

(1) This section applies if—

- (a) a valuation is objected to or an appeal is made against an objection decision concerning a valuation; and
- (b) the valuation is changed because of the objection or appeal.

(2) An appropriate adjustment must be made as follows to any land tax liability, rates, rent under any Act that used the valuation—

- (a) amounts paid in excess must be refunded;
- (b) amounts short paid are recoverable as arrears.

**CHAPTER 4—VALUATION APPEALS****Part 1—Appeal to Administrative Appeals Tribunal****86. Appeal right**

(1) An objector may appeal to the AAT against the objection decision for the objection.

**Note**—For when an objection can be decided, see section79(Considering objection).

.....

(3) Also, an objector can not appeal against a comparable valuation reduction of a valuation.

**87.** ....



### Part 2—Starting appeal

#### 88. How to appeal

(1) An appeal is started in accordance with the AAT regulations.

.....

(3) The requirements under this section are the **valuation appeal requirements**.

89. ...

### Part 3—Amending valuations in response to appeal

#### 90. Application of Part 3

This Part applies if a copy of a valuation appeal notice has been served on the valuer-general.

91. ...

92. ...

93. ...

94. ...

95. ...

96. ...

## CHAPTER 5—VALUATION ROLL AND RELATED MATTERS

### Part 1—Keeping valuation roll

#### 97. Requirement to keep valuation roll

(1) The valuer-general must, under this Chapter, establish a valuation roll for Norfolk Island.

(2) The valuation roll is maintained and made available in accordance with this Chapter, by the Registrar of Titles.

#### 98. Requirements for valuation roll

The valuation roll must state the following information (**valuation roll information**) about each valuation of land—

- (a) its valuation day;
- (b) its day of effect;
- (c) the owner's name and address for service under this Act;
- (d) the land's area, location and description;
- (e) a property identification number for each parcel of which the land consists;
- (f) the value decided for the land;
- (g) other unprotected valuation roll information the valuer-general considers appropriate.

#### 99. How valuation roll may be kept

The valuation roll may be kept in the way the Registrar of Titles in consultation with the valuer-general considers appropriate and may be kept in multiple forms the content of which must be identical.

#### 100. When valuation roll must be amended

The Registrar of Titles must amend the information recorded in a valuation roll to reflect any of the following if they happen—

- (a) the valuer-general advises that a valuation is amended;
- (b) there is a change in the owner of land or other information relating to a valuation;

- (c) the valuer-general informs the Registrar of Titles that it is necessary to correct an error or omission relating to the valuation roll.

### **Part 2—Valuation roll information and other information**

#### **101. Obligation to give certified copy**

The Registrar of Titles must give a certified copy of valuation roll information for a particular valuation to anyone who asks for it and pays the fee prescribed under a regulation.

#### **102. Exchange of information**

The Registrar of Titles may give valuation roll information to—

- (a) a department of the Commonwealth, in the way, to the extent and on the terms agreed between the Administration and the Commonwealth; or
- (b) a department of the Administration under arrangements between the department and the Registrar of Titles.

#### **103. Other information**

(1) The Registrar of Titles may give information in an ownership change notice given to the Registrar of Titles to anyone who asks for it and pays the prescribed fee (if any).

(2) The Registrar of Titles may give statistics relating to the value of land to anyone who asks for it and pays the prescribed fee (if any).

(3) The prescribed fee must be the reasonable, but not more than the actual, cost of giving the statistics.

### **Part 3—Distributing valuation rolls**

#### **104. Supplying copies of valuation roll**

(1) The Registrar of Titles must give the following entities a copy of the roll document, or the parts of it that the entities requires—

- (a) the office (if any) of the Administration responsible for the collection of land tax or rates;
- (b) any other relevant administering authority; and

(2) Subsection (1) must be complied with as soon as is reasonably practicable after the completion, but at least 3 months before the valuations recorded in the roll document first take effect.

(3) If the roll document is amended under section 100, the Registrar of Titles must give each entity mentioned in subsection (1) the amendment.

(4) In this section—

**relevant administering authority** means a person administering an Act who needs the roll document to administer that Act.

