



BERMUDA

LAND VALUATION AND TAX ACT 1967

1967 : 227

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[preamble and words of enactment omitted]

PART I

Interpretation

1 (1) In this Act—

“annual rental value”, in relation to a valuation unit, means its annual rental value as assessed under this Act, based on the rent at which the valuation unit might, on or about the valuation date on the open market, reasonably be expected to let from year to year if the tenant undertook to bear the cost of internal repairs, and the landlord to bear all other reasonable expenses necessary to maintain the valuation unit in a state to command that rent, but excluding any element attributable to any tax payable under this Act;

“arable land” includes buildings used solely in connection with the cultivation of that land;

“bailiff” means a bailiff appointed under the Provost Marshal General Act 1965 [*title 8 item 5*];

“building” includes fixtures and structures of every kind affixed to land in, on or over such land, other than any fixture or structure which the Minister may by order published in the Gazette declare not to be a fixture or structure, as the case may be, for the purposes of this Act;

“charitable organization” means a charity within the meaning given in section 2 of the Charities Act 2014, which relies wholly or mainly for its funds upon contributions from members of the public;

“charitable purposes” has the meaning given in section 2 of the Charities Act 2014;

“demand note” means a demand note issued under section 34, and includes any variation thereof or substituted demand note issued under section 48;

“the Director” means the Director of Land Valuation appointed under section 2;

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“draft valuation list” means a draft valuation list prepared under section 3 as read with section 26(1);

“effective date” has the meaning given in section 27;

“Minister” means the Minister responsible for Land Valuation;

“occupy” includes beneficial enjoyment and cognate expressions shall be construed accordingly;

“owner” means any person for the time being receiving or entitled to receive the rack-rent of any valuation unit in connection with which the word is used, whether on his own account or as trustee for another person:

Provided that, subject to this Act—

- (a) in any case where a valuation unit is held under a lease for a term certain of not less than three years by a lessee currently in or entitled to possession, that lessee shall be deemed to be the owner of that valuation unit;
- (b) in any case where a valuation unit is owned by the Crown, the occupier shall be deemed to be the owner of that valuation unit;
- (c) in any case where a valuation unit is mortgaged, the mortgagee shall be deemed not to be the owner of that valuation unit unless he is in possession;
- (d) *[deleted]*
- (e) in the case of a valuation unit subject to a life tenancy, the life tenant shall be deemed to be the owner of that valuation unit,

and cognate expressions shall be construed accordingly;

“person aggrieved”, in relation to an objection, or a proposal of the Director to amend a draft valuation list or valuation list, does not include any person other than—

- (a) the owner of a valuation unit included in or which should be included in or which is proposed to be included in the draft valuation; or
- (b) a person who has a vested estate or interest (whether legal or equitable) in any such valuation unit; or
- (c) a person who has a contingent estate or interest (whether legal or equitable) which, on its vesting, would make him the owner of such valuation unit;

“prescribed” means prescribed by regulations or rules, as the case may be;

“public utility undertaking” includes any undertaking declared by the Minister by order published in the Gazette to be a public utility undertaking for the purposes of this Act;

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“quinquennial draft valuation list” means a draft valuation list which, as provided in section 26, is prepared more or less quinquennially;

“quinquennial valuation list” means a valuation list which, as provided in section 26, more or less quinquennially supersedes the valuation list in being immediately before its confirmation;

“regulations” means regulations made under this Act;

“rules” means rules made under this Act;

“tax”—

(a) means the tax payable in respect of any valuation unit under this Act and, in relation to any tax period, means that part of the tax payable in respect of that tax period; and

(b) includes, where the context so allows or requires, interest payable in respect of tax;

“tax payer” means the person liable under section 33 to pay tax in respect of any valuation unit subject to tax in relation to any tax period;

“tax period” means the half yearly period commencing on the first day of January and the first day of July, respectively, in any year in relation to which tax is payable under this Act;

“taxing Act” means an Act for the purpose of setting out the rate or rates of tax to be charged, levied or collected under this Act and includes any Act providing for exemption, or partial exemptions, from the payment of tax on any land or valuation unit;

“Tribunal” means the Land Valuation Appeal Tribunal established under section 19;

“valuation date” means the date by reference to which the annual rental value of a valuation unit shall be assessed, the date being—

(a) in respect of a valuation list that is in effect at the time that the Land Valuation and Tax Amendment Act 2015 comes into operation, 31 December 2009 (the date of deposit under section 9 (as read with section 26) of the draft 2009 valuation list); and

(b) in respect of—

(i) a draft valuation list that is deposited under section 9 (as read with section 26) at any time after the coming into operation of the Land Valuation and Tax Amendment Act 2015;

(ii) a valuation list, being a draft valuation list referred to in subparagraph (i) which is confirmed under section 22 (as read with section 26(3)); and

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- (iii) for the avoidance of doubt, objections to the draft valuation list, proposals of the Director for the amendment of the draft valuation list or the valuation list, and objections to such proposals,

18 months before the effective date of the valuation list to which it relates;

“valuation list” means a valuation list for Bermuda confirmed under section 22 as read with section 26(3);

“valuation unit” means any land, building or part of a building occupied or capable of beneficial occupation as a separate unit.

(2) Ownership as joint tenants or as tenants in common shall confer on each joint tenant or tenant in common all rights under this Act; and such joint tenants and tenants in common shall be jointly and severally liable for the due performance of any obligation imposed under this Act and for any infringement thereof.

(3) In this Act, unless the context otherwise requires, all references to “this Act” include a reference to this Act as read with any taxing Act and any regulations or rules.

(4) No order relating to the exclusion of any fixture or structure from the operation of this Act shall be made under subsection (1) except in accordance with subsection (2) of section 3 in relation to an order made under that section.

[Section 1 subsection (1) “the Director” inserted by 2002:13 s.2(a) effective 10 July 2002; and amended by 1994:4 effective 1 July 1994 ; NB 2002:13 s.2(b) replaced all references in the Act to the “Land Valuation Officer” with references to the “Director” effective 10 July 2002. These amendments are not individually noted in each place in which they occur; subsection (1) “Minister” deleted and substituted by BR 21 / 2014 para.2 effective 20 February 2014; “annual rental value”, “charitable organization”, “charitable purposes” and “owner” amended and “draft valuation list”, “quinquennial draft valuation list”, “quinquennial valuation list”, “valuation date” and “valuation list” inserted by 2015 : 29 s. 2 effective 4 July 2015]

PART II

VALUATION LISTS

Appointment of Director etc

2 Subject to the appropriation by the Legislature of the requisite funds, the Governor shall appoint a Director of Land Valuation and such Assistant Directors of Land Valuation and other officers, and retain such professional advisers, on such terms and conditions, as he may think necessary for carrying out this Act.

