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VALUATION ACT, 2001

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VALUATION ACT, 2001

AN ACT TO REVISE THE LAW RELATING TO THE VALUATION OF PROPERTIES FOR THE PURPOSES OF THE MAKING OF RATES IN RELATION TO THEM; TO MAKE NEW PROVISION IN RELATION TO THE CATEGORIES OF PROPERTIES IN RESPECT OF WHICH RATES MAY NOT BE MADE AND TO PROVIDE FOR RELATED MATTERS. [4th June, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—This Act may be cited as the Valuation Act, 2001. Short title.

2.—This Act shall come into operation on such day as the Minister may appoint by order. Commencement.

3.—(1) In this Act, unless the context otherwise requires— Interpretation.

“Act of 1852” means the Valuation (Ireland) Act, 1852;

“Act of 1988” means the Valuation Act, 1988;

“agricultural land” means land which is used as tillage, meadow or pasture ground or which is suitable only for such use;

“apart-hotel” means one or more apartments, including any ancillary facilities associated with such apartments, which are used for the purposes of the trade of hotel-keeping;

“apartment” means a self-contained residential unit in a building that comprises a number of such units;

“building” includes a structure, whatever the method by which it has been erected or constructed;

“central valuation list” has the meaning assigned to it by *section 55*;

“charitable organisation” means a company or other body corporate or an unincorporated body of persons which complies with the following conditions—

- (a) in the case of a body corporate which is not a company, or of an unincorporated body of persons, there exists a constitution or deed of trust in relation to it that—
 - (i) states the full name of the body,
 - (ii) provides who are to be its trustees or who are to be the members of its governing board or committee,
 - (iii) states, as its main object or objects, a charitable purpose and specifies the purpose of any secondary objects for which provision is made to be the attainment of the main object or objects,
 - (iv) states its powers,
 - (v) provides for rules governing its membership and procedures to be followed in relation to meetings and the discharge generally of its business,
 - (vi) provides for the keeping of accounts and the auditing thereof on an annual basis,
 - (vii) (I) provides for the application of its income, assets or surplus towards its main object or objects,
 - (II) prohibits the distribution of any of its income, assets or surplus to its members, and
 - (III) prohibits the payment of remuneration (other than reasonable out-of-pocket expenses) to its trustees or the members of its governing board or committee or any other officer of it (other than an officer who is an employee of it),
 - (viii) makes provision for its winding up, and
 - (ix) provides for the disposal of any surplus property arising on its being wound up to another charitable organisation (within the meaning of this Act), the main object or objects of which is or are similar to its main object or objects or, if the body receives a substantial proportion of its financial resources from a Department of State or an office or agency (whether established under an enactment or otherwise) of the State, to such a Department, office or agency,

and

- (b) in the case of a company—
 - (i) the memorandum of association or articles of association, as appropriate, of the company comply with the conditions specified in *subparagraphs (iii) and (vii) of paragraph (a)* of this definition (and, for this

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purpose, the reference in *clause (III)* of that *subpara-* Pt.1 S.3
graph (vii) to trustees or other persons shall be construed as a reference to the directors or any other officer of the company), and

- (ii) there is contained in that memorandum or those articles a provision, with respect to a case of its being wound up, that is similar to the condition specified in *paragraph (a)(ix)* of this definition;

“Commissioner” means the Commissioner of Valuation and includes the current Commissioner (within the meaning of *section 9*);

“community hall” means a hall or a similar building, other than the premises of a club for the time being registered under the Registration of Clubs (Ireland) Act, 1904, which—

- (a) is not used primarily for profit or gain, and
- (b) is occupied by a person who ordinarily uses it, or ordinarily permits it to be used, for purposes which—
 - (i) involve participation by inhabitants of the locality generally, and
 - (ii) are recreational or otherwise of a social nature;

“company” means a company within the meaning of the Companies Act, 1963;

“domestic premises” means any property which consists wholly or partly of premises used as a dwelling and which is neither a mixed premises nor an apart-hotel;

“existing valuation list” means a valuation list in force immediately before the commencement of this Act and includes such a list in which there has been entered so much of the amount of a global valuation determined under section 4 of the Act of 1988 as has been apportioned to the rating authority concerned pursuant to subsection (7) of that section;

