

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 5 of 1929.

AN ORDINANCE

To amend the Rates Ordinance 1926.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910, as follows:—

1.—(1.) This Ordinance may be cited as the *Rates Ordinance* Short title and citation. 1929.

(2.) The *Rates Ordinance* 1926 is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Rates Ordinance* 1926-1929.

2. Section four of the Principal Ordinance is amended by adding at the end thereof the following definitions:— Definitions.

“ ‘the Court’ means the Valuation Court constituted in pursuance of this Ordinance;

‘the Judge’ means the Judge of the Court;

‘the Registrar’ means the Registrar of the Court.”

3. Section five of the Principal Ordinance is amended by omitting from sub-section (2.) the word “assessment” and inserting in its stead the word “determination.” Unimproved value of land.

4. Section seven of the Principal Ordinance is repealed and the following section inserted in its stead:—

“7.—(1.) The Commission shall, as soon as practicable after the commencement of this section, cause the unimproved capital value and the assessed value of each parcel of rateable land in the Territory to be determined, and shall— Determination of unimproved value and assessed value.

(a) cause particulars of the determination to be recorded in the office of the Commission; and

(b) cause notice of the determination in respect of each parcel of rateable land to be given to the owner:

Provided that the assessed value shall not in any case be determined to be greater than the unimproved capital value determined in accordance with the provisions of this Ordinance:

Provided further that if the land is unoccupied a notification of the determination may be made to the owner by advertisement in a newspaper circulating within the Territory.

“(2.) A determination of the assessed value may be made subsequently to the determination of the unimproved capital value of a parcel of land, and, subject to the provisions of this Ordinance, a new determination of the assessed value may be made notwithstanding that a new determination of the unimproved capital value is not made.

“(3.) Subject to this Ordinance, the record of determination shall for the purposes of this Ordinance be conclusive evidence that the parcel of land specified therein is rateable land and that the unimproved capital value and assessed value thereof as specified therein are the unimproved capital value and the assessed value, respectively, of the land.”

Repeal of
section 8.

5. Section eight of the Principal Ordinance is repealed.

Period of
determination.

6. Section nine of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the word “assessment” (wherever occurring) and inserting in its stead the word “determination”;
- (b) by omitting from sub-section (2.) the words “An assessment” and inserting in their stead the words “A determination”;
- (c) by omitting from that sub-section the words “every twelve months” and inserting in their stead the words “once in any year ending on the thirty-first day of December”;
- (d) by omitting from sub-section (3.) the words “an assessment” and inserting in their stead the words “a determination”; and
- (e) by omitting from that sub-section the word “assessment” (secondly and thirdly occurring) and inserting in its stead the word “determination”.

Power to make
and levy rates.

7. Section ten of the Principal Ordinance is amended—

- (a) by omitting the words “unimproved capital value” (wherever occurring) and inserting in their stead the words “assessed value”; and
- (b) by omitting sub-sections (7.) and (8.) thereof.

8. Section twelve of the Principal Ordinance is amended by omitting the words "unimproved capital value" (wherever occurring) and inserting in their stead the words "assessed value".

Power to make and levy rates on land occupied by Commonwealth.

9. Section fifteen of the Principal Ordinance is amended—

Rates to be paid by owner.

(a) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

"(2.) The amount of the rate shall become due immediately after the notice of the rate is published in the *Gazette*, or, in the case of land which is not rateable at the date of the publication of the notice, immediately the land becomes rateable, and shall be payable within the time specified in the notice of the rate given to the owner"; and

(b) by adding at the end thereof the following sub-section:—

"(5.) Subject to the next succeeding sub-section, where land is rateable for only portion of any year, the amount of the rates payable in respect of that year on the assessed value of that land shall be such amount as bears the same proportion to the amount of the rates payable for the whole year as the portion of the year during which the land is rateable bears to a period of twelve months, and, if the amount of the rates paid in respect of that year on the assessed value of the land exceeds the amount so payable, the Commission may refund the excess to the owner of the land.

"(6.) Where land is leased from the Commission, the amount of the rates payable in respect of any year on the assessed value of the land shall be such amount as bears the same proportion to the amount of the rates payable for the whole year as the portion of the year during which the lease subsists bears to a period of twelve months, and, if the amount of the rates paid in respect of that year on the assessed value of the land exceeds the amount so payable, the Commission may refund the excess to the lessee.

"(7.) For the purposes of the last preceding sub-section, where a lease determines, the period (if any) after the date of the determination during which the lessee continues to occupy the land shall be deemed to be part of the period during which the lease subsists."

10. Section twenty-one of the Principal Ordinance is amended by omitting the word "assessments" and inserting in its stead the word "determinations".

Properties comprised in different determinations may be included in one application.

Rate not
affected by
non-receipt of
notice.

11. Section twenty-six of the Principal Ordinance is amended by omitting the word "assessment" and inserting in its stead the word "determination".