[Section 2 amended by 2002:13 s.2(b) effective 10 July 2002; amended by 2015 : 29 s. 3 effective 4 July 2015]

Preparation of draft valuation list

3 (1) Subject to this Act, the Director shall prepare a draft valuation list setting out the annual rental value of every valuation unit in Bermuda other than a valuation unit—

- (a) owned and occupied by the Crown;

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- (b) owned and occupied by a charitable organization and used wholly or mainly for the charitable purposes of that organization; and any valuation unit used as a residence by any person holding any full-time office as a clergyman or minister or as an officer of a charitable organization, from which to perform the duties of his office, shall be treated for the purposes of this paragraph as occupied by the charitable organization and used wholly or mainly for the charitable purposes of that organization;
- (c) *Repealed*
- (d) comprising school buildings, the precincts thereof (other than any dwelling comprising a separate valuation unit) and playing fields, of a recognized school within the meaning of the Education Act 1996[*title 12 item 1*];
- (e) comprising a day care centre licensed under Part IX of the Children Act 1998 [*title 27 item 26*];
- (f) owned and occupied by a Parish Council and used wholly or mainly for the purposes of carrying out the functions of that Parish Council;
- (g) owned by the Government of a foreign State recognised by Her Majesty's Government and occupied either by the Government of that State as a Consular Office or by a career consular officer of the Government of that State entitled to immunity from property taxes under any subsisting Consular Convention between Her Majesty's Government and the Government of that State;
- (h) declared by the Minister by order published in the Gazette to be a valuation unit to be excluded from the draft valuation list;
- (i) consisting of arable land.

(2) The affirmative resolution procedure shall apply to an order made under subsection (1)(h).

[Section 3 amended by 1998:21 effective 18 June 1998; by 1998:38 effective 1 January 2000; subsection (1)(c) repealed by 2002:6 s.4 & Sch 3 effective 18 June 2002; subsection (1)(f) amended by 2010 : 45 s. 8 effective 10 August 2010; subsection (1)(d) amended by 2015 : 29 s. 4 effective 4 July 2015]

Draft valuation list to be fair as a whole

4 In the preparation of the draft valuation list, regard shall be had to the annual rental values of valuation units to be included therein as a whole, with the object of ensuring fairness of annual rental values between valuation units, one with another.

Combination of multiple valuation units

5 (1) Where any series or complex of valuation units—

- (a) comprise the components of a business or other enterprise; or
- (b) are occupied by the same person,

including, but without prejudice to the generality of the foregoing, an hotel, cottage colony, guest house, lodging house, club, suite of offices, commercial or business premises, public utility undertaking, and dwelling house with one or more guest houses or apartments, the Director shall treat them as a single valuation unit and for all the purposes of this Act such series or complex of valuation units shall be deemed to be a single valuation unit:

Provided that the Director may for good cause exclude from any such combination any such valuation unit and treat it as a separate valuation unit.

(2) Where it appears to the Director that a series or complex of valuation units in the same ownership can with convenience, having regard to the general purposes of this Act, be treated as a single valuation unit, he may so treat them and thereupon for all the purposes of this Act such series or complex of valuation units shall be deemed to be a single valuation unit:

Provided that the Director may not exercise his discretion under this subsection where such combination would result in any increase in liability of any owner for any tax payable under this Act.

(3) For the purposes of this section a valuation unit shall be deemed to be in the occupation of the owner notwithstanding that it is occupied by another person under any agreement or licence as a furnished occupancy.

Contents and form of draft valuation list

6 (1) The draft valuation list shall set out the annual rental value of each valuation unit therein, the reputed owner thereof and the location thereof; and shall be in such form and shall contain such other particulars as the Minister may from time to time direct:

Provided that no omission or misdescription of any particular in a draft valuation list shall affect the validity thereof.

(2) The draft valuation list shall be divided into sections, one section for each parish (excluding any part thereof within a municipal area) and each municipal area, specifying the valuation units situated wholly or mainly therein:

Provided that, in the case of a public utility undertaking, the valuation units to be included in the draft valuation list shall be set out in a separate section and shall be excluded from the sections relating to parishes or municipal areas.

[Section 6 subsection (1) amended by 2015 : 29 s. 5 effective 4 July 2015]

Power to obtain information

7 (1) The Director may serve a notice on the occupier, owner or lessee of any valuation unit, or on any one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of enabling him accurately to compile the draft valuation list.

(2) Every person upon whom a notice to make a return is served in pursuance of this section shall within twenty-one days after the date of service of the notice make a return in such form as is required in such notice, and deliver it in the manner so required to the Director.

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(2A) If any person on whom a notice to make a return has been served under this section fails without reasonable excuse—

- (a) to make such return in accordance with subsection (2); or
- (b) although he makes the return in accordance with subsection (2), withholds particulars or makes any statement or representation which he knows to be false or misleading in a material particular (relating to the annual rental value of the valuation unit) as are reasonably required for the purpose of enabling the Director accurately to compile the draft valuation list,

he shall not later adduce those particulars in an objection to the draft valuation list or in an objection to proposals of the Director for the amendment of the draft valuation list or valuation list (once the draft valuation list is confirmed).

(3) If any person on whom notice has been served under this section fails without reasonable excuse to comply with the notice, he commits an offence:

Punishment on summary conviction: a fine of \$1,000.

(4) Where a person is convicted under subsection (3) in respect of a failure to comply with a notice and the failure continues after the conviction, then, unless he has reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under that subsection and may, on summary conviction, be punished accordingly.

(5) If any person, in a return made under this section makes any statement which he knows to be false in a material particular, he commits an offence:

Punishment on summary conviction: imprisonment for 3 months or a fine of \$5,000 or both such imprisonment and fine.

[Section 7 subsections (1) and (3) amended by 2004:13 s.3 effective 26 March 2004; subsection (2A) inserted by 2015 : 29 s. 6 effective 4 July 2015]

Power to enter valuation unit

8 (1) The Director and any person authorized by him in writing in that behalf shall have power, at all reasonable times and after giving not less than twenty-four hours' notice in writing, and, in the case of a person authorized as aforesaid, on production, if so required, of his authority, to enter, survey and value any valuation unit.

(2) If any person wilfully delays or obstructs any person in the exercise of any of his powers under this section, he commits an offence:

Punishment on summary conviction: a fine of \$5,000.

(3) It shall be the duty of every police officer, at the request of the Director, to render such assistance as may be necessary to enable any person duly authorized to exercise his powers under this section.

[Section 8 subsection (2) amended by 2004:13 s.4 effective 26 March 2004; section heading and subsection (1) amended by 2015 : 29 s. 7 effective 4 July 2015]

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Deposit of draft valuation list

9 (1) One copy of the draft valuation list shall be deposited by the Director at each Post Office in Bermuda not later than the effective date.

(2) The Director shall cause a notice to be published in the Gazette notifying members of the public that the draft valuation list has been prepared and copies deposited as required by subsection (1) and that the draft valuation list or copies may be inspected by the public.

[Section 9 subsections (1) and (2) amended by 2015 : 29 s. 8 effective 4 July 2015]

Draft valuation list to be open to public inspection

10 (1) Any person may inspect a copy of the draft valuation list at any Post Office in Bermuda or at the office of the Director free of charge during normal business hours.

(2) The copies of the draft valuation list shall remain on deposit under section 9 for a period of at least six months.

[Section 10 subsection (2) amended by 2015 : 29 s. 9 effective 4 July 2015]

Objections

11 (1) Any person aggrieved by a draft valuation list may object thereto on any one or more of the grounds specified in this Act.

(2) An objection shall be by way of written notice in the prescribed form setting out the grounds upon which it is made.

[Section 11 subsection (2) amended by 2015 : 29 s. 10 effective 4 July 2015]

Time for objection

12 (1) No notice of objection shall be valid unless served on the Director not later than six months after notice has appeared in the Gazette under section 9(2) or such later date as may be prescribed.

