

RATES

No. 5 of 1967

An Ordinance to amend the *Rates Ordinance* 1926-1959.

Short title
and citation.

1.—(1.) This Ordinance may be cited as the *Rates Ordinance 1967*.*

(2.) The *Rates Ordinance 1926-1959*† 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 1926-1967*.

Definitions.

2. Section 4 of the Principal Ordinance is amended—

(a) by inserting after the definition of “Crown land” the following definition:—

“‘lease’ includes an agreement for a lease or for the tenancy or occupation of a parcel of land;”;

(b) by omitting the definition of “rates” and inserting in its stead the following definition:—

“‘rates’ means rates payable under this Ordinance;”;

(c) by omitting the definitions of “the City area”, “the Court”, “the Judge” and “the Registrar” and inserting in their stead the following definitions:—

“‘the Board’ means the Valuation Review Board;

‘the City Area’ has the same meaning as in the *City Area Leases Ordinance 1936-1966*.”.

3. Section 5 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Unimproved
value of land.

“5.—(1.) For the purposes of this Ordinance, the unimproved value of a parcel of land held under a lease from the Commonwealth is the capital sum that might be expected to have been offered on the relevant date for the lease of the parcel of land, it being assumed—

(a) that the only improvements on or to the land were the improvements (if any) made by the Commonwealth before the date on which the parcel of land became rateable by way of clearing, filling, draining, levelling or excavating;

* Made on 13 April 1967; notified in the *Commonwealth Gazette* and commenced on 17 April 1967.

† Ordinance No. 6, 1926, as amended by Nos. 5, 12 and 17, 1929; No. 5, 1930; No. 5, 1931; No. 4, 1933; Nos. 1 and 27, 1937; Nos. 25 and 35, 1938; No. 5, 1950; and No. 21, 1959.

- (b) that, on the relevant date, the lease had an unexpired term of ninety-nine years;
- (c) that the rent payable under the lease throughout the term of ninety-nine years commencing on the relevant date was a nominal rent; and
- (d) that, on the relevant date, the lease was not subject to section twenty-eight A or twenty-eight B of the *City Area Leases Ordinance 1936-1966*.

“(2.) The unimproved value of a parcel of land held in fee simple is the capital sum that might be expected to have been offered for the fee simple of the parcel of land at a *bona fide* sale on the relevant date on such reasonable terms and conditions as a *bona fide* seller would require, it being assumed that no improvements had been made on or to the land.

“(3.) For the purposes of this section, ‘the relevant date’, in relation to a parcel of land, means the date as at which a determination or re-determination of the unimproved value of the parcel of land is to be made under this Ordinance.”.

4. Section 6A of the Principal Ordinance is amended by omitting the words “any general rate and lighting rate made and levied under section ten of this Ordinance” and inserting in their stead the word “rates”.

Exemption of schools from rates.

5. Sections 7, 9, 10, 11, 13, 14, 15 and 16 of the Principal Ordinance are repealed and the following sections inserted in their stead:—

“7.—(1.) The Minister shall, as soon as practicable after the date of commencement of the *Rates Ordinance 1967*, determine the unimproved value of all parcels of land in the Territory that were rateable on that date.

First determination of unimproved value.

“(2.) Where a parcel of land in the Territory becomes rateable after that date and before the date on which a notice under the next succeeding section is published in the *Gazette*, the Minister shall, as soon as practicable after the date on which the parcel of land became rateable, determine the unimproved value of the parcel of land.

“(3.) The Minister shall determine the unimproved value of a parcel of land under this section as at the first day of January, One thousand nine hundred and sixty-two, as if the external physical features and services that would have affected the unimproved value of that parcel of land on the first day of January, One thousand nine hundred and sixty-five, were in existence on that first-mentioned date.

“8. The Minister may, by notice in writing published in the *Gazette*, specify a date as the date as at which the unimproved value of all parcels of rateable land in the Territory is to be re-determined, and shall re-determine the unimproved value of each parcel of rateable land in the Territory accordingly.

General revaluation.

Determination of unimproved value of land becoming rateable after a general revaluation.

“ 9. Where a parcel of land becomes rateable after the date on which a notice under the last preceding section is published in the *Gazette* and before the date on which the next succeeding notice under that section is published in the *Gazette*, the Minister shall determine the unimproved value of that parcel of land as at the date specified in the first-mentioned notice.

Revaluation where change in valuation circumstances.