12. After section twenty-eight of the Principal Ordinance the following section is inserted:—

Refund of rates.

"28A. Where the Commission is satisfied that it is just and equitable that any rates or a portion of any rates paid in respect of any land should be refunded, the Commission may refund to the owner of the land those rates or that portion".

13. Section thirty of the Principal Ordinance is repealed, and the following sections inserted in its stead:—

Court of Appeal

"30.—(1.) There shall be a Valuation Court, which shall be a court of record, and shall be constituted by a judge or deputy judge.

"(2) The Court shall have an official seal and all courts, judges and persons acting judicially shall take judicial notice of the seal affixed to any document or order issuing out of the Court and shall deem that it was duly affixed.

"(3.) The Judge of the Court shall be appointed by the Governor-General from among persons holding the office of Judge of a District, County or Local Court of a State, or of the Land and Valuation Court of a State, or being practising barristers or solicitors of the High Court or the Supreme Court of a State of not less than five years' standing.

"(4.) In case of the absence from whatever cause of the Judge, or in any case where the Judge deems it not proper or desirable that he should adjudicate in any proceeding pending before the Court, the Governor-General may appoint a deputy judge from among the persons mentioned in the last preceding sub-section.

"(5.) The person so appointed shall, subject to the conditions and limitations, and for the period specified in his appointment have all the powers and privileges and fulfil all the duties of the Judge.

"(6.) The Judge or a deputy judge shall hold office for such period as is specified in his appointment and shall receive such remuneration as the Governor-General determines.

Officers.

"31.—(1.) The Commission may appoint a Registrar of the Court and such other officers of the Court as are necessary.

"(2.) In the absence from whatever cause, of the Registrar, the Commission may appoint a person as deputy registrar, and that person while so appointed may exercise the powers and discharge the duties of the Registrar.

Place of
sitting.

"32. The Court shall sit at such places as the Judge directs.

“33.—(1.) Any owner who is dissatisfied with the determination of the unimproved capital value or assessed value of any land may, within one month after the commencement of this section or after service upon the owner of the land of the notice of the determination, whichever is the later, post to or lodge with the Commission an objection, in writing in accordance with the form determined by the Commission, against the determination, stating fully and in detail the grounds on which he relies. Objections and appeals.

“(2.) The only grounds upon which objections may be taken against a determination are—

- (a) that the value assigned is too high or too low;
- (b) that the land is not rateable or that it is not rateable to any particular rate; and
- (c) that the person named in the notice of the determination is not the owner of the land.

“(3.) Any owner who is dissatisfied with the amount of the rates charged in respect of any land may within one month after the commencement of this section or after service upon the owner of the land of the notice of the rates, whichever is the later, post to or lodge with the Commission an objection, in writing, in accordance with the form determined by the Commission, against the amount of the rates on the ground that the amount is unfair or incorrect.

“(4.) Where an objection is made under this section to any determination or the amount of rates charged in respect of any land, the Commission may alter the determination or the amount of the rates, but if the Commission does not alter the determination or amount of the rates to the extent claimed in the objection, or to such extent as the objector agrees upon, the objection shall be heard by the Court.

“(5.) Every objection shall be accompanied by a deposit of such amount as is prescribed for the particular class of case.

“(6.) If the Commission alters the determination or amount of the rates to the extent claimed in the objection or to the extent agreed upon by the objector the deposit shall be returned.

“(7.) If the objection is heard by the Court, the Court may, if it considers the objection to be frivolous or unreasonable, order the forfeiture of the whole or part of the deposit; otherwise it shall be returned to the objector.

“34.—(1.) The Commission shall furnish to the Registrar a list of the objections lodged, and the Registrar shall give notice of the date fixed for the hearing of the objections to each objector and to the Commission. Notice of suitors.

“(2.) The Judge shall enter on a list a record of all decisions given by the Court and initial all those entries.

“(3.) The Registrar shall furnish to the Commission a certified copy of the list, and the Commission shall, if necessary, amend the record of determinations in accordance with the list.

Objections to
be heard by
Court.

“35.—(1.) The Court shall hear and determine all objections brought before it, and, if it decides that any determination is erroneous or that the amount of any rates is unfair or incorrect, shall order the determination or amount of the rates to be altered accordingly.

“(2.) The person objecting, and any person possessed of or entitled to any estate or interest in the land the subject of the objection or liable for any rates in respect of the land, may appear and be heard before the Court personally or by counsel or solicitor or by agent authorized in writing.

Proceedings to
be heard in
open Court.

“36. All proceedings before the Court shall, unless the Court otherwise orders, be heard in open court.

Appearance by
Commonwealth.

“37. The Commonwealth may appear before the Court in any case in which the public interest or any right or interest of the Commonwealth may be affected or involved.

Issue of
process, &c.