(2) Where a notice of objection relates to a valuation unit of which some person other than the person objecting is the owner, then the notice of objection shall not be valid unless within the time for the service of an objection under subsection (1) a copy thereof has been served on the owner of the valuation unit to which it relates; and the onus of so serving the notice of objection and of satisfying the Director that it has been so served shall be upon the person lodging the objection.

[Section 12 subsection (1) amended by 2015 : 29 s. 11 effective 4 July 2015]

Withdrawal of objection

13 (1) The person making an objection, or his agent, may at any time by verbal or written notice to the Director and, where the objection relates to a valuation unit owned by some person other than the person objecting, that other person, withdraw that objection.

(2) On the withdrawal of an objection under subsection (1) the procedure relating to objections under this Act shall cease to have effect in relation to that objection.

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Grounds of objection

14 Any person aggrieved may object to the draft valuation list on any one or more of the following grounds—

- (a) that the annual rental value of any valuation unit appearing therein is incorrect or unfair having regard to other annual rental values in the draft valuation list;
- (b) that a valuation unit should not have been included in the draft valuation list;
- (c) that a valuation unit omitted from the draft valuation list should be included therein;
- (d) that a valuation unit included in a series or complex of valuation units as a single valuation unit on the draft valuation list should be listed separately therefrom or omitted therefrom;
- (e) that a valuation unit listed separately or omitted from the draft valuation list should be combined with one or more others of a series or complex of valuation units and listed as a single valuation list;
- (f) that the draft valuation list is incorrect in some other material particular,

and on no other ground.

Duty of Director in relation to objections

15 The Director shall consider each objection received under this Act and shall inform the person objecting (and, where the objection relates to a valuation unit of which some person other than the person objecting is the owner, the owner thereof) in writing whether he concurs in the proposal contained in the notice of objection or concurs therein with such modifications and reservations as he may specify or whether he rejects it; and shall set out the reasons therefor.

Transmission of objections, etc., to Tribunal

16 Every notice of objection and a copy of the Director's reply thereto under section 15 shall be transmitted by the Director to the Tribunal as soon as practicable after the Director's reply.

[Section 16 amended by 2015 : 29 s. 12 effective 4 July 2015]

Proposals of Director for amendments

17 (1) Where by reason of any alteration to a valuation unit, including the alteration of a building or erection of a new building or other development, or the circumstances relating to a valuation unit or for any other reason, it appears to the Director that the draft valuation list as deposited under section 9 should be amended by—

- (a) the inclusion of any new valuation unit therein, either separately or as a component of a series or complex of valuation units treated as a single valuation unit;

- (b) the omission of any valuation unit therefrom, whether appearing separately or as a component of a series or complex of valuation units treated as a single valuation unit;
- (c) the alteration of all or any of the particulars relating to a valuation unit therein, including the annual rental value and the description of the location or the reputed owner thereof,

he may in writing make a proposal to the Tribunal for the amendment of the draft valuation list accordingly.

(2) Without prejudice to subsection (1), the Director shall on the direction of the Tribunal prepare a proposal for the amendment of a draft valuation list in relation to any valuation unit specified by the Tribunal in such terms and subject to such conditions and directions as the Tribunal may specify.

(3) *[repealed]*

[Section 17 subsection (1)(c) amended and subsection (3) repealed by 2015 : 29 s. 13 effective 4 July 2015]

Time for Director's proposals and service

18 (1) *[Repealed]*

(2) A proposal by the Director for the amendment of a draft valuation list under a direction of the Tribunal under section 17(2) and section 20(2) shall be deposited with the Tribunal not later than the date specified therefor by the Tribunal.

(3) The Director shall as soon as practicable cause a copy of any proposal for the amendment of a draft valuation list to be served on the owner of the valuation unit affected thereby:

Provided that, where the Director is satisfied that any amendment is formal only, then the Director may dispense with the requirement of making a proposal or serving notice of that amendment, and may amend the list accordingly.

(3A) For the purposes of the proviso to subsection (3), an amendment to the draft valuation list is "formal only" if the amendment—

- (a) is to the name, description or address of a valuation unit; and
- (b) is either—
 - (i) requested by the owner, and the Director is satisfied that it is necessary or expedient; or
 - (ii) a correction of an error which the Director is satisfied is otherwise necessary or expedient.

(4) Sections 7 and 11 to 16, inclusive, shall apply to a proposal by the Director for the amendment of a draft valuation list as they apply to a draft valuation list and an objection to any such proposal shall for all the purposes of this Act be treated as an objection to a draft valuation list:

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Provided that no objection to any such proposal of the Director shall be valid unless served on the Director not later than the latest of the following—

- (a) the twenty-eighth day after the date on which the proposal was served on the owner of the valuation unit concerned;
- (b) the latest day allowed by or under section 12(1) for a notice of objection to be served on the Director; or
- (c) such date as may be prescribed.

[Section 18 amended by 1989:10 effective 1 April 1989; provisos to subsections (3) and (4) amended and subsection (3A) inserted by 2015 : 29 s. 14 effective 4 July 2015]

Appeal Tribunal

19 (1) For the purposes of this Act there shall be a Tribunal to be called the Land Valuation Appeal Tribunal which shall consist of a Chairman and two other members selected by the Chairman from a panel of members.

(2) The Chairman of the Tribunal shall be a person appointed for the purpose by the Governor and shall hold office during the Governor's pleasure.

(3) The panel of members of the Tribunal shall be not less than 5 or more than 9 persons appointed by the Governor and shall hold office during the Governor's pleasure.

(4) Fees shall be paid to members of the panel in accordance with the Government Authorities (Fees) Act 1971 [title 14 item 16].

Functions of Tribunal

20 (1) The Tribunal shall consider the objections to the draft valuation list, the proposals of the Director for the amendment of the draft valuation list or valuation list and the objections to such proposals and may—

- (a) allow the objection in whole or in part, and with or without such modifications as it considers fit;
- (b) dismiss the objection;
- (c) confirm the Director's proposal in whole or in part, and with or without such modifications as it considers fit;
- (d) reject the Director's proposal;
- (e) defer the consideration of any objection or proposal pending the determination of any appeal to the Supreme Court raising a point of law substantially similar to that involved in the objection or proposal under consideration;
- (f) defer the consideration of any objection or proposal at the request of any party;
- (g) defer the consideration of any objection or proposal pending the deposit by the Director of any proposal for the amendment of the draft valuation list

in accordance with the directions of the Tribunal under subsection (2) of this section and subsection (2) of section 17,

and shall direct the Director to make such amendments, if any, to the draft valuation list or valuation list as may be necessary to give effect to its decisions.

(2) Where it appears to the Tribunal that a variation should be effected to the draft valuation list in relation to any valuation unit (whether included in the draft valuation list or not) then the Tribunal may direct the Director to make a proposal for the amendment of the draft valuation list in relation to that valuation unit under section 17(2).

(3) In considering objections and proposals by the Director, the Tribunal shall have regard to—

- (a) annual rental values in the draft valuation list concerned; and
- (b) the object of ensuring that the annual rental values in the draft valuation list are fair one with another.

(3A) Subject to section 7(2A), in considering objections to the draft valuation list or objections to proposals by the Director for amendment of the draft valuation list, the Tribunal may have regard to evidence of the market rental value of a valuation unit, but only evidence that was current on or about the valuation date.