## **CHAPTER 6—PROVISIONS ABOUT THE VALUER-GENERAL**

### **Part 1—Functions and powers**

#### **105. General functions and powers**

(1) The valuer-general's functions are—

- (a) to make valuations; and
- (b) to deal with objections and valuation appeals; and
- (c) to compile the valuation roll; and
- (d) any other functions required of the valuer-general under an Act.

(2) In performing the functions, the valuer-general may do anything else

necessary or convenient for the performance of the functions.

#### **106. Power to contract to supply bulk data or microfiche data**

(1) The valuer-general may enter into a contract to supply valuation roll information in any format.

(2) However, a relevant contract must include provisions allowing the valuer-general to do the following—

(a) exclude, from information supplied under it, any of the following if the valuer-general is reasonably satisfied including the information may result in it being inappropriately disclosed or used—

(i) electronically held unprotected valuation roll information;

(ii) change-of-ownership information for a parcel;

(b) prohibit disclosure, or limit distribution or use, of information mentioned in paragraph (a) already supplied by the valuer-general.

(3) Without limiting subsection (1), a relevant contract may limit the use to which the information supplied under it may be put.

(4) If the valuer-general supplies information under a relevant contract—

(a) the fees and charges applying for the supply of the information are the fees and charges agreed to in the contract; and

(b) without limiting paragraph (a), the contract may also state—

(i) how the fees and charges are to be calculated; and

(ii) how payment of the fees and charges is to be made.

(5) In this section—

**bulk data** means—

(a) electronically held valuation roll information for at least 20% of all parcels of land in Norfolk Island; or

(b) at least 20% of all change-of-ownership information for parcels of land therein.

**change-of-ownership information**, for a parcel, means the electronically held information from the most recent ownership change notice for the parcel.

**electronically held**, for information, means held in electronic form by the valuer-general and capable of electronic transfer to a purchaser.

#### **107. Power to assess value other than for a valuation**

(1) The valuer-general may, if someone asks and pays the fee prescribed under a regulation, assess the value of land or personal property.

(2) For land, the assessment may be of—

(a) its unimproved value, or improved capital value; or

(b) the value of improvements on it.

(3) The valuer-general must issue a certificate of the assessment.

#### **108. Use by trustee of assessment by valuer-general**

(1) This section applies if—

(a) a trustee requested an assessment under section 107 to lend money secured by the property the subject of the request; and

(b) a valuer-general's certificate is issued for the assessment.

(2) For any law relating to the duties of trustees —

(a) the valuer-general is taken to have been employed independently of any owner of the property; and

(b) the certificate is taken to be a report about the property's value; and

(c) the valuer-general is taken to have been competent to give the report.

(3) However, subsection (2) does not apply if the conditions of the trustee's trust, retainer or employment directed the trustee to work out the property's value in some other way.

(4) In this section—

**trustee** includes a person acting as a solicitor or other agent.

### **109. Independence in performing functions**

The valuer-general must, in performing the valuer-general's functions, exercise an independent judgment and is not subject to direction from anyone else.

## **Part 2—Miscellaneous provisions**

### **110. Right of appearance**

(1) In a proceeding concerning the valuer-general—

(a) the valuer-general may appear personally; or

(b) the valuer-general may be represented by a lawyer; or

(c) a public sector employee may appear for the valuer-general.

(2) A court or tribunal may accept a statement by the public sector employee as sufficient evidence of the officer's authority to appear for the valuer-general.

### **111. Delegation**

(1) The valuer-general may delegate to an appropriately qualified person the valuer-general's functions—

(a) under this Act; or

(b) for the valuation of land under another Act.

(2) In this section—

**appropriately qualified** includes having the qualifications, experience or standing appropriate for the functions

**functions** includes powers.

## **CHAPTER 7—AUTHORISED PERSONS**

### **Part 1—General matters about authorised persons**

#### **Division 1—Appointment**

### **112. Functions**

An authorised person's functions are to help the valuer-general decide land values, including, for example, by gathering information about land for that purpose.

#### **Division 2—Appointment**

### **113. Appointment and qualifications**

(1) The valuer-general may, by instrument, appoint a person as an authorised person.

(2) However, the valuer-general may appoint a person as an authorised person only if satisfied the person is qualified for appointment because the person has the necessary qualifications and expertise or experience.

