

Information Notice

Act Title:	Valuation of Land Act 1960
Information Title:	Retrospective Commencement
Version:	090

The amendment made to section 22 of the **Valuation of Land Act 1960** by section 309 of the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998**, No. 52/1998 came into operation on 1 July 1998.

Section 309 reads as follows:

309. *New Part III substituted*

For Part III of the **Valuation of Land Act 1960** substitute—

'PART III—OBJECTIONS, REVIEWS AND APPEALS

Division 1—Introductory

14. *Definitions*

In this Part—

"Commissioner" means Commissioner of State Revenue under the **Taxation Administration Act 1997**;

"Court" means the Supreme Court;

"land" includes any estate or interest in land;

"Tribunal" means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**.

Division 2—Notice of valuations

15. *Rating authority must give notice of valuation*

(1) A rating authority that makes a valuation or causes a valuation to be made must, in respect of each rate it makes or intends to make, give to the person liable for the payment of that rate—

(a) a notice of valuation that—

(i) identifies the land in respect of which the rate is or will be payable; and

(ii) shows the several bases of value assessed in respect of the land; and

(iii) states the date as at which the value of the land was assessed; and

- (b) a notice that some other authority may use one of the bases of value shown for the purposes of a rate or tax levied by that authority.
- (2) The notice referred to in sub-section (1)(b) must be given before or at the same time as the notice referred to in sub-section (1)(a).
- (3) If the person liable for payment of the rate is not the occupier of the land, the rating authority must also give the notices referred to in sub-section (1) to the occupier.

Division 3—Objections

16. *Who may object?*

- (1) A person aggrieved by an assessment of the value of any land made by or for a rating authority may lodge a written objection with the rating authority on any one or more of the grounds set out in section 17.
- (2) An objection must—
 - (a) be in the prescribed form; and
 - (b) give particulars of the bases of valuation to which objection is made; and
 - (c) state the grounds on which the objection is based.
- (3) However, a rating authority cannot disallow an objection only because of a failure to comply with sub-section (2).
- (4) The occupier of land valued by or for a rating authority is deemed to be a person aggrieved by an assessment of the value of the land whether or not the occupier is liable to be rated by the rating authority.
- (5) A person is deemed to be a person aggrieved by an assessment of the value of land if—
 - (a) the person is liable for or required to pay any rate or tax in respect of land; and
 - (b) notice of a valuation of the land has not been given to that person by the rating authority which made it or which caused it to be made.
- (6) A person referred to in sub-section (5) must give written notice of an objection to the person or body that issued the assessment of the rate or tax and to the rating authority that made the valuation or caused it to be made.

17. *Grounds for objection*

The grounds for an objection are—

- (a) that the value assigned is too high or too low;

- (b) that the interests held by various persons in the land have not been correctly apportioned;
- (c) that the apportionment of the valuation is not correct;
- (d) that lands that should have been included in one valuation have been valued separately;
- (e) that lands that should have been valued separately have been included in one valuation;
- (f) that the person named in the notice of valuation, assessment notice or other document is not liable to be so named;
- (g) that the area, dimensions or description of the land are not correctly stated in the notice of valuation, assessment notice or other document.

18. *Time for lodging objection*

- (1) An objection to a valuation made by the Commissioner or for the Commissioner by a person or authority other than a municipal council must be lodged within 2 months after the notice of assessment based on that valuation has been given under the **Land Tax Act 1958**.
- (2) In any other case, an objection must be lodged—
 - (a) if any of the valuations in the notice given by the rating authority under section 15(1)(a) appear for the first time—within 2 months after the notice is given; or
 - (b) if a valuation that has appeared in a notice given by the rating authority appears in a subsequent notice given by that authority—
 - (i) if the subsequent notice is given on or after 1 February but before 1 October in any year—within 2 months after the subsequent notice is given; or
 - (ii) in any other case—during February or March next after the subsequent notice is given; or
 - (c) in the case of a person referred to in section 16(5)—within 2 months after receiving the notice of assessment of the rate or tax.