(3B) In considering objections to proposals to amend a valuation list (once the draft valuation list is confirmed), the Tribunal—

- (a) shall have regard to—
 - (i) annual rental values in the valuation list concerned; and
 - (ii) the object of ensuring that the annual rental values in the valuation list are fair one with another; and
- (b) shall not have regard to evidence of the market rental value of a valuation unit.

(3C) In subsections (3A) and (3B), “evidence of the market rental value of a valuation unit” means evidence of the rent which the owner has received (or might reasonably expect to receive) for the tenancy of the valuation unit.

(4) Fees may be prescribed under the Government Fees Act 1965 with respect to the hearing of an objection by the Tribunal.

[Section 20 subsection (4) inserted by 2014 : 29 s. 2 effective 30 July 2014; subsections (1) and (3)(a) amended and subsections (3A) - (3C) inserted by 2015 : 29 s. 15 effective 4 July 2015]

Procedure

21 (1) The Tribunal shall hear objections and proposals in public in accordance with rules and, subject to such rules and this Act, may regulate its own procedure.

(2) The Tribunal may consider more than one objection or proposal or a combination of both at one and the same time where, in the opinion of the Tribunal, such

objections or proposals raise substantially similar points for determination by the Tribunal or may for any other good and sufficient reason be conveniently considered together.

(3) At any hearing of an objection or proposal by the Tribunal the Director, the objector and any other person who is the owner of the land affected by the objection or proposal or who, in the opinion of the Tribunal, should be given an opportunity to be heard, shall be entitled to appear before the Tribunal in person or by his duly authorized representative and, subject to sections 7(2A) and 20(3B)(b), to produce evidence and to make representations relating to the objection or proposal.

(4) The Tribunal may be differently constituted for the hearing of objections or proposals from time to time at the discretion of the Chairman.

(4A) Where a member of the Tribunal has any direct or indirect interest in any matter before it, he shall—

- (a) fully disclose his interest to the Tribunal at the earliest opportunity; and
- (b) not take part in any, or any further, discussion of the matter, and have no vote in relation to the matter, unless the Tribunal has resolved that the interest does not give rise to a conflict of interest.

(5) Notwithstanding subsections (1) to (4A), where in the course of determining any objection or proposal one of the members of the Tribunal is unable to continue to act as a member for any reason, then, if all parties concerned agree, the Tribunal may proceed with the determination of that objection or proposal in the absence of that member and shall be deemed to be duly constituted in so doing.

(6) The Director shall be a party to all proceedings before the Tribunal.

[Section 21 subsection (3) amended by 2015 : 29 s. 16 effective 4 July 2015; Section 21 subsection (4A) inserted and subsection (5) amended by 2020 : 10 s. 2 effective 19 March 2020]

Confirmation of draft valuation list

22 (1) No earlier than six months, but not later than seven months, after the publication of the notice in the Gazette under section 9(2), the Chairman of the Tribunal shall confirm the draft valuation list with such amendments, if any, as have been made by the Tribunal under section 20; and thereupon the draft valuation list, as so confirmed, shall constitute the valuation list for Bermuda until replaced under this Act and shall have effect as from the effective date.

(2) Confirmation of the draft valuation list shall be effected by the Chairman signifying confirmation thereon under his signature and depositing the confirmed valuation list with the Director.

(3) The Director shall cause a notice of confirmation of the draft valuation list to be published in the Gazette.

[Section 22 subsection (1) amended by 2015 : 29 s. 17 effective 4 July 2015]

Determination of deferred objections and proposals

23 (1) As soon as practicable after the circumstances giving rise to the deferment of the consideration of any objection or proposal under section 20 cease to exist, the Tribunal shall consider that objection or proposal under this Act and may make such order and give such directions in terms of that section as it may consider appropriate as if references in that section to the draft valuation list were references to the valuation list.

(2) The decision of the Tribunal in relation to any objection or proposal under this section shall constitute part of the valuation list without prejudice to the right of appeal against that decision under this Act.

Appeal to the Supreme Court

24 (1) Subject to subsection (2), a party to the proceedings before the Tribunal aggrieved by the decision of the Tribunal may appeal to the Supreme Court against that decision within twenty-one days (or such longer period as the Supreme Court may in any particular case for good cause allow) after the Tribunal delivers its decision, by lodging a notice of appeal with the Tribunal.

(2) No appeal to the Supreme Court under this section shall lie except upon a ground of appeal involving a question of law alone or upon a ground involving a question of mixed law and fact.

(3) Upon hearing any appeal under this Part, the Supreme Court may make such order, including an order for costs, as it thinks just.

Proposals for amendment of valuation list

25 (1) Where the Director is of opinion that circumstances exist in relation to a valuation list that would have required him to make, or would have justified him in making, a proposal for amendment of a draft valuation list under section 17(1), he shall make a proposal to the Tribunal and owner of each valuation unit affected by the proposal for the amendment of the valuation list, with effect from a date to be specified in the proposal in respect of each valuation unit affected by the proposal, in such a manner (being a manner specified in section 17(1)(a) to (c)) as the circumstances require; and where such a proposal is made, subsections (2) to (6) of this section shall have effect, but subject to subsection (7).

(2) Section 7, sections 11 to 21, inclusive, and sections 23 and 24, in so far as they apply to proposals by the Director for the amendment of a draft valuation list and objections thereto, shall, subject to this section, apply, *mutatis mutandis*, to proposals by the Director for the amendment of the valuation list and objections thereto as if references in those provisions to a draft valuation list were references to the valuation list.

(3) Section 17(2), section 18(2) and (4) and section 20(1)(g), (2), (3) and (3A) shall not apply to proposals by the Director for the amendment of the valuation list.

(4) A proposal by the Director made under this section shall specify the date on which it is proposed that the amendment shall take effect, being the date of the event giving rise to the proposal or the commencement of the year in which the proposal is made, whichever date is the later.

(5) No objection to a proposal by the Director made under this section shall be valid unless served on the Director not later than twenty-eight days after the date of the deposit of the proposal with the Tribunal or the date of its service on the owner of the valuation unit affected thereby, whichever date is the later, or such later date as may be prescribed.

(6) If the Tribunal confirms a proposal of the Director made under this section, with or without modification, the valuation list shall be amended accordingly and the amendment shall have effect as from the date specified by the Tribunal, being a date not earlier than the commencement of the year in which the proposal was made.

(7) Where a proposal is made under subsection (1) that affects a valuation unit and no objection to the proposal is made by the owner of the unit within the time allowed by subsection (5) for that purpose, the amendment proposed by the Director shall, without more, take effect as respects that unit as from the date specified in relation thereto in the proposal.

[Section 25 subsections (1), (3) and (7) amended by 2015 : 29 s. 18 effective 4 July 2015]

Quinquennial replacement of valuation list

26 (1) Subject to this section, the Director shall prepare quinquennially a new draft valuation list, and a draft valuation list prepared as aforesaid and such a list when duly confirmed are in this section and section 27 referred to respectively as a quinquennial draft valuation list and a quinquennial valuation list, anything in, or done under, subsection (2) notwithstanding.

(2) The Minister may, if he thinks fit, by order published in the Gazette alter, in any case, by bringing forward or extending by the amount of one year or less the date by which the quinquennial draft valuation list then next due to be prepared under subsection (1) shall in fact be prepared, but so that any altered date fixed by such an order shall be a date not less than three months after the date of the publication of the order in the Gazette.