**114. Appointment conditions and limit on powers**

- (1) An authorised person holds office on any conditions stated in—
    - (a) the authorised person's instrument of appointment; or
    - (b) a signed notice given to the authorised person; or
    - (c) a regulation.
  - (2) The instrument of appointment, a signed notice given to the authorised person or a regulation may limit the authorised person's powers.
  - (3) In this section—
- signed notice** means a notice signed by the valuer-general.

**115. When authorised person ceases to hold office**

- (1) An authorised person ceases to hold office if any of the following happens—
    - (a) the term of office stated in a condition of office ends;
    - (b) under another condition of office, the authorised person ceases to hold office;
    - (c) the authorised person's resignation under section 116 takes effect.
  - (2) Subsection (1) does not limit the ways an authorised person may cease to hold office—
  - (3) In this section—
- condition of office** means a condition on which the authorised person holds office.

**116. Resignation**

An authorised person may resign by signed notice given to the valuer-general.

**Division 3—Identity cards****117. Issue of identity card**

- (1) The valuer-general must issue an identity card to each authorised person.
- (2) The identity card must—
  - (a) contain a recent photo of the authorised person; and
  - (b) contain a copy of the authorised person's signature; and
  - (c) identify the person as an authorised person under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

**118. Production or display of identity card**

- (1) In exercising a power in relation to another person, an authorised person must—
  - (a) produce the authorised person's identity card for the other person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the other person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised person does not exercise a power in relation to another person only because the authorised person has entered a place as mentioned in section 120.

**119. Return of identity card**

A person who ceases to be an authorised person must return the person's identity card to the valuer-general within 21 days after ceasing to hold office as an authorised person unless the person has a reasonable excuse.

Maximum penalty—50penalty units.

**Part 2—Entry to places****120. Valuer-General to have access to buildings, documents, etc.**

(1) The valuer-general and authorised persons are entitled, at all reasonable times during the day, to full and free access to all lands, buildings, places, books and papers for the purposes of this Act and, for those purposes, may make copies of, or take extracts from, any such books or papers.

(2) Subsection (1) has no effect unless at least 10 days before any access is sought under its provisions, the valuer-general has caused a notice to be published in the Gazette to inform the public generally that authorised persons acting with the authority of the valuer-general will be entering properties for the purposes of this Act and in accordance with the provisions of this section. The gazette notice must also make reference to the penalty provisions of subsection (3)

(3) A person shall not hinder or obstruct the valuer-general or an authorised person in the exercise of powers under subsection (1).

Penalty: 10penalty units.

**Part 3—Other powers****Division 1—Powers after entry****121. Application of division 1**

This division applies if an authorised person may enter, or has entered, land a building or a place under section 120.

**122. General powers after entering places**

(1) To achieve the purpose of the entry, the authorised person may do any of the following (each a **general power**)—

- (a) inspect, test, photograph or film anything at the place;
- (b) copy a document at the place or take a document at the place to another place to copy it;
- (c) examine, inspect, or film, photograph, videotape or otherwise copy or record an image of a document or other thing at the place;
- (d) take into or onto the place any persons, equipment and materials the authorised person reasonably requires for exercising the authorised person's powers.

(2) The authorised person may take a necessary step to allow the exercise of a general power.

(3) If an authorised person takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.

(4) The general powers may be exercised to the extent given in the occupier's consent.

**Division 2—Information obtaining power****123. Power to require information**

(1) This section applies if an authorised person reasonably believes information is needed to perform the authorised person's functions.

(2) The authorised person may, by notice given to a person, require the person to give the authorised person information at a stated reasonable time and place.

(3) The notice must include a warning that it is an offence for the person not to comply with the notice unless the person has a reasonable excuse.

(4) A requirement under this section is an **authorised person's information requirement**.

**Example** of authorised person's information requirement—

An authorised person is helping the valuer-general to make a valuation of a leased commercial property. The authorised person may give the property's owner an authorised person's information requirement seeking documents the owner has showing rent received relevant to the valuation.

(5) In this section—

**information** includes a document.

**124. Information stored on computer**

(1) This section applies if information the subject of an authorised person's information requirement is recorded or stored by means of a computer.