“farm buildings” means—

- (a) buildings, parts of buildings, or other structures, occupied together with agricultural land and used solely in connection with the carrying on of agricultural activities on that land,
- (b) buildings, parts of buildings, or other structures, used solely for the production of livestock, poultry or eggs or for the breeding of bloodstock or other animals,
- (c) buildings, parts of buildings, or other structures, occupied together with land developed for horticulture or forestry and used solely in connection with the carrying on of horticultural or forestry activities, as the case may be, on that land,
- (d) buildings, parts of buildings, other structures or cages or tanks, used for the production or rearing of fish,

other than—

- (i) buildings, parts of buildings, or other structures, used for the production of furs or used for the training of bloodstock or other animals, or
- (ii) buildings, parts of buildings, or other structures, used for the storage of agricultural, horticultural or forestry goods not produced on the land attached to such buildings or structures, or
- (iii) buildings, parts of buildings, or other structures, used for the processing or sale of agricultural, horticultural or forestry goods (whether produced on the land attached to such buildings or structures or not) or used for sawmills or the carrying on of activities necessarily related to the activities of sawmills, or
- (iv) buildings, parts of buildings, or other structures, used for the storage, processing or sale of fish, or
- (v) buildings, parts of buildings, or other structures, used for the production of tropical fish or exotic birds or butterflies or other similar species;

“functions” includes powers and duties and references to the performance of functions include, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

“global valuation” has the meaning assigned to it by *subsection (2)* or, as appropriate, *subsection (6) of section 53*;

“global valuation certificate” has the meaning assigned to it by *section 53(10)*;

“interest holder” means, in relation to property, a person, other than an occupier of the property, who holds an interest in the property;

“land” includes any structure erected on land and any land covered with water;

“land developed for horticulture” means land used for market gardening, nurseries, allotments or orchards, other than land or buildings, or parts of buildings, used for the sale or processing of horticultural produce;

“land developed for forestry” means land used for a plantation or a wood or for the growth of saleable underwood, other than land or buildings, or parts of buildings, used for the sale or processing of forestry produce;

“land developed for sport” means outdoor surfaces used for sporting purposes (including football pitches, tennis courts, race courses and golf courses, but not including fixed buildings and structures);

“lodgings” shall not be construed as including accommodation provided in premises registered under the Tourist Traffic Acts, 1939 to 1998, or in an apart-hotel;

“material change of circumstances” means a change of circumstances which consists of—

- (a) the coming into being of a newly erected or newly constructed relevant property or of a relevant property, or

- (b) a change in the value of a relevant property caused by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause, or
- (c) the happening of any event whereby any property or part of any property begins, or ceases, to be treated as a relevant property, or
- (d) the happening of any event whereby any relevant property begins, or ceases, to be treated as property falling within *Schedule 4*, or
- (e) property previously valued as a single relevant property becoming liable to be valued as 2 or more relevant properties, or
- (f) property previously valued as 2 or more relevant properties becoming liable to be valued as a single relevant property;

“mines” means mines which have been opened, and abandoned mines which have been reopened;

“Minister” means the Minister for Finance;

“mixed premises” means a property which consists wholly or partly of a building which is used partly as a dwelling to a significant extent and partly for another or other purposes to such an extent;

“municipal rate” means any rate which may be made under—

- (a) section 63 of the Local Government (Dublin) Act, 1930;
- (b) section 25 of the Limerick City Management Act, 1934;
- (c) section 24 of the Waterford City Management Act, 1939;
- (d) section 16 of the Cork City Management (Amendment) Act, 1941; or
- (e) section 18 of the Local Government Act, 1946;

“non-running line property” means property, other than running line property, intrinsic to the operation of a railway undertaking, other than—

- (a) any hotel, refreshment room, residence, town office or town receiving depot;
- (b) any premises used and occupied exclusively for the purposes of subsidiary services carried on by the undertaking for the purpose of road, sea or other transport;
- (c) any waterworks, electric light works, power works, telecommunications network or gas works not used mainly to supply the undertaking; and
- (d) any store, building, or premises let by the undertaking, or, if unused, capable of being so let;

“occupier” means, in relation to property (whether corporeal or incorporeal), every person in the immediate use or enjoyment of the property;

“plant” means—

- (a) any fixture or structure so attached or secured to, or integrated with, premises comprising any mill, factory or building erected or used for any such purpose as to be of a permanent or semi-permanent nature, or
- (b) any fixture or structure associated with such premises that, although free-standing, is of such size, weight and construction as to be of a permanent or semi-permanent nature;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“publication date” has the meaning assigned to it by *section 21*;