(3) On the confirmation of a quinquennial draft valuation list, the confirmed quinquennial valuation list shall supersede the valuation list in being immediately before the confirmation with effect from the effective date of the confirmed quinquennial valuation list, and the confirmed quinquennial valuation list shall on and after that date be the valuation list for Bermuda.

(4) *[repealed]*

(5) An order for which subsection (2) provides shall be subject to affirmative resolution procedure.

[Section 26 subsections (1) - (3) amended and subsection (4) repealed by 2015 : 29 s. 19 effective 4 July 2015]

Definition of “effective date”

27 (1) In this Act “effective date”, in relation to a quinquennial valuation list, means the date on which that list, having been confirmed, takes effect as the valuation list for Bermuda.

(2) A list shall take effect as aforesaid—

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- (a) *[Omitted][Spent]*
- (b) in any case where the Minister has fixed a date by an order under section 26(2), on the day after the date so fixed;
- (c) in any case where the Minister has not fixed a date as aforesaid, on the fifth anniversary of the effective date, as established under paragraph (b), of the valuation list in force at the time in question.

[Section 27 subsection (2)(b) amended by 2015 : 29 s. 20 effective 4 July 2015]

Valuation list to be conclusive

28 Subject to this Act, the valuation list from time to time in force shall, for the purposes of this Act, be conclusive of the annual rental value of any valuation unit therein notwithstanding that any objection or proposal of the Director or any appeal under this Part remains undetermined:

Provided that on the final determination of any such objection, proposal or appeal the valuation list shall be construed subject to the final decision thereon and the Director shall amend the valuation list accordingly.

Valuation lists, etc., to be supplied to Corporations and Councils and open to inspection by public

29 (1) Each Municipal Corporation and each Parish Council shall be entitled to one copy of that part of the valuation list which relates to its area free of charge on application to the Director therefor.

(2) One copy of the valuation list shall remain on deposit at the office of the Director throughout the period of its currency and shall be open to inspection by any person free of charge during normal business hours.

PART III

TAXATION OF VALUATION UNITS

Tax and the collection of tax

30 Subject to this Act, there shall be charged, levied and collected in respect of every valuation unit which qualifies for inclusion in a valuation list a tax at the rate specified therefor in any taxing Act assessed on the annual rental value of such valuation unit in accordance with this Part, with such modifications as such taxing Act may provide:

Provided that tax shall not be payable on any valuation unit declared to be exempt from the payment of tax in any taxing Act or under any other provision of law.

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Tax collecting authority

31 The Tax Commissioner shall be responsible for the charging, levying and collecting of tax payable under this Act and all taxes so collected shall be paid into the Consolidated Fund.

[Section 31 amended by 1996:15 effective 24 November 1997]

Tax to be payable half yearly

32 One half of the tax payable in each year in respect of a valuation unit under this Act shall be payable in respect of each tax period in that year:

Provided that, where during any tax period—

- (a) a valuation unit first becomes capable of beneficial occupation; or
 - (b) the annual rental value of a valuation unit is altered by a proposal made by the Director under section 25,
- the Tax Commissioner in calculating the tax payable in respect of that tax period may take due account of any period during that tax period when no tax was payable in relation to that valuation unit, or tax was payable on a higher or lower annual rental value in relation thereto, as the case may be, and may make a proportionate adjustment in the tax payable accordingly.

[Section 32 amended by 1996:15 effective 24 November 1997]

Owner to pay tax

33 (1) Subject to this Act, the tax payable in respect of any tax period shall be payable by the person who is the owner of the valuation unit concerned at the commencement of that tax period.

(2) Where there is no owner of a valuation unit at the commencement of any tax period the person who first becomes the owner of that valuation unit during that period after the commencement thereof shall for the purposes of this Act be deemed to be the owner at the commencement of that tax period.

Issue of demand note

34 (1) As soon as practicable after the commencement of each tax period in each year the Tax Commissioner shall serve on each tax payer a demand note for the tax payable by him for that tax period in respect of each valuation unit of which he is the owner at the relevant date.

(2) The Tax Commissioner shall serve on any person in respect of whom he exercises his powers under section 68(1) a demand note specifying the amount claimed.

(3) No demand note shall be issued in relation to any valuation unit unless that valuation unit appears in—

- (a) the valuation list;

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- (b) a draft valuation list which has been deposited under this Act but remains unconfirmed;
- (c) a proposal of the Director for the amendment of any draft valuation list; or
- (d) a proposal of the Director for the amendment of the valuation list.

[Section 34 amended by 1996:15 effective 24 November 1997]

Contents of demand note

35 (1) Information with respect to the following matters shall be included in a demand note issued under this Act—

- (a) the situation of the valuation unit in respect of which the demand note is issued and such description thereof reasonably necessary for purposes of identification as may be prescribed;
- (b) the name of the tax payer and such other particulars reasonably necessary for the purposes of identification as may be prescribed;
- (c) the annual rental value;
- (d) the rate at which tax is charged and, if applicable, the basis of assessment;
- (e) where a taxing Act provides for different rates or bases of assessment in relation to different classes of valuation units, the class of the valuation unit;
- (f) the tax period in respect of which the tax claimed in the demand note is payable;
- (g) the date on or before which the tax is payable;
- (h) in the case of a demand note issued under section 68(1) the proportion of the tax payable and the grounds on which it is claimed;
- (i) the amount of tax payable under the demand note;
- (j) the proportionate adjustment, if any, made under the proviso to section 32.

(2) The date specified under subsection (1)(g) shall be not earlier than seven days after the date on which the demand note is served or deemed to be served under section 72:

Provided that no error in the date so specified shall invalidate a demand note.

(3) No demand note shall be invalid by reason of—

- (a) any misdescription of the tax payer or valuation unit, or both, if both are identifiable under the terms of the demand note notwithstanding such misdescription;
- (b) any other error not material to the amount of tax payable in respect of the valuation unit to which it relates.

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Date of payment

36 The tax payable in respect of any tax period in each year shall be payable not later than the date specified therefor in the demand note or seven days after the date on which the demand note is served or deemed to be served under section 72, whichever date is the later.

Power to postpone date for payment of tax

37 The Tax Commissioner may for good cause in any particular case by notice in writing postpone the date on or before which tax shall be payable under any demand note in respect of any tax period.

[Section 37 amended by 1996:15 effective 24 November 1997]

38 *[Section 38 repealed by 1995:10 effective 1 July 1995]*

39 *[Section 39 repealed by 1995:10 effective 1 July 1995]*

Interest on arrears of tax

39A (1) Arrears of tax are subject to the payment of interest at the statutory rate, as defined in section 1 of the Interest and Credit Charges (Regulation) Act 1975, calculated on a monthly basis.

(2) For that purpose, tax on a valuation unit is in arrear if the tax is not paid within thirty days beginning on the date specified in the demand note as the due date.

[Section 39A inserted by 1994:4 effective 1 July 1994; and amended by 1995:10 effective 1 July 1995]

Annual rental value specified to be accepted for purpose of demand note

40 (1) Subject to subsection (2), in the preparation of a demand note the tax payable in respect of any valuation unit shall be assessed under any taxing Act on the annual rental value relating thereto appearing in the valuation list notwithstanding that any objection or appeal remains undetermined; and no demand note shall be open to challenge on the ground that the annual rental value appearing in the valuation list is incorrect except under a final order made in relation to an objection or appeal relating thereto under Part II.