19. *Further limitation on lodging of objections if previous objection lodged*

- (1) If an objection to the valuation of any rateable land is lodged with a rating authority and considered by the valuer of that authority under section 21, a further objection to that valuation cannot be made within 12 months after the lodgement of that objection.
- (2) Sub-section (1) applies whether the valuation is used by the rating authority to whom the objection was made or another rating authority.

20. *Determination of objection by Commissioner*

An objection to a valuation made by the Commissioner or for the Commissioner by a person or authority other than a municipal council must be considered and determined by the Commissioner in accordance with section 24A of the **Land Tax Act 1958**.

21. *Determination of objection in any other case*

- (1) Except in the case of an objection referred to in section 20, the rating authority must cause an objection lodged with it to be considered and determined in accordance with this section.
- (2) The rating authority must refer an objection to the valuer for that authority, who must provide a reasonable opportunity for the objector to discuss the matter with him or her.
- (3) Within 2 months after receiving an objection, the valuer must—
 - (a) if he or she considers that no adjustment in the valuation is justified—give the objector written notice of that decision; or
 - (b) if he or she considers that an adjustment in the valuation is justified—
 - (i) recommend accordingly to the valuer-general; and
 - (ii) give the objector and the rating authority a copy of the recommendation.
- (4) The valuer-general, after consultation if practical with the valuer, must determine the objection as follows—
 - (a) the valuer-general may disallow the recommended adjustment in whole or part if in his or her opinion the general uniformity of the valuation or the general trueness and correctness of the valuation will be substantially affected by the adjustment; or
 - (b) in any other case, the valuer-general must confirm the recommended adjustment.
- (5) The valuer-general must give written notice of his or her decision, within 2 months after receiving the recommendation, to the objector, the valuer and the rating authority.
- (6) Subject to any appeal or review under Division 3, the decision of the valuer-general must be given effect to by the rating authority and every other rating authority using that valuation.

Division 4—Reviews and appeals

22. *Right of review or appeal*

- (1) Subject to section 23, if—
 - (a) an objector is dissatisfied with the determination of the Commissioner, a valuer or the valuer-general on the objection; or

- (b) 2 months have passed since an objection has been lodged with the rating authority and the valuer for the rating authority has not determined the objection or the valuer has not given notice to the objector under section 21(3)(b)(ii); or
- (c) 2 months have passed since a valuer has given notice to an objector under section 21(3)(b)(ii) and the valuer-general has not determined the objection—

the objector may lodge with the rating authority a written notice requiring the rating authority to refer the matter to the Tribunal or to treat the objection as an appeal and cause it to be set down for hearing at the next sitting of the Supreme Court.

- (2) A notice under sub-section (1)—
 - (a) in the circumstances referred to in sub-section (1)(a)—must be lodged within 30 days after the date that notice of the determination is given to the objector; or
 - (b) in the circumstances referred to in sub-section (1)(b) or (c)—may be made at any time after the relevant 2 month period.
- (3) At the time of lodging a notice under sub-section (1), an objector must send a copy of the notice to the Tribunal or the Supreme Court (as the case requires).

23. *Jurisdiction of Tribunal and Court*

- (1) Subject to sub-section (3), a matter is to be referred to the Tribunal under this Division if it relates to a valuation of an amount being—
 - (a) a capital improved value less than \$250 000; or
 - (b) a site value less than \$100 000; or
 - (c) a net annual value less than \$12 500.
- (2) If a matter relates to a valuation of an amount equal to or more than an amount referred to in sub-section (1), the matter may be referred to the Tribunal or treated as an appeal to the Court—
 - (a) at the option of the objector; or
 - (b) at the option of the rating authority if the objector does not exercise the objector's option within 1 month after being requested to do so by the rating authority.
- (3) A matter may be treated as an appeal to the Court irrespective of the amount of the valuation if the Court is satisfied on the application of any party that the appeal raises questions of unusual difficulty or of general importance.

24. *Grounds of review or appeal*

On a review or appeal the objector's case is limited to—

- (a) the grounds of the objection; and

- (b) any other grounds set out in the notice to the rating authority under section 22(1)—

unless the Tribunal or Court otherwise orders.

25. *Referral to Tribunal*

- (1) The Tribunal must review a matter referred to it and may, by order, confirm, increase or reduce or otherwise amend any valuation.
- (2) The Tribunal may in its discretion award the costs of any proceedings under this Division—
 - (a) to the party in whose favour the proceedings are determined; or
 - (b) if a matter was referred to the Tribunal under this Division, but was not proceeded with by the objector, to the rating authority.