“public utility undertaking” includes any undertaking, including a railway undertaking, whether established by or under any enactment or otherwise, which supplies a service to the public, whether throughout the State or in any part of the State and, for the purposes of this definition, “service” includes any service which consists of the provision or supply of any substance or form of energy or any means of communication or the transmission or distribution of radio or television programmes;

“rating authority” means—

- (a) the council of a county, or
- (b) the corporation of a county or other borough, or
- (c) the council of an urban district;

“rating authority area” means the functional area of a rating authority with respect to its power to make rates, and cognate expressions shall be construed accordingly;

“relevant property” shall be construed in accordance with *Schedule 3*;

“repealed enactments” means the enactments repealed by *section 8*;

“revision officer” has the meaning assigned to it by *section 28*;

“right to drill for and take away petroleum” means a right to drill for and take away petroleum from a particular oil pool, that is to say, an underground natural reservoir containing or appearing to contain an accumulation of petroleum separated or appearing to be separated from any other such reservoir or accumulation in the general geological structure;

“running line property” means a railway line used primarily for the conveyance of railway traffic from place to place, including the land beneath, between and adjoining such line;

“science” means scientific knowledge acquired or pursued for purposes other than that of direct and immediate commercial gain or profit;

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“society” means a company or other body corporate or an unincorporated body of persons which complies with the following conditions—

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(a) in the case of a body corporate which is not a company, or of an unincorporated body of persons, there exists a constitution or deed of trust in relation to it that—

- (i) states the full name of the body,
- (ii) provides who are to be its trustees or who are to be the members of its governing board or committee,
- (iii) states, as its main object or objects, the advancement of science, literature or the fine arts and specifies the purpose of any secondary objects for which provision is made to be the attainment of the main object or objects,
- (iv) states its powers,
- (v) provides for rules governing its membership and procedures to be followed in relation to meetings and the discharge generally of its business,
- (vi) provides for the keeping of accounts and the auditing thereof on an annual basis,
- (vii) (I) provides for the application of its income, assets or surplus towards its main object or objects,
 - (II) prohibits the distribution of any of its income, assets or surplus to its members, and
 - (III) prohibits the payment of remuneration (other than reasonable out-of-pocket expenses) to its trustees or the members of its governing board or committee or any other officer of it (other than an officer who is an employee of it),
- (viii) makes provision for its winding up, and
- (ix) provides for the disposal of any surplus property arising on its being wound up to another society (within the meaning of this Act), the main object or objects of which is or are similar to its main object or objects,

and

(b) in the case of a company—

- (i) the memorandum of association or articles of association, as appropriate, of the company comply with the conditions specified in *subparagraphs (iii) and (vii) of paragraph (a)* of this definition (and, for this purpose, the reference in *clause (III)* of that *subparagraph (vii)* to trustees or other persons shall be construed as a reference to the directors or any other officer of the company), and
- (ii) there is contained in that memorandum or those articles a provision, with respect to a case of its being

wound up, that is similar to the condition specified in *paragraph (a)(ix)* of this definition;

“Tribunal” means the Valuation Tribunal continued in being by *section 12*;

“valuation certificate” and “new valuation certificate” shall be construed in accordance with *section 24* and *subsection (3)*, respectively;

“valuation list” has the meaning assigned to it by *section 21*;

“valuation manager” shall be construed in accordance with *sections 19* and *62*;

“valuation order” has the meaning assigned to it by *section 19*;

“value” means—

- (a) in relation to property specified in *Schedule 3* (other than property specified in *paragraph 1(o)* of that Schedule or falling within *section 15(4)*), the value by reference to which a rate made in respect of the property has effect,
- (b) in relation to property specified in the said *paragraph 1(o)*, the value of the property for such purposes as stand designated for the time being by or under any enactment,
- (c) in relation to property falling within *section 15(4)*, the value by reference to which a rate is struck on the property under *section 55* of the Fisheries (Consolidation) Act, 1959,

and references to a valuation or revaluation carried out or made in relation to a property shall be construed accordingly.

(2) A reference in this Act (other than *paragraph (c)* of the definition of “value” in *subsection (1)* and *section 15(4)*) to a rate or to a rate in the pound shall, as the circumstances require, be construed as a reference to the county rate or the municipal rate or to a rate in the pound of the county rate or a rate in the pound of the municipal rate.