(2) Notwithstanding section 28, after the deposit of any draft valuation list under this Act, or after a proposal has been made by the Director under section 17 or section 25, as the case may be, and before the confirmation thereof, the Tax Commissioner may issue a demand note in relation to any valuation unit included in such draft valuation list, or any such proposal, and shall assess the tax in respect thereof under any taxing Act on the annual rental value relating thereto specified therein, the annual rental value specified in any such proposal being preferred to that in any such draft valuation list, and that in any such draft valuation list being preferred to that in the valuation list; and subsection (1) shall, in that event, be construed as if references therein to the annual rental value included references to the annual rental value as in this subsection provided and as if references therein to the valuation list included references to the draft valuation list and proposal of the Director, as the case may be, as in this subsection provided.

[Section 40 amended by 1996:15 effective 24 November 1997]

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Objection to terms of demand note

41 Any person named in a demand note who is aggrieved by the terms thereof may within seven days after the service of the demand note on him under this Act (or such longer period as the Tax Commissioner may in any particular case for good cause allow) object to the terms thereof by lodging with the Tax Commissioner a notice of objection specifying the grounds of the objection:

Provided that nothing in this section shall derogate from section 40.

[Section 41 amended by 1996:15 effective 24 November 1997]

Deposit of tax charged

42 (1) Before considering any objection the Tax Commissioner may require the objector to deposit with him the whole or such part of the tax specified to be payable under the demand note as the Tax Commissioner may determine.

(2) *[deleted]*

[Section 42 amended by 1995:10 effective 1 July 1995 and by 1996:15 effective 24 November 1997]

Consideration of objection

43 The Tax Commissioner shall consider any objection lodged under this Part and shall notify the objector of his decision thereon and the grounds therefor as soon as practicable after the decision has been made.

[Section 43 amended by 1996:15 effective 24 November 1997]

Appeal against Tax Commissioner's decision

44 (1) Any person named in a demand note who is aggrieved by the decision of the Tax Commissioner under section 43 may within seven days after the receipt of notification thereof (or such longer period as the court may in any particular case for good cause allow) appeal to a court of summary jurisdiction against that decision.

(2) The Tax Commissioner shall be a party to all appeals to a court of summary jurisdiction under this Act.

[Section 44 amended by 1996:15 effective 24 November 1997]

No appeal unless tax deposited

45 An appeal under section 44 shall be forthwith dismissed unless the court is satisfied that the tax payable pursuant to the determination of the Tax Commissioner has been deposited with him or, for good cause, the court orders that the appellant shall be relieved of the requirements of this section in whole or in part and is satisfied that the appellant has complied with any such order which gives partial relief only.

[Section 45 amended by 1996:15 effective 24 November 1997]

Power of court of summary jurisdiction

46 Upon hearing any appeal under this Part, a court of summary jurisdiction may make such order, including an order for costs, as it thinks just.

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Appeal to Supreme Court

47 (1) Any party to an appeal before a court of summary jurisdiction under this Part who is aggrieved by the decision of that court may within ten days after that decision (or such longer period as the Supreme Court may in any particular case for good cause allow) appeal to the Supreme Court against that decision upon any ground involving a question of law alone or upon an), ground involving a question of mixed law and fact, but not otherwise.

(2) Upon hearing any appeal under this Part, the Supreme Court may make such order, including an order for costs, as it thinks just.

Variation, etc., of demand note

48 (1) In consequence of a notice of objection or in order to correct clerical or arithmetical errors or to give effect to the final decision of the Tribunal or of any court, or for any other good and sufficient reason, the Tax Commissioner may at any time amend a demand note or issue a demand note in substitution for any earlier demand note for the whole or any part of any tax payable by any tax payer in respect of any tax period in any year and any demand note so issued in substitution may contain such variations from the requirements of section 35 or additional information as, in the opinion of the Tax Commissioner, circumstances may require.

(2) Notwithstanding section 36, the latest date for the payment of any tax to which an amended demand note or substituted demand note relates shall be the date specified for the payment thereof in the original demand note unless the Tax Commissioner substitutes a later date in the exercise of his powers under section 37.

(3) An amendment to a demand note or substituted demand note shall not have effect in relation to any person to his detriment unless it has been served on the person concerned; and any person so served shall have the right to object and appeal under this Part in the manner and within corresponding time limits applicable to the original demand note.

[Section 48 amended by 1996:15 effective 24 November 1997]

Demand note to be conclusive

49 A demand note shall, subject to any amendment made, or substituted demand note issued, under section 48, or to any final order made by the Tribunal or any court under this Act, be final and conclusive of the liability of the person named therein for the tax specified therein in relation to the valuation unit described therein for the relevant tax period.

Misdescription or error not to affect liability

50 The liability of a tax payer for the tax payable in respect of any valuation unit shall in no way be affected by the misdescription of that tax payer or the valuation unit concerned in the demand note or by reason of any error therein relating to the amount of tax payable or otherwise; and the Tax Commissioner may, notwithstanding such misdescription or error, recover from the tax payer the tax payable by him under this Act.

[Section 50 amended by 1996:15 effective 24 November 1997]

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Payment of tax and receipts

51 (1) The payment of any tax payable under this Act may be effected at the office of the Accountant General.

(2) On the payment of any tax, or part thereof, or on the making of any deposit of tax under this Act, the officer authorized to receive it shall forthwith issue a receipt in the form approved by the Accountant General to the person making the payment or deposit.

Recovery of tax, etc., before court of summary jurisdiction

52 (1) The Tax Commissioner may in his own name sue for and recover from any tax payer any tax due from him before a court of summary jurisdiction as a debt for a liquidated amount without limit as to the amount so recoverable.

(2) In any action for the recovery of tax under this section the court of summary jurisdiction may make such order as to costs as it thinks just.

[Section 52 amended by 1996:15 effective 24 November 1997]

Final notice

53 Before instituting proceedings for the recovery of any tax under section 52, the Tax Commissioner shall serve on the person against whom he proposes to proceed a final notice setting out the amount of tax claimed and the date on or before which it shall be paid (being a date not earlier than seven days after the date of service of the final notice) if proceedings under that section are not to ensue:

Provided that failure to comply with this section shall not be a bar to a suit at the instance of the Tax Commissioner, but shall be relevant only to the award of costs in the suit.

[Section 53 amended by 1996:15 effective 24 November 1997]

Order on appeal to operate as judgment for payment

54 Where on any appeal under this Part a court determines any person to be the tax payer in relation to the payment of any tax specified in a demand note, as varied, if that is the case, by that court, then the decision of the court shall, in addition, have effect as judgment for the payment of tax in that amount by that person and may be enforced accordingly.

Refund of excess of liability

55 Where pursuant to the final decision of the Tribunal or any court the tax payable by any person is reduced or discharged, then any sum paid by that person to the Tax Commissioner in excess of his liability as so determined shall be forthwith refunded to him.

[Section 55 amended by 1996:15 effective 24 November 1997]

Distrain on order of Tax Commissioner

56 (1) Without prejudice to the rights of the Tax Commissioner under this Act or any other provision of law the Tax Commissioner may by order under his hand addressed to a bailiff require that bailiff to distrain on the personal property of any tax payer named therein

for such sum of money, by way of tax, as may be specified in the order; and any such order shall have effect for the purpose of authorizing the bailiff so to distrain on the goods of the person named therein as if it were an order of a court of summary jurisdiction.