(2) The requirement includes a duty to give a clear written reproduction of the information.

(3) In this section—

**machine-copy**, of information, means a copy made of it by any machine in which, or process by which, a document or image of the information is reproduced.

**reproduction**, of information, means a machine-copy of it or a print made from a negative of the document.

**125. Offence to contravene an authorised person's information requirement**

(1) A person of whom an authorised person's information requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual.

**Part 4—Miscellaneous provisions****Division 1—Damage in exercising powers****Subdivision 1—Duty to avoid****126. Duty to avoid damage**

In exercising a power, an authorised person must take all reasonable steps to ensure the authorised person causes as little inconvenience, and does as little damage, as possible.

**Subdivision 2—Notice of damage****127. Application of subdivision 2**

- (1) This subdivision applies if—
  - (a) an authorised person damages something when exercising, or purporting to exercise, a power; or
  - (b) a person (the **assistant**) acting under the direction or authority of an authorised person damages something.
- (2) However, this subdivision does not apply to damage the authorised person reasonably considers is trivial or if the authorised person reasonably believes—
  - (a) there is no-one apparently in possession of the thing; or
  - (b) the thing has been abandoned.

**128. Requirement to give notice**

- (1) The authorised person must give notice of the damage to the person who appears to the authorised person to be the owner, or person in control, of the thing.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must—
  - (a) leave the notice at the place where the damage happened; and
  - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (3) The authorised person may delay complying with subsection (1) or (2) if the authorised person reasonably suspects complying with the subsection may frustrate or otherwise hinder the performance of the authorised person's functions.
- (4) The delay may be only for so long as the authorised person continues to have the reasonable suspicion and remains in the vicinity of the place.

**129. Content of notice**

- (1) A notice of damage under section 128 must state—
  - (a) particulars of the damage; and
  - (b) that the person who suffered the damage may claim compensation under section 130.
- (2) If the authorised person believes the damage was caused by a latent defect in the thing or circumstances beyond the control of the authorised person or the assistant, the authorised person may state the belief in the notice.

**Division 2—Compensation****130. Compensation because of exercise of powers**

- (1) A person may claim compensation from the Administration if the person incurs a cost, damage or loss because of the exercise, or purported exercise, of a power by or for an authorised person.
- (2) However, subsection (1) does not apply to a lawful seizure.
- (3) Without limiting subsection (1), compensation may be claimed for a cost, damage or loss incurred because of compliance with an authorised person's information requirement.

**131. Provisions for compensation orders**

- (1) The compensation may be claimed and ordered in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an offence against this Act to which the claim relates.
- (2) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.



(3) In considering whether it is just to order compensation, the court must have regard to any relevant offence committed by the claimant.

(4) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.

### **Division 3—Offences relating to authorised persons**

#### **132. Giving authorised person false or misleading information**

(1) A person must not give an authorised person information, or a document containing information, that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) Subsection (1) applies even if the information or document was not given in response to, or in purported compliance with, an authorised person's information requirement.

#### **133. Obstructing authorised person**

(1) A person must not obstruct an authorised person, or someone helping an authorised person, exercising a power unless the person has a reasonable excuse.

Maximum penalty—5 penalty units.

(2) If a person has obstructed an authorised person, or someone helping an authorised person, and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—

(a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and

(b) the authorised person considers the person's conduct an obstruction.

(3) In this section—

**obstruct** includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

#### **134. Impersonating authorised person**

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

#### **135. Derivative use immunity for individual complying with requirement by authorised person**

(1) This section applies if an individual of whom an authorised person's information requirement has been made complies with the requirement by giving an authorised person a document or information.

(2) Disclosed incriminating evidence is not admissible in evidence against the individual in a civil or criminal proceeding.

(3) Subsection (2) does not apply to a proceeding for an offence for which the falsity or misleading nature of the evidence is relevant.

(4) In this section—

**disclosed incriminating evidence** means evidence of, or evidence directly or indirectly derived from, the document or information that might tend to incriminate the individual.