(3) A power conferred by this Act to issue a certificate in relation to a property, being a certificate that is referred to in the provision concerned as a new valuation certificate, shall be construed as a power to issue a certificate in relation to that property that is in like form to the valuation certificate issued under *section 24*, or last issued in the exercise of any such power, in relation to that property but containing such differences in the particulars stated in it from those stated in that other certificate as are necessary in consequence of the decision to exercise the first-mentioned power.

(4) For the purposes of this Act a property shall not be regarded as being other than a domestic premises by reason only of the fact that—

- (a) the property is used to provide lodgings,
- (b) the property is partly comprised of a yard, outoffice or appurtenance, garden or other land usually enjoyed with the relevant dwelling,
- (c) the property is partly comprised of a farm building.

(5) In this Act— Pt.1 S.3

- (a) a reference to a section, Part or Schedule is a reference to a section or Part of, or a Schedule to, this Act unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, extended or adapted by or under any subsequent enactment.

4.—(1) In this section a reference to a proceeding brought before the Commissioner or the Tribunal shall be construed as a reference to, as appropriate— Fees.

- (a) an application made to the Commissioner under *section 27* or *67*,
- (b) an appeal made to the Commissioner or the Tribunal under *section 30* or *34*, or
- (c) a requirement made of the Tribunal under *section 39(2)*,

and a reference to the person bringing such proceeding shall be construed as a reference to the person who makes that application, appeal or requirement.

(2) The Minister may make regulations enabling the Commissioner and the Tribunal to charge fees, on such basis or bases as is or are specified in the regulations, in respect of proceedings brought before the Commissioner or the Tribunal.

(3) A fee charged pursuant to regulations under *subsection (2)* shall be payable by the person who brings the proceeding concerned.

(4) If a fee charged pursuant to regulations under *subsection (2)* is required by the Commissioner or the Tribunal, as the case may be, to be paid at the time the proceeding to which the fee relates is first brought before the Commissioner or the Tribunal and that requirement is not complied with, that proceeding shall become and be invalid and shall, accordingly, not be considered by the Commissioner or the Tribunal, as the case may be.

(5) The Minister may make regulations requiring the rating authority to which a valuation order relates to pay a specified amount to the Commissioner towards the expenses incurred on his or her behalf by any officer or officers of the Commissioner in carrying out a valuation pursuant to the order.

(6) Fees charged pursuant to regulations under *subsection (2)* shall be taken and collected in such manner as the Minister may from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister.

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(7) Regulations under section 5(3) or 7 of the Act of 1988 that were in force immediately before the commencement of this Act and which prescribed a fee in respect of the making of a requirement, or of an appeal or application, under a provision of the repealed enactments shall continue in force as if they were made under *subsection (2)* and, accordingly, such regulations—

(a) may be amended or revoked, and

(b) shall be construed as enabling the Commissioner or the Tribunal, as the case may be, to charge the fee prescribed in respect of the making of a requirement, or of an appeal or application, under the provision of this Act that corresponds to the provision concerned of the repealed enactments.

(8) The Public Offices Fees Act, 1879, shall not apply in respect of fees charged pursuant to regulations under *subsection (2)*.

Forms.

5.—(1) Every application, appeal, notification, existing valuation list and valuation list required for the purposes of this Act shall be in such form as the Commissioner may, from time to time, specify in writing.

(2) In this section—

“appeal” does not include an appeal made to the Tribunal under *section 34*;

“form” includes a non-legible form that is capable of being reproduced in legible form.

(3) Where a form of the kind referred to in *subsection (2)* is specified under this section in respect of a matter, a reference in this Act to that matter being in writing shall be construed as a reference to the matter being in a non-legible form that is capable of being reproduced in legible form.

(4) *Subsection (3)* is without prejudice to paragraph 36 of the Schedule to the Interpretation Act, 1937 (which relates to the construction of the word “writing”).

Expenses.

6.—(1) The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

(2) The expenses incurred by the Commissioner in the administration of this Act, shall, to such extent as may be sanctioned by the Minister, be paid out of moneys provided by the Oireachtas.

Orders and regulations.

7.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or for the purpose of enabling any provision of this Act to have full effect.

(2) Every order and regulation under this Act (other than an order under *section 2* or *19*) shall be laid before each House of the Oireachtas as soon as may be after it is made, and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or

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regulation is laid before it, the order or regulation shall be annulled Pr.1 S.7 accordingly, but without prejudice to the validity of anything previously done thereunder.

(3) The Minister may by order amend or revoke an order under this Act (other than an order under *section 2* or *19* but including an order under this subsection).