26. *Supreme Court appeals*

- (1) On the hearing of an appeal under this Division, the Court may make any order it thinks fit and may, by order—
 - (a) confirm, increase or reduce any valuation; and
 - (b) make any other amendment to a valuation or assessment notice it thinks fit.
- (2) The Court may in its discretion by order award the costs of an appeal under this Division—
 - (a) to the party in whose favour the appeal is determined; or
 - (b) if the appeal was lodged in respect of the matter under section 22(1), but was not proceeded with by the objector, to the rating authority.
- (3) An appeal to the Court of Appeal from an order made by the Court under this section lies only on a question of law.

27. *Costs if owner and occupier appeal separately*

- (1) This section applies if the owner and the occupier of land separately apply to the Tribunal or appeal to the Court in respect of the same assessment of value.
- (2) If this section applies, the Court or Tribunal must not award the owner or occupier any costs in respect of the proceedings unless the Court or Tribunal is satisfied—
 - (a) if the applicant or appellant is the owner, that—
 - (i) the owner, before giving notice under section 22(1), requested the occupier to join in the proceedings; and
 - (ii) the occupier refused or failed to do so; or
 - (b) if the applicant or appellant is the occupier, that—

- (i) the occupier, before giving notice under section 22(1), requested the owner to join in the proceedings; and
 - (ii) the owner refused or failed to do so.
- (3) If the party bringing the proceedings satisfies the Court or Tribunal as set out in sub-section (2), the owner or occupier refusing or failing to join the proceedings must pay the costs of that person's own application or appeal.
- (4) This section does not apply if the owner or occupier lodged a written objection pursuant to section 16(6).

Division 5—General

28. Procedure if land is in more than one area

- (1) Despite anything to the contrary in any Act, if any rateable land of a person comprising one undertaking extends continuously beyond the boundaries of any rating authority so that the undertaking is subject to more than one separate valuation for the purpose of rating, although there is no actual separation of the different parts of the land rated, the person may object to the valuations in accordance with this section.
- (2) The person objecting to the valuations may lodge with one of the rating authorities a written notice requiring the rating authority to refer the matter to the Tribunal or to treat the objection as an appeal and cause it to be set down for hearing at the next sitting of the Supreme Court.
- (3) The notice must be lodged within the time permitted under this Part for an objection against the valuation by the rating authority of the rateable land.
- (4) On the same day as the notice is lodged under sub-section (2), the person objecting to the valuation may lodge with each of the other rating authorities which made a valuation a written notice requiring the rating authority to refer the matter to the Tribunal or to treat the objection as an appeal and cause it to be set down for hearing at the next sitting of the Supreme Court so that the valuation of different parts of the same land may be made the subject of one proceeding.
- (5) A notice may be lodged under sub-section (4) even if the time permitted under this Part for objections has expired.
- (6) This Part applies to an appeal to the Supreme Court or a referral to the Tribunal as if it were an appeal or referral under Division 4.
- (7) If there is more than one appeal or referral under this section, the Supreme Court or the Tribunal (as the case requires) may at the hearing direct the consolidation of the matters for the purpose of assessing the value of the land as a whole and for apportioning

that value between the different rating authorities whose valuations were the subject of the referral or appeal.

29. *Recovery of rate or tax pending objection, review or appeal*

An objection, review or appeal under this Part to the assessment of the value of any land does not prevent the recovery of any rate or tax based on that valuation pending the determination of the objection, review or appeal.

30. *Tribunal members not disqualified as witnesses*

A member of the Tribunal is not disqualified from appearing as a witness in any hearing under this Part where he or she is not sitting as a member of the Tribunal.!

Section 309 of the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998** was amended by section 21(d) of the **Licensing and Tribunal (Amendment) Act 1998**, No. 101/1998. Section 21(d) is deemed to have come into operation on 1 July 1998.

Section 21(d) reads as follows:

21. *Miscellaneous amendments*

In the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998**—

- (d) in section 309, in new section 22(2)(b) for "made" substitute "lodged".