## CHAPTER 8—MISCELLANEOUS PROVISIONS

### Part 1—Access by valuer-general to information

#### 136. Giving Administration information to valuer-general

(1) The following entities must give the valuer-general any information relating to the performance of their functions that the valuer-general requires—

- (a) the Registrar of Titles;
- (b) the Registrar of the Supreme Court;
- (c) every public sector employee.

(2) The information must be given at the time and in the way required by the valuer-general.

### Part 2—Notice of change concerning land

#### 137. Notice of change of ownership

If a person acquires or disposes of land, the person must give the valuer-general notice in the prescribed form about the acquisition or disposal within 30 days.

Maximum penalty—50 penalty units.

#### 138. Requirement to fix defective ownership change notice

(1) This section applies if—

- (a) a person has given, or purported to give, the valuer-general an ownership change notice; and
- (b) the valuer-general considers the notice is wrong, incomplete or defective (the **defect**).

(2) The valuer-general may require the person to fix the defect within a stated reasonable period.

(3) The requirement must state what the defect is.

(4) The person must comply with the requirement.

Maximum penalty for subsection (4)—50 penalty units.

### Part 3—General service provisions

#### 139. General address for service

(1) The valuer-general may serve a notice or other document on anyone for a purpose under this Act by serving it on the person's address for service.

(2) For subsection (1), a person's address for service is taken to be the person's address for service last notified to the valuer-general.

(3) If an address for service is given for more than one person, the valuer-general may give notice to all of them at that address.

(4) Subsection (5) applies if—

- (a) a person has not given the valuer-general an address for service; or
- (b) the following apply for a person—
  - (i) a person has given the valuer-general an address for service;
  - (ii) the valuer-general's records show that the person's address has changed;
  - (iii) the person has not given the valuer-general notice of the change.

(5) The person's address as stated in any document in the valuer-general's custody is taken to be the person's address for service.

(6) This section applies subject to section 84.

**140. Substituted service**

(1) This section applies if the valuer-general wishes to give an owner of land or other person a notice or other document relating to this Act and—

- (a) the valuer-general's records show that the person—
    - (i) is absent from Norfolk Island; and
    - (ii) does not have an attorney or agent in Norfolk Island to whom the notice or document may be given; or
  - (b) the person can not, after reasonable inquiry, be found.
- (2) The notice or document may be given to the person by—
- (a) posting it to the person at the person's address for service under this Act; or
  - (b) placing it on a conspicuous part of the land to which it relates; or
  - (c) publishing a copy of it in the gazette.

**Part 4—Legal provisions****Division 1—Proceedings****141. Offence to give valuer-general false or misleading information**

(1) A person must not give the valuer-general information relating to the administration of this Act that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) For subsection (1), it does not matter whether the information is given orally or in a document.

(3) A proceeding for an offence against subsection (1) must start within 1 year after the commission of the offence or its commission comes to the valuer-general's knowledge, whichever is the later.

**142. Offences under Act are summary**

An offence against this Act is a summary offence.

**Division 2—Evidentiary provisions****143. Application of division 2**

This division applies to a proceeding under or relating to this Act.

**144. Valuer-general's appointment and authority**

(1) The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) a person's appointment as the valuer-general;
- (b) the valuer-general's power to do anything under an Act;
- (c) that a document bearing the valuer-general's written, printed or stamped name was made with the valuer-general's authority.

(2) Judicial notice must be taken of the name and signature of a person who is or was the valuer-general.

(3) A document is taken to be signed by the valuer-general if it bears the valuer-general's written, printed or stamped signature instead of the valuer-general's signature.

(4) Subsection (3) does not apply if the valuer-general's name was written, printed or stamped on the document without the valuer-general's authority.

**145. Certified map or plan**

A valuer-general's certificate stating that a document is a copy of a map or plan purporting to be made or issued by a department or local government, is evidence of the matters stated or outlined on the map or plan.

**146. Valuation notices**

A valuer-general's certificate stating that it is a copy of a valuation notice is evidence of the matters stated on the notice.

**147. Publication and availability of valuation roll information**

A valuer-general's certificate stating any of the following matters is evidence of the matter—

- (a) that on a stated day, or during a stated period, a stated notice was published on the Administration website or in the Gazette;
- (b) that on a stated day, or during a stated period, a stated notice was published in a newspaper circulating in the area to which the notice related.