8.—Each enactment mentioned in *Schedule 1* is repealed to the Repeals. extent specified in the *third column* of that Schedule.

PART 2

COMMISSIONER OF VALUATION

9.—(1) In this section “current Commissioner” means the Commissioner holding office immediately before the commencement of this Act and references in this section to the Commissioner, without qualification, shall, other than in *subsections (5) to (9)*, be construed as including references to the current Commissioner. Commissioner of Valuation.

(2) Notwithstanding the repeal by *section 8* of the Act of 1852, the office of Commissioner shall continue in being.

(3) The terms and conditions on which the current Commissioner shall hold office shall be those on which he or she held office immediately before the commencement of this Act.

(4) On the expiry of the term of office of the current Commissioner (whether by effluxion of time or otherwise) *subsections (5) to (9)* shall have effect in relation to the office of Commissioner.

(5) The Commissioner shall be appointed by the Minister.

(6) The Commissioner shall hold office on such terms and conditions and receive such remuneration and allowances as the Minister may determine.

(7) A person appointed to be the Commissioner shall hold office for such period as the Minister may determine when appointing him or her, but the Minister may, whenever he or she thinks fit, continue the appointment (including an appointment previously continued under this subsection) for such further period as he or she considers appropriate.

(8) The Commissioner may be removed from office at any time by the Minister.

(9) If the Commissioner is removed from office under *subsection (8)*, the Minister shall cause to be laid before each House of the Oireachtas a statement of the reason for the removal.

(10) The Commissioner shall be independent in the performance of his or her functions.

(11) The Commissioner may do all such acts or things as are necessary or expedient for the purpose of the performance of his or her functions under this Act.

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(12) The Commissioner shall furnish to the Minister such information regarding the performance of his or her functions as the Minister may from time to time request.

Delegation to Commissioner of certain functions and temporary inability of Commissioner to act.

10.—(1) The Minister may delegate to the Commissioner the powers exercisable by him or her under the Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 and 1958, as the appropriate authority in relation to members of the staff of the Commissioner and, if he or she does so, then as long as the delegation remains in force—

(a) those powers shall, in lieu of being exercisable by the Minister, be exercisable by the Commissioner, and

(b) the Commissioner shall, in lieu of the Minister, be, for the purposes of the said Acts, the appropriate authority in relation to members of the staff of the Commissioner.

(2) Whenever it appears to the Minister that the Commissioner is temporarily unable to discharge his or her duties, the Minister may appoint a person to act in the place of the Commissioner during the period of such inability or for such shorter period as the Minister thinks proper.

(3) A person appointed under *subsection (2)* shall have all the functions of the Commissioner and references in this Act to the Commissioner shall be deemed to include references to such person.

Delegation of functions by Commissioner.

11.—(1) The Commissioner may delegate in writing a specified function of the Commissioner under this Act to any officer of the Commissioner.

(2) Where a function is delegated under *subsection (1)*, the officer concerned shall perform the function under the general direction and subject to the general control of the Commissioner and in accordance with such (if any) limitations as may be specified in the delegation in relation to the area or period in which or the extent to which he or she is to perform the function.

(3) Any function, when performed by an officer to whom it has been delegated under this section, shall be deemed to have been performed by the Commissioner.

(4) A delegation under this section may relate to the performance generally of a function or to the performance of a function in a particular case or class of case or in relation to property in a particular area.

(5) The Commissioner may revoke a delegation under this section at any time either generally or in relation to a particular case or class of case or in relation to property in a particular area.

(6) Where, as respects a particular case or class of case, a delegation of a function is revoked at a time when the function has not been fully performed, the Commissioner himself or herself or another officer of the Commissioner to whom a delegation in respect of that function has been made under this section may continue the performance of the function as respects the case or class of case.

(7) The Minister may give such general directions in writing to the Commissioner in relation to the exercise of his or her powers under

this section as the Minister considers appropriate and the Com- Pr.2 S.11
missioner shall comply with any such directions.

(8) *Subsection (7)* shall not be construed as enabling the Minister to exercise any power or control in relation to the exercise in particular circumstances by the Commissioner of his or her powers under this section.

PART 3

VALUATION TRIBUNAL

12.—(1) Notwithstanding the repeal of the Act of 1988 by *section* Valuation Tribunal.
8, the Tribunal shall continue in being.

(2) The provisions of *Schedule 2* shall have effect in relation to the Tribunal.

(3) Subject to *section 39*, the determination of the Tribunal of an appeal made to it under this Act shall be final.