(2) In the execution of an order under this section a bailiff shall be subject to the same liabilities and shall have the same powers and enjoy the same immunities as he would have in the execution of an order of a court of summary jurisdiction to the like effect.

(3) Personal property seized by a bailiff pursuant to an order under this section shall be disposed of, and the proceeds distributed, after defraying expenses, in the same manner as personal property seized under an order of a court of summary jurisdiction to the like effect.

[Section 56 amended by 1996:15 effective 24 November 1997]

Garnisheeing of debts

57 (1) Where it appears to the Tax Commissioner that any person—

- (a) owes any sum of money to; or
- (b) will from time to time owe any sum of money by way of rent, salary, wages or pension to; or
- (c) holds any sum of money to the use of,

a tax payer who owes any tax, then the Tax Commissioner may serve an order under his hand on the person aforesaid requiring him to pay to the Tax Commissioner the whole or any part of any such sums of money in satisfaction or partial satisfaction of the tax payer's debt to the Tax Commissioner:

Provided that in the case of a person who will owe any sum of money by way of salary, wages or pension to a tax payer such order shall not provide for the payment to the Tax Commissioner of a sum in excess of one-third of the sum of money payable to the tax payer.

(2) Any person on whom an order has been served pursuant to this section who fails to comply therewith, or makes any disposition of money or arrangement which defeats the purpose of such order, shall become personally liable to the Tax Commissioner for the amount which should have been paid under that order.

(3) Any person who complies with an order made pursuant to this section shall be relieved of his obligation to the tax payer to the extent to which he complies with the order,

(4) An order made under this section shall not prejudice any of the rights of the Tax Commissioner against the tax payer or his goods under this Act or any other provision of law save that the debt of such tax payer shall be extinguished to the extent that it has been wholly or partly satisfied pursuant to an order under this section.

(5) A person on whom an order has been served under this section may apply to a court of summary jurisdiction for the order to be discharged by the court on the ground that the sum specified therein is not owing or will not become owing to the tax payer

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specified therein; and on any such application the court may make such order, including any order for costs, as it thinks just.

[Section 57 amended by 1996:15 effective 24 November 1997]

Power of Tax Commissioner to obtain information

58 (1) The Tax Commissioner may serve notice on the owner, occupier or lessee of any valuation unit, or any person having an estate or interest therein, or on one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required by him for the purposes of this Act.

(2) Every person upon whom a notice to make a return is served in pursuance of this section shall within twenty-one days after the date of the service of the notice make a return in such form as is required in such notice and deliver it in the manner so required to the Tax Commissioner.

(3) If any person on whom notice has been served under this section fails without reasonable excuse to comply with the notice, he commits an offence:

Punishment on summary conviction: a fine of \$1,000 for each offence.

(4) Where a person is convicted under subsection (3) in respect of failure to comply with a notice and the failure continues after the conviction, then, unless he has reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under that subsection and may, on summary conviction, be punished accordingly.

(5) If any person, in a return made under this section makes any statement which he knows to be false in a material particular, he commits an offence:

Punishment on summary conviction: imprisonment for 3 months or a fine of \$5,000 or both such imprisonment and fine.

[Section 58 amended by 1996:15 effective 24 November 1997; subsections (3) and (5) amended by 2004:13 s.5 effective 26 March 2004]

PART IV MISCELLANEOUS

Exercise of powers of Tax Commissioner

59 The Tax Commissioner may authorize any officer employed in the service of the Government to exercise any powers or to perform any duties on his behalf pursuant to this Act; and the exercise of any such powers or the performance of any such duties by any such officer shall be the equivalent of the exercise or performance thereof by the Tax Commissioner.

[Section 59 amended by 1996:15 effective 24 November 1997]

Exercise of powers of Director

60 The Director may authorize any officer employed under him in the service of the Government to exercise any powers or to perform any duties on his behalf pursuant to this

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Act; and the exercise of any such powers or the performance of any such duties by any such officer shall be the equivalent of the exercise or performance thereof by the Director.

Onus of proof

61 (1) In any proceedings under this Act before the Tribunal or any court the onus of proving—

- (a) that any entry in a draft valuation list or valuation list is incorrect; or that any such document is incomplete; or
- (b) that any proposal of the Director for the amendment of a draft valuation list, or valuation list, should not be confirmed; or
- (c) that any demand note is incorrect in a material particular,

shall be on the person so contending.

(2) Notwithstanding the provisions relating to the onus of proof in subsection (1), in any proceedings before the Tribunal, the Tribunal may, at the request of any party to such proceedings, require the Director to disclose before the Tribunal the basis of his valuation of the annual rental value of the valuation unit which is the subject matter of such proceedings as a condition precedent to the discharge by any party of that onus.

Regulations

62 (1) The Minister may make regulations for the better carrying out of this Act and, in particular, but without prejudice to the generality of the foregoing—

- (a) for the forms and notices to be used in connection with any matter specified in this Act, other than those relating to procedural matters before the Tribunal or any court;
- (b) for the method of giving notice of any matter of which notice is required under this Act and the date on which such notice shall be deemed to have effect;
- (c) for the time within which any matter shall be effected and for the extension of time for reasons to be specified in the regulations;
- (d) for the making of a deposit as a condition precedent to the lodging of an objection to a draft valuation list, or an objection to a proposal made by the Director, and for the disposal of such deposit.

(2) The affirmative resolution procedure shall apply to regulations made under this section.

[Section 62 subsection (1)(d) inserted by 2014 : 29 s. 3 effective 30 July 2014]

Rules

63 (1) The Chief Justice may make rules governing proceedings under this Act before the Tribunal or any court and for matters incidental thereto and, in particular, but without prejudice to the generality of the foregoing, for all or any of the following purposes—

- (a) regulating the pleading, practice and procedure of the Tribunal and any court, including all matters connected with the forms to be used and the fees to be paid to any court;
- (b) regulating the admission of evidence;
- (c) regulating the service of notices and other documents and all matters relating to objections lodged with, and proposals by, the Director;
- (d) providing for the representation of parties before the Tribunal;
- (e) regulating appeals and proceedings subsequent thereto;
- (f) regulating the abandonment of any appeal or other process;
- (g) *[repealed]*
- (h) costs.

(2) Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall only apply to rules relating to fees made under subsection (1)(a). Such rules shall be subject to affirmative resolution procedure.

[Section 63 subsection (1) amended by 2014 : 29 s. 4 effective 30 July 2014]

Copy of valuation list, etc., to be receivable in evidence

64 A document purporting to be—

- (a) a copy of an extract from a valuation list, draft valuation list, or proposal made by the Director, as the case may be, on a date specified in that document; and
- (b) certified under the hand of the Director,

shall be receivable in evidence in any proceedings under this Act before the Tribunal or any court and shall be prima facie evidence of the contents of the document of which it purports to be a copy on that date.

Copy of demand note to be receivable in evidence

65 A document purporting to be a copy of a demand note under the hand of the Tax Commissioner shall be receivable in evidence in any proceedings under this Act before any court and shall be prima facie evidence of the contents of the demand note of which it purports to be a copy.

[Section 65 amended by 1996:15 effective 24 November 1997]

Statutory returns to be receivable in evidence

66 In any proceedings under this Act before the Tribunal or any court, any document purporting to be a return made to the Director pursuant to section 7 shall be receivable in evidence for the purpose of demonstrating the rents payable for and other particulars in respect of the valuation unit to which the return purports to relate, at the time when the return purports to have been made.