**148. ...****149. Other evidentiary provisions**

A valuer-general's certificate stating any of the following matters is evidence of the matter—

- (a) that a stated document of any of the following types is a document given, issued, kept or made under this Act—
  - (i) a valuation notice;
  - (ii) an objection decision;
  - (iii) an appointment, approval or decision;
  - (iv) a direction, notice or requirement;
  - (v) a valuation roll;
  - (vi) a report;
  - (vii) another record;
- (b) that a stated document is another document kept under this Act;
- (c) that a stated document is a copy of, or an extract from or part of, a document mentioned in paragraph (a) or (b);
- (d) that a copy of a stated document signed by an owner of land was given to the valuer-general;
- (e) that a stated document is a true copy of valuation roll information for particular land on a stated day;
- (f) that the valuer-general was given stated information under Chapter 3, Part 3 for an objection;
- (g) that on a stated day—
  - (i) a stated person was given a stated correction notice, lapsing notice, decision, information requirement, direction or notice under this Act; or
  - (ii) a stated requirement under this Act was made of a stated person;
- (h) that a stated amount is payable under this Act by a stated person and has not been paid;
- (i) the following for a person—
  - (i) the person has given the valuer-general a stated address for service;
  - (ii) the valuer-general's records show that the person's address has changed;

- (iii) the person has not given the valuer-general notice of the change.

### Part 5—Other provisions

#### 150. Confidentiality of information

- (1) This section applies to a person if—
  - (a) the person is or has been a public sector employee; and
  - (b) in that capacity, the person has or had access to, or custody of, any of the following (the **designated information**)—
    - (i) protected information;
    - (ii) information given in response to an authorised person's information requirement;
    - (iii) information given to the valuer-general that is not publicly available.
- (2) The person must not—
  - (a) make a record of the designated information; or
  - (b) whether directly or indirectly, divulge or communicate the designated information; or
  - (c) use the designated information to benefit any person.

Maximum penalty—50 penalty units.

- (3) However, subsection (2) does not apply if the record is made, or the designated information is divulged, communicated or used—
  - (a) to the extent necessary to perform the person's functions under or relating to this Act; or
  - (b) with the consent of the relevant protected person or the person that gave the information; or
  - (c) as required or permitted by law.

#### 151. Publication of particular public notices on Administration website

- (1) This section applies if an official is required under this Act to give a public notice unless the notice is a gazette notice.
- (2) This section applies even if this Act provides for a particular way in which the notice must be given.
- (3) The official must publish the notice on the Administration website for a total of at least 10 business days.
- (4) The 10 business days may be, but need not necessarily be, consecutive.
- (5) Subsection (3) does not prevent the official from also giving the notice in another way the official considers appropriate.
- (6) In deciding to give the notice in another way, the official must consider the target audience for the notice.

(7) In this section—  
**give**, for a notice, includes advertise it.

**notice** includes an advertisement.

**official** means—

- (a) the Minister; or
- (b) the valuer-general;
- (c) the Registrar of Titles; or
- (d) a person performing functions or exercising powers under this Act for the Minister or the valuer-general.

**public notice** means a notice of a public nature that is not required to be given to, or intended for, a particular person or group of persons only.

**152. Application of provisions**

If a provision of this Act applies another provision of this Act for a purpose, for that purpose the other provision applies with necessary changes.

**153. Approved forms**

(1) The Registrar of Titles may approve forms for use under this Act that are not, or are not required to be, prescribed by regulation.

(2) A form prescribed or approved for use under this Act may be combined with, or used together with, an approved form under another Act.

**154. Regulation making power**

(1) The Administrator may make regulations under this Act.

(2) A regulation may—

(a) be made about any of the following—

(i) the functions and powers of valuers;

(ii) the form of the valuation roll;

(iii) the fees payable under this Act; and

(b) provide for a maximum penalty of not more than 20 penalty units for contravention of the regulation.

(3) Subsections (4) to (6) apply if any matter required under this Act to be done or made within a particular period (the **required period**) can not be, or is not, so done or made.

(4) A regulation may fix a further or other period (the **fixed period**) for making or doing the matter.