“ 10.—(1.) Where, by reason of a change of circumstances that has arisen since the last determination or re-determination of the unimproved value of a parcel of land under this Ordinance, the Minister considers that the unimproved value of the parcel of land should be re-determined, the Minister may give notice in writing to the owner of the parcel of land of his intention to re-determine the unimproved value of the parcel of land as at a date specified in the notice.

“ (2.) Where the Minister gives a notice in accordance with the last preceding sub-section, he shall, as soon as practicable after giving the notice, re-determine the unimproved value of the parcel of land accordingly.

Determination to remain in force until varied.

“ 11.—(1.) A determination of the unimproved value of a parcel of land under sub-section (2.) of section seven, or section nine, of this Ordinance applies in respect of rates for the year that commenced on the first day of January immediately preceding the date on which the parcel of land became rateable.

“ (2.) A re-determination under section eight of this Ordinance applies in respect of rates for the year commencing on the first day of January next succeeding the date on which the notice under that section in respect of that re-determination is published in the *Gazette*.

“ (3.) A re-determination under section ten of this Ordinance applies in respect of rates for the year commencing on the first day of January next succeeding the date on which the notice in respect of that re-determination is given under that section.

“ (4.) A determination or re-determination in respect of rates for a year continues to apply in respect of rates for all subsequent years until the year commencing on the first day of January next succeeding—

(a) the date on which a notice under section eight of this Ordinance is next published in the *Gazette*;
or

(b) the date on which a notice is next given under section ten of this Ordinance,

whichever is the earlier.

Recording and notification of unimproved value.

“ 12. When the unimproved value of a parcel of land has been determined or re-determined under this Ordinance, the Minister—

(a) shall cause particulars of the determination or re-determination of the unimproved value of the parcel of land, as the case may be, to be recorded in the office of the Secretary to the Department of the Interior; and

- (b) shall cause notice in writing of the amount determined or re-determined as the unimproved value of the parcel of land to be given to the owner of the parcel of land.

“ 13.—(1.) Subject to this section, annual rates as declared under the next succeeding sub-section are imposed in respect of all parcels of rateable land in the Territory. Imposition of rates.

“ (2.) The Minister may, by instrument in writing published in the *Gazette*, declare that—

- (a) rates for a specified year in respect of every parcel of rateable land in the Territory shall be imposed at a specified percentage of the unimproved value of the parcel of land; or
- (b) rates for a specified year in respect of every parcel of rateable land in the City Area shall be imposed at a specified percentage of the unimproved value of the parcel of land and rates for that year in respect of every parcel of rateable land outside the City Area shall be imposed at another specified percentage of the unimproved value of the parcel of land.

“ (3.) Rates for any year in respect of a parcel of land shall not be imposed at a percentage exceeding four per centum of the unimproved value of the parcel of land.

“ 14. The Minister shall cause to be prepared assessments of the amounts of rates payable in respect of all parcels of rateable land in the Territory for each year, and shall cause notice in writing of the assessment prepared in respect of a parcel of rateable land to be given to the owner of the parcel of land. Assessment of rates.

“ 15.—(1.) Rates in respect of a parcel of land are payable to the Commonwealth by the owner of the parcel of land. Rates to be paid by the owner.

“ (2.) The person who is for the time being the owner of a parcel of land is liable to pay to the Commonwealth the whole or any part of rates payable in respect of the parcel of land that have not been paid.

“ (3.) Subject to the next succeeding sub-section, rates become due within such time as is specified in the notice of assessment given under the last preceding section.

“ (4.) The Minister may, on application in writing by the owner of a parcel of land, permit the owner to pay rates in respect of that parcel of land in instalments in such amounts and at such intervals of time as the Minister approves.

“ (5.) If rates are not paid by the owner of a parcel of land within the time specified in the notice of assessment given to him under the last preceding section, or, where rates are payable in instalments, if an instalment is not paid within seven

days after the due time for payment of that instalment, there is payable to the Commonwealth by the owner an additional amount by way of penalty calculated at the rate of eight per centum per annum on the amount of the rates or of the instalment, as the case may be, to be computed from the date on which that amount or instalment of rates became due until it is paid.

“(6.) Where a parcel of rateable land is held under a weekly or fortnightly tenancy from the Commonwealth and two or more different owners hold the parcel of land for different periods in a year in respect of which rates are imposed on that parcel of land, the amount of rates payable in respect of each of those periods is the amount that bears the same proportion to the amount of rates for the whole of the year as the number of days in that period bears to three hundred and sixty-five.

“(7.) Subject to the next succeeding sub-section, where a parcel of land is rateable for a part only of a year, the amount of rates payable in respect of that year is the amount that bears the same proportion to the amount of rates for the whole of the year as the number of days in the part of the year during which the land is rateable bears to three hundred and sixty-five.