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Clerk to Tribunal

67 (1) The Governor may appoint a clerk and other servants to the Tribunal to perform such functions as the Chairman may determine on such terms and conditions as the Minister may, out of moneys appropriated by the Legislature therefor, determine.

(2) Any act or decision of the Tribunal or the Chairman may be signified under the hand of the clerk:

Provided that it shall not be competent for the clerk to confirm a draft valuation list.

Relief in exceptional cases

68 (1) Where, during any tax period—

- (a) a valuation unit ceases to be capable of beneficial occupation, or its annual rental value is substantially reduced;
- (b) a person ceases to own a valuation unit and, for any reason outside his control, he is unable to have recourse to section 69; or
- (c) a person becomes the owner of a valuation unit after the commencement of the tax period but is deemed to be the owner thereof at the commencement thereof pursuant to section 33(2),

the Tax Commissioner may remit or waive an equitable proportion of the tax paid or payable in respect of the tax period concerned.

(2) Where the Tax Commissioner exercises his powers under this section in the circumstances set out in subsection (1)(b), he shall be subrogated to the rights of the owner in whose favour he so exercises that power in relation to subsequent owners under section 69.

[Section 68 amended by 1996:15 effective 24 November 1997]

Rights against subsequent owners

69 (1) Where during any tax period an owner of a valuation unit who has paid any tax due in respect of that valuation unit for that tax period ceases to be the owner of that valuation unit, the person who succeeds him as the owner of that valuation unit shall, subject to any contractual arrangement to the contrary, be liable to pay to the person who so ceases to be the owner of that valuation unit an amount equivalent to the tax so paid less such proportion thereof as is referable to the proportion of the tax period during which that valuation unit was in the ownership of the person who so ceases to own it.

(2) Any succeeding owner of a valuation unit who has paid or compounded any sum due to his predecessor in title pursuant to subsection (1) shall, if he ceases to be the owner thereof during the same tax period, but subject to any contractual arrangement to the contrary, have a corresponding right to the payment of a corresponding proportion of the sum so paid against his successor in title to the ownership; and succeeding owners likewise.

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(3) Any sum payable as between successive owners under this section shall be recoverable as a debt for a liquidated amount.

Tax arrears payable by subsequent owner

70 (1) If the tax payable for any tax period in respect of a valuation unit is unpaid on the date on which a person becomes the owner thereof, the tax payable shall be a charge on the valuation unit and that person shall be deemed to be the owner of that valuation unit from the commencement of that tax period.

(2) Where the new owner of a valuation unit has, in pursuance of subsection (1), paid any tax which was due and unpaid on the date on which he became the owner of that unit, he shall be entitled to recover the amount paid from the preceding owner as a debt due to him unless it has been agreed between them that the whole or any part of that amount should not be recoverable.

Service of notices and documents on Director and Tax Commissioner

71 Where in pursuance of this Act any document is required to be served on or deposited with the Director or the Tax Commissioner such document may be handed to that officer, or any person duly authorized by that officer to accept service, or forwarded to him by prepaid registered post or left at his office.

[Section 71 amended by 1996:15 effective 24 November 1997]

Service of notices and other documents on other persons

72 (1) Without prejudice to the provisions of any regulations or rules, any document required to be served under this Act on any person may be served—

- (a) by hand-delivering it to the person on whom it is to be served and, in the case of a body corporate, to an officer or employee of the body at its registered office or other place of business; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it by prepaid post addressed—
 - (i) to that person at his usual or last known place of abode or, in the case of a body corporate, to an officer or employee of the body at its registered office or other place of business; or
 - (ii) to that person (or, in the case of a body corporate, to an officer or employee of the body) at the valuation unit of which that person is the owner; or
 - (iii) to that person (or, in the case of a body corporate, to an officer or employee of the body) at a street address or post office box address provided by that person, in writing, to either the Director or the Tax Commissioner; or
- (ca) by sending it by email addressed to that person (or, in the case of a body corporate, to an officer or employee of the body) at an email address

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provided by that person, in writing, to either the Director or the Tax Commissioner; or

(d) *[repealed]*

(e) if it is not practicable after reasonable enquiry to ascertain the name or address of an owner of the premises on whom it should be served by addressing it to him by the description of "owner" or, as the case may be, "occupier" of the premises (describing them) to which it relates and by delivering it to some person on the premises; or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises,

(2) Service effected by hand-delivery pursuant to subsection (1)(a) or section 71, or by email under subsection (1)(ca), shall have effect as from the time of delivery.

(3) Service effected otherwise than in a manner referred to in subsection (2) shall be deemed to have effect three days after the steps taken pursuant to any of the provisions of subsection (1) or section 71 have been taken unless and to the extent that the contrary is proved.

(4) Where the Director is required by this Act to deposit with, transmit to, or in any other manner serve on (regardless of the expression used) the Tribunal any objection, proposal or other document, he shall do so in such manner as the Chairman of the Tribunal may from time to time in writing direct, and such service shall have effect as from the time it is so served.

[Section 72 subsections (1) - (3) amended and subsection (4) inserted by 2015 : 29 s. 21 effective 4 July 2015]

Proof of service

73 (1) In any proceedings under Part II before the Tribunal or any court a document purporting to be under the hand of the Director certifying that any of the steps to effect service pursuant to section 72 have been taken in relation to any document and any person on any date specified in the certificate shall be receivable in evidence and shall be prima facie evidence of the facts therein specified.

(2) In any proceedings under Part III or IV before any court a document purporting to be under the hand of the Tax Commissioner certifying that any of the steps to effect service pursuant to section 72 have been taken in relation to any document and any person on any date specified in the certificate shall be receivable in evidence and shall be prima facie evidence of the facts therein specified.

[Section 73 amended by 1996:15 effective 24 November 1997]

Right of contribution between joint tenants and tenants in common

74 (1) A joint tenant or tenant in common of any valuation unit who pays tax in respect of that valuation unit for any tax period in excess of a sum proportioned to his interest therein may claim a contribution towards that excess from any other person liable for that tax in an amount not exceeding a sum proportioned to the interest of that other

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person in that valuation unit less any sum already paid by that other person by way of tax or contribution in respect of that valuation unit for that tax period.

(2) Any claim under this section may be recovered as a debt for a liquidated amount.

Access to Corporation and Land Title Registrar's registers

75 (1) The Tax Commissioner may at any time examine any register or other document in the possession of or under the control of the Corporation of Hamilton or the Corporation of St. George's or the Land Title Registrar which relates to the ownership of land.

(2) The Secretary of the Corporation of Hamilton and the Secretary of the Corporation of St. George's and the Land Title Registrar shall forthwith furnish the Tax Commissioner with a copy of every notice relating to the change of ownership of any land received, after 18 July 1967, under the Municipalities Act 1923, or the Land Title Registrar (Recording of Documents) Act 2017.

[Section 75 amended by 1996:15 effective 24 November 1997; subsections (1) and (2) amended by 2017 : 9 s. 11 effective 20 February 2017]

No costs before Tribunal

76 Without prejudice to the provisions of any rules relating to the making and disposal of deposits, no costs shall be payable in respect of proceedings before the Tribunal by any party thereto; and all references in this Act to an order for costs shall relate only to costs before a court.

77 *[Omitted]* [Repeals 1966:97]

[Assent Date: 18 July 1967]

[Amended by:

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