(5) However the regulation may be made only because of unusual circumstances or because a strict application of the required period would lead to a harsh or unjust result.

(6) Subsection (4) applies whether or not the required period has ended.

(7) A matter done or made within the fixed period is as valid as if it had been done or made within the required period.

(8) In this section—

**matter** includes an act or thing.

**SCHEDULE****Dictionary**

**AAT** means the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act 1975* of the Commonwealth.

**agent** includes a person who, in Norfolk Island, has for someone else (the principal) the lawful control or disposal of any land belonging to the principal, or the lawful control, receipt or disposal of any rents, issues or proceeds gained from the principal's land.

**AAT regulations** means regulations made under the *Administrative Appeals Tribunal Act 1975* of the Commonwealth to provide for appeals under this Act.

**appellant**, for a provision about a valuation appeal, means the objector who filed the notice of the valuation appeal for the appeal.

**approved form** means the form approved under section 153.

**assent** means the date of assent of this Act.

**assistant**, for Chapter 7, Part 4, division 1, subdivision 2, see paragraph 127(1)(b).

**authorised person** means a person who holds appointment as an authorised person under Chapter 7, Part 1.

**authorised person's information requirement** see section 123(4).

**chairperson**, for an objection conference, means a person holding appointment as its chairperson under section 57.

**computer** means any device for storing and processing information.

**Crown lease** means a lease from the Commonwealth or the Administration, and includes an agreement with the Commonwealth or the Administration—

- (a) for a lease of a parcel of land; or
- (b) for the tenancy or occupation of a parcel of land.

**day of effect**, for a valuation, means the day it takes effect under one of the following provisions—

- (a) for a periodic valuation—section 22(1);
- (b) for a provision about an objection—means the day of issue for the valuation objected to.

**defective—**

- (a) for an objection—see section 46(2); or
- (b) for a valuation appeal notice—means that the notice—
  - (i) does not comply with the valuation appeal requirements; or
  - (ii) is otherwise defective in a material particular.

**developed land** means land improved by the construction of a building or other facility reasonably capable of being used.

**expected realisation** see section 11(1).

**file**, for a valuation appeal, means file in the Administrative Appeal Tribunal registry.

**ground requirement**, for an objection ground, see section 44(3).

**identity card**, for a provision about authorised persons, means an identity card issued under section 117(1).

**improved**, for land, means land other than land in its natural state.

**improved capital value**, for land, means its improved capital value under Chapter 2, Part 2, division 2.

**information requirement** see section 68.

**initial assessment decision** see section 46(1).

**land—**

- (a) for a provision—
  - (i) about a valuation or valuation notice—means the land the subject of the valuation or notice; or
  - (ii) about an objection or valuation appeal—means the land the subject of the valuation; and
- (b) may comprise—
  - (i) one or more lots or parcels; or
  - (ii) a combination of lots and parcels.

**making**, for a provision about a valuation, means that the valuation has been decided and the valuer-general is ready to issue a valuation notice for the valuation.

**noncompliant ground**, for an objection, see section 44(6).

**notice** means a notice in writing.

**object**, for a provision about a valuation, means to make an objection to the valuation.  
**objected**, for a provision about a valuation, means that an objection has been made to the valuation.

**objection**—

1. An objection is an objection against a valuation, including any attachments to it, made under Chapter 3.
2. For a provision about an objection conference, a reference to the objection is a reference to the objection the subject of the conference.
3. For a provision about a valuation appeal, a reference to the objection is a reference to the objection the subject of the objection decision.

**objection conference** see section 52(1).

**objection decision**, for a provision about an objection or appeal, means the valuer-general's decision on the objection.

**objection decision notice**, for a provision about an objection or valuation appeal, means the **notice for the objection decision** given under section 82(1).

**objection ground** see paragraph 45(1)(d).

**objection process** see paragraph 39(4)(a).

**objector**, for a provision about an objection, means the person who made the objection.

**objector's land**, for a provision about an objection, means the land the subject of the objection.

**occupier**, of premises, means—

- (a) any person who apparently occupies the premises; or
- (b) an owner of the premises.