“38.—(1.) A summons or other process issuing out of the Court shall be under the seal of the Court, and shall be signed by the Judge or the Registrar.

“(2.) All courts shall take judicial notice of the signature of the Judge, deputy judge, Registrar or deputy registrar when attached to any document issuing out of the Court.

Powers of judge
as to production
of evidence.

“39.—(1.) The Judge shall have all such powers, rights and privileges as are vested in the High Court or a Justice thereof, in respect of the following matters:—

- (a) Compelling the attendance of witnesses and examining them on oath, affirmation or declaration;
- (b) Compelling the production, discovery and inspection of books, documents and writings;
- (c) Compelling witnesses to answer questions which the Judge deems to be relevant to any proceeding before him;
- (d) The punishment of persons guilty of contempt, or of disobedience of any order made by the Judge, or of any summons issuing out of the Court; and
- (e) Directing the prosecution of witnesses for perjury.

“(2.) Any warrant to apprehend and to detain and bring before the Court, or to keep in any gaol or other place of detention, any person liable upon the order of the Court to

be so dealt with shall be valid and effectual if it is in accordance with the prescribed form, or to the effect thereof, and all persons to whom the warrant is addressed shall obey the warrant:

Provided that no such warrant shall be issued against a person who fails to appear as a witness when called, unless it be proved to the satisfaction of the Court that he has been duly served with a summons, and that payment or tender of his reasonable expenses has been made to him.

“40. In any proceeding before the Court, the Court may allow further evidence to be given upon such terms as to costs or otherwise as the Court thinks fit. Power of Court to allow further evidence.

“41. In any proceeding before the Court, the Court shall have power at any stage of the proceeding to order any amendments to be made which in the opinion of the Court are necessary in the interests of justice, and upon such terms as to costs or otherwise as the Court thinks fit. Power of amendment.

“42.—(1.) When any question of law arises in any proceeding before the Court, the Court shall, if so required in writing by any of the parties within the prescribed time and subject to the prescribed conditions, or may of its own motion, state a case for the decision of the High Court thereon. Appeal by case stated to High Court.

“(2.) The High Court shall have power to make such order as it thinks fit in regard to the costs of and incidental to any case so stated.

“(3.) The Justices of the High Court or a majority of them may make rules with regard to the setting down of any case for argument, and the hearing and decision of the case and its return with the decision of the High Court thereon.

“(4.) The decision of the High Court upon the hearing of any such case shall be binding upon the Court and upon all the parties to the proceedings.

“(5.) Subject to the provisions of this section, the decision of the Court shall be final and conclusive.

“43. The Court shall have power to make such order as to the costs of or incidental to any proceeding before the Court as it thinks fit. Costs.

“44.—(1.) Any order of the Court for payment of money as costs or otherwise shall be conclusive upon the parties and have the force of a judgment of the High Court. Enforcement of order for payment of money.

“(2.) The party in whose favour any such order is finally made may obtain from the Registrar a certificate of the amount due thereunder, and, upon production thereof to the Principal Registrar or a District Registrar of the High Court, shall be entitled to have judgment entered thereon without any

Justice's order, and to have execution for the amount and costs issued and enforced in the same way as is done upon judgments in the High Court:

Provided that the deposit made by the objector shall, unless forfeited, be available in payment or part payment of any sum he may be ordered to pay, and the balance (if any) shall be returned.

Rules.

"45.—(1.) The Judge may make rules to regulate the procedure of the Court.

"(2.) Rules made under this section shall be deemed to be regulations within the meaning of the *Interpretation Ordinance* 1914-1927.

Pending an objection or appeal rates to be paid.

"46. The fact that the determination of an objection is pending shall not affect the determination or amount of rates objected to, and rates may be levied and recovered on the assessed value as if no objection had been made.

Effect of alteration of determination or rates.

"47.—(1.) If a determination or amount of rates charged in respect of any land be altered on objection, a due adjustment shall be made and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

"(2.) Notwithstanding that an owner has not objected to the determination of the assessed value of his land, where the determination of the unimproved capital value of the land is altered, the determination of the assessed value shall be altered so that the assessed value continues to bear to the unimproved capital value the same proportion as before the alteration of the determination of the unimproved capital value.

Regulations.

"48. The Commission may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance."

Application of Ordinance to existing assessments.

14. The provisions of the *Rates Ordinance* 1926-1929 shall, so far as applicable, apply in relation to assessments of land in respect of the year One thousand nine hundred and twenty-eight and subsequent years made under the *Rates Ordinance* 1926 prior to the commencement of this Ordinance, and for the purposes of that application an assessment of any land shall be deemed to be a determination of the assessed value of the land.

Dated this seventeenth day of April, One thousand nine hundred and twenty-nine.

STONEHAVEN

Governor-General.

By His Excellency's Command,

C. L. A. ABBOTT

Minister of State for Home Affairs.

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