“(8.) Where a parcel of rateable land is held under a lease from the Commonwealth for a part only of a year, the amount of rates payable in respect of that year is the amount that bears the same proportion to the amount of rates for the whole of the year as the number of days in the part of the year during which the lease subsists bears to three hundred and sixty-five.

“(9.) For the purposes of the last preceding sub-section, the period, if any, during which an owner continues to occupy the parcel of land after the determination of the lease shall be deemed to be part of the period during which the lease subsists.

“(10.) If the amount of rates paid for a year by an owner in respect of a parcel of land to which sub-sections (6.), (7.) or (8.) of this section applies exceeds the amount payable by him under that sub-section, the amount of the excess shall be refunded to that owner.”.

Sale of land
for non-
payment of
rates.

6. Section 19 of the Principal Ordinance is amended by inserting in sub-section (1.), after the words “in fee simple”, the words “or under a lease from the Commonwealth for a term of years”.

7. Sections 29 to 47 (inclusive) of the Principal Ordinance are repealed and the following sections inserted in their stead:—

Objections to
determinations.

“29.—(1.) The owner of a parcel of land who is dissatisfied with a determination of the unimproved value of the parcel of land may, within thirty days after the service on him of notice of the determination, post to, or lodge with, the Secretary to the

Department of the Interior an application in writing asking that the determination be varied by substituting, for the reasons stated in the application, for the amount of the unimproved value specified in the notice an amount specified in the application.

“(2.) After considering the application, the Minister shall—

- (a) if satisfied that the amount of the unimproved value of the parcel of land specified in the notice of the determination is too high—vary the determination by substituting the lower amount that he considers to be the unimproved value of the parcel of land as at the date as at which that determination was made; or
- (b) if not so satisfied—confirm the determination of the unimproved value of the parcel of land and dismiss the application.

“(3.) The Minister shall cause notice of his decision on an application under this section to be given in writing to the owner of the parcel of land.

“(4.) In this section, a reference to a determination includes a reference to a re-determination.

“30.—(1.) For the purposes of this Ordinance, there shall be a Valuation Review Board consisting of three members, who shall be appointed by the Minister.

Appeals to
Valuation
Review Board
against
determinations.

“(2.) The Minister shall appoint one of the members to be Chairman of the Board.

“(3.) The owner of a parcel of land who is dissatisfied with a decision of the Minister under the last preceding section may, within thirty days after notice of the decision is served on him, post to, or lodge with, the Secretary to the Department of the Interior a written request that the decision of the Minister be reviewed by the Board.

“(4.) The Board shall review the decision and shall determine the unimproved value of the parcel of land as at the date as at which the unimproved value of the parcel of land was last determined or re-determined under this Ordinance.

“(5.) On the hearing of a review under this section—

- (a) the Minister shall be the respondent;
- (b) the person who has requested the review may be represented by counsel or a solicitor or by a person authorized in writing to appear on his behalf; and
- (c) the Minister may be represented by counsel or a solicitor or by an officer of the Department of the Interior.

“31.—(1.) The Chairman of the Board may, by writing under his hand, summon a person to attend before the Board at a time and place specified in the summons and then and

Valuation
Review
Board may
summon
witnesses.

there to give evidence and to produce any books, documents and writings in his custody or control which he is required by the summons to produce.

“(2.) A summons under the last preceding sub-section shall be served personally or by leaving it at the last-known place of abode of the person to whom it is addressed with some person apparently an inmate of that place and apparently not less than sixteen years of age.

“(3.) A person who is served with a summons to attend before the Board shall not, without reasonable excuse—

- (a) fail to attend before the Board at the time and place specified in the summons;
- (b) refuse or fail to produce any documents, books or writings in his custody or control which he is required by the summons to produce; or
- (c) withdraw from the presence of the Board unless the Board grants permission for him to do so.

Penalty: One hundred dollars.

“(4.) A person (whether or not he has been served with a summons) who is called to give evidence before the Board shall not—

- (a) refuse to be sworn or to make an affirmation; or
- (b) refuse or fail, without reasonable excuse, to answer a question relevant to the matter before the Board put to him by a member of the Board.

Penalty: One hundred dollars.

“(5.) It is a defence to a prosecution for an offence against paragraph (b) of sub-section (3.) of this section if the defendant proves that the documents, books or writings were not relevant to the matter before the Board.

Appeals to the Supreme Court.