**outstanding information**, for an information requirement, see paragraph 71(2)(a).

**owner**, of land—is the person who—

- (a) is entitled to receive the rent for the land; or
- (b) would be entitled to receive the rent for the land if it were leased at a rack-rent.

Note—Rack-rent of land is the highest possible rent for the land. It implies that the land is leased commercially.

**ownership change notice** means a notice under section 138.

**parcel** means—

- (a) land that is a lot; or
- (b) a part of a lot that is a declared parcel.

**partially complies**, with a ground requirement, see section 44(5).

**party**, for a provision about an objection conference, means the valuer-general or the objector.

**periodic valuation** is a valuation made under section 21.

**person** includes—

- (a) a person or entity representing the Administration; and
- (b) a society, institute, partnership or other body, even if not incorporated; and
- (c) a trustee or agent.

**properly made**, for an objection, see section 44.

**relevant date**, for a parcel of land, means a date when a determination of the unimproved value of the parcel is or is to be made.

**required period** see paragraph 72(1)(b).

**roll** means valuation roll.



**stratum** means a part of land consisting of a space or layer below, on or above the surface of the land, or partly below and partly above the surface of the land, defined or definable by reference to improvements or otherwise, whether some of the dimensions of the space or layer are unlimited or whether all the dimensions are limited.

**subdivide**—to subdivide land means to divide it into parts.

**trustee**, in addition to every person appointed or constituted trustee by an act of the parties, or by order or declaration of a court, or by operation of law, includes—

- (a) an executor or administrator, guardian, committee, receiver, or liquidator; and
- (b) every person having or taking upon himself or herself the administration or control of land affected by any express or implied trust, or acting in any fiduciary capacity, or having possession, control or management of the land owned by a person under any legal or other disability.

**unimproved**, for land, means land in its natural state.

**unimproved value**, for land, means its unimproved value under Chapter 2, Part 2, division 3.

**unusual circumstances** includes civil disturbance, extreme climatic conditions, industrial action, changes in the way valuations are made and computer failure.

**usual objection period** see paragraph 42(1)(a).

**valuation**—

1. Generally, valuation has the meaning given under section 6(2).
2. The term does not include an assessment under section 107.
3. In a provision about an objection, a reference to the valuation is a reference to the valuation the subject of the objection.
4. In a provision about a valuation appeal on an objection, a reference to a valuation is a reference to the valuation the subject of the objection.

**valuation appeal** means an appeal against an objection decision.

**valuation appeal requirements** see section 88(4).

**valuation day** means—

- (a) for a provision about valuations generally—the valuation day fixed for any relevant valuation; or
- (b) for a provision about an objection—the valuation day fixed for the valuation the subject of the objection.

**valuation notice** means a notice of valuation under section 26 or 27.

**valuation roll** means a valuation roll the valuer-general establishes under section 97(1) and the Registrar of Titles maintains under section 97(2).

**valuation roll information**—

- (a) generally—see section 98; or
- (b) for a provision about a parcel—means valuation roll information about the parcel; or
- (c) for a provision about a valuation—means valuation roll information about the valuation.

**valuation sought**, for a provision about an objection or an appeal against an objection decision, means the amount the objector seeks for the valuation.

**value**, of land, see section 8.

**valuer** means a person who is a Fellow or an associate member of the Australian Institute of Valuers Incorporated, and includes a person who, in the opinion of the Minister, possesses equivalent qualifications.

**valuer-general** means the valuer-general appointed under section 5.

**valuer-general's certificate**, issued by the valuer-general, means a certificate purporting to be signed by the valuer-general.

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Notified Gazette No. 11, 21 March 2014.

Chapter 4 commenced on 17 February 2014, the date of the making of the *Administrative Appeals Tribunal Amendment (Norfolk Island Land Valuation Decisions) Regulations 2014* (Cth).

The remainder of this enactment commenced on the date the notification of assent was published in the Gazette.

NB – assent was withheld to sections 74, 82(2)(c), (d), 86(2), 87, 88(2), 89, 91-96 and 148. This is noted in the Table of Provisions and throughout the enactment. The Act has been corrected in accordance with the *Enactments Reprinting Act 1980* in order to give effect to the matters to which assent has been withheld.

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