“32.—(1.) The Minister, or the person who has requested the review of a decision made by the Minister under section twenty-nine of this Ordinance, may appeal to the Supreme Court from the decision of the Board on a review of the decision.

“(2.) The Supreme Court shall hear and determine an appeal under this section.

Pending an application to vary, or an appeal, rates to be paid.

“33. The fact that an application under section twenty-nine of this Ordinance, a request under section thirty of this Ordinance, or an appeal under the last preceding section, by an owner of a parcel of land is pending does not, in the meantime, affect the assessment of rates in respect of that parcel of land under section fourteen of this Ordinance, and rates as so assessed are, in the meantime, payable and may be recovered as if the application, request or appeal had not been made.

Effect of alteration of determination.

“34.—(1.) If, as a result of an application under section twenty-nine of this Ordinance, a request under section thirty of this Ordinance or an appeal under section thirty-two of this

Ordinance, the determination or re-determination of the unimproved value of a parcel of land is varied, the Minister shall—

- (a) cause all necessary adjustments to be made to the particulars of the determination or re-determination of the unimproved value of the parcel of land that are recorded in the office of the Secretary to the Department of the Interior;
- (b) cause notice in writing of the amount that is the varied unimproved value of the parcel of land to be given to the owner of the parcel of land;
- (c) if an assessment of rates payable in respect of that parcel of land for the year in respect of which the varied determination or re-determination of the unimproved value of the parcel of land applies has been prepared under section fourteen of this Ordinance—cause to be prepared a re-assessment of the amount of rates payable on the varied unimproved value of the parcel of land; and
- (d) cause notice in writing of any such re-assessment to be given to the owner of the parcel of land.

“(2.) Where an amount is paid as rates for a year in respect of a parcel of land under section thirty-three of this Ordinance but, as a result of an application under section twenty-nine of this Ordinance, a request under section thirty of this Ordinance or an appeal under section thirty-two of this Ordinance, the determination or re-determination of the unimproved value of the parcel of land applicable in respect of that year is varied—

- (a) if the amount so paid is less than the amount of rates payable for that year on the varied unimproved value of the parcel of land—the amount short-paid is recoverable from the owner of the parcel of land; and
- (b) if the amount so paid exceeds the amount of rates payable for that year on the varied unimproved value of the parcel of land—the amount over-paid shall be refunded to the owner of the parcel of land.

“35.—(1.) The Secretary to the Department of the Interior Evidence. or a person authorized in writing by him may, by instrument in writing under his hand, certify—

- (a) that a parcel of land is rateable;
- (b) that the Minister has determined or re-determined the unimproved value of a parcel of land as set out in a document attached to the certificate purporting to be a copy of the notice given to the owner of the parcel of land under section twelve

of this Ordinance and certified as a true copy under the hand of the Secretary to that Department or of a person authorized in writing by him;

- (c) that the Minister has caused to be prepared an assessment or re-assessment of the amount of rates payable in respect of a parcel of land for a year under section fourteen or thirty-four of this Ordinance as set out in a document attached to the certificate purporting to be a copy of the notice of the assessment or re-assessment given to the owner of the parcel of land under that section and certified as a true copy under the hand of the Secretary to that Department or of a person authorized in writing by him; and
- (d) that the Minister has reached a decision under section twenty-nine of this Ordinance as set out in a document attached to the certificate purporting to be a copy of the notice of that decision given to the owner of a parcel of land under that section and certified as a true copy under the hand of the Secretary to that Department or of a person authorized in writing by him.

“(2.) In any proceedings, a document purporting to be such a certified copy of a notice shall be received in evidence and shall be deemed without further proof to be a true copy of the notice.

“(3.) In any proceedings, a certificate under this section is evidence of the facts stated in the certificate.

“(4.) In any proceedings, unless the contrary is proved—

- (a) a certificate purporting to have been given under this section shall be deemed to have been given by the person purporting to give it; and
- (b) where such a certificate purports to have been given by a person authorized in writing by the Secretary to the Department of the Interior, that person shall be deemed to have been so authorized.”.

**Second
Schedule.**

8. The Second Schedule to the Principal Ordinance is amended—

- (a) by omitting from the column headed “Consideration.” in Form A the symbols “£ s. d.” and inserting in their stead the symbol “\$”; and
- (b) by omitting Form C.

Application.

9. The Principal Ordinance as amended by this Ordinance applies to and in relation to rates for the year One thousand nine hundred and sixty-seven and subsequent years, and the Principal Ordinance continues to apply to and in relation to rates under the Principal Ordinance for a previous year.