(4) The Minister may, from time to time, appoint such and so many persons as he or she considers necessary to assist the Tribunal in the performance of its functions under this Act.

PART 4

PROPERTY TO BE VALUED

13.—The Commissioner shall provide for the determination of the value of all relevant properties (other than relevant properties specified in *Schedule 4*) in accordance with the provisions of this Act. Valuation of property.

14.—(1) A provision of this Act providing that relevant property shall be rateable shall be construed as a provision to the effect that the property is property in respect of which a rate may be made and like provisions of this Act shall be construed accordingly. Construction of references to property being rateable and relationship between expressions “relevant property”, “hereditament” and “tenement”, etc.

(2) The use in this Act of the expression “relevant property” in relation to property that may be the subject of a valuation under *Parts 4* to *7* rather than the expression “hereditament” or “tenement” (being expressions that were used, for the corresponding purpose, in the repealed enactments) shall not affect—

- (a) the operation of any enactment not repealed by this Act that—
 - (i) confers power to make a rate or determine the rate in the pound of a rate,
 - (ii) provides for the treatment of property in any particular manner for the purpose of the exercise of such a power,
 - (iii) provides for the remission of a rate or the making of an allowance in respect of a rate,
 - (iv) provides for the assessment, collection or recovery of a rate,
 - (v) provides for any matters consequential on, or incidental to, the foregoing, or

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(vi) provides for any matter (not related to any of the foregoing matters) by reference to the rateable valuation of a property,

or

(b) the operation of the rules of law that apply in determining whether one person as distinct from another is in occupation of a property for the purpose of liability to pay a rate made in respect of the property,

and, accordingly, on and from the commencement of this Act, references in such an enactment to—

(I) a hereditament or tenement shall, unless the context otherwise requires, be construed as references to relevant property (within the meaning of this Act),

(II) a rateable hereditament or tenement shall, unless the context otherwise requires, be construed as references to relevant property that is rateable by virtue of this Act.

Rateability of relevant property.

15.—(1) Subject to the following subsections and *sections 16* and *59*, relevant property shall be rateable.

(2) Subject to *sections 16* and *59*, relevant property referred to in *Schedule 4* shall not be rateable.

(3) Subject to *section 16*, relevant property, being a building or part of a building, land or a waterway or a harbour directly occupied by the State (including any land or building occupied by any Department or office of State, the Defence Forces or the Garda Síochána or used as a prison or place of detention), shall not be rateable.

(4) A fishery on which a rate is struck under *section 55* of the *Fisheries (Consolidation) Act, 1959*, shall not be rateable.

(5) In *subsection (3)* “harbour” does not include a harbour in respect of which a company is established pursuant to *section 7* of the *Harbours Act, 1996*.

Times from which relevant property shall or shall not be rateable.

16.—(1) Save as specified otherwise in this section, the provisions of *section 15* providing that relevant property shall or shall not be rateable shall have effect in each year, beginning with the year in which this Act is commenced.

(2) If particular relevant property referred to in *section 15(1)* was not rateable under the repealed enactments, *section 15(1)* shall, with respect to that property, have effect in each year, beginning with the year immediately following the year in which this Act is commenced.

(3) If particular relevant property referred to in *subsection (2)* or *(3)* of *section 15* was rateable under the repealed enactments, that *subsection (2)* or, as the case may be, *subsection (3)* shall, with respect to that property, not have effect until the year immediately following the year in which this Act is commenced.

Unit of valuation.

17.—(1) Subject to *subsection (2)* and *section 53*, where a valuation falls to be made under this Act of relevant properties, each separate relevant property shall be valued separately and entered as a separate item in the relevant valuation list.

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Valuation Act, 2001.

[No. 13.]

(2) Notwithstanding *subsection (1)*, for the purposes of any valuation falling to be made under this Act, an officer may, if he or she thinks it proper to do so having regard to the circumstances of the matter—

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- (a) value or cause to be valued contiguous relevant properties that are occupied by one person as a single relevant property even though those properties are held under different titles, and
- (b) if a relevant property comprises 2 or more parts capable of being occupied separately, value or cause to be valued the several parts as separate relevant properties even though those parts are occupied by the one person,

and where the officer so values or causes to be so valued relevant properties or parts of a relevant property, the relevant properties or parts shall be treated as a single relevant property or, as the case may be, separate relevant properties for all the other purposes of this Act.

(3) In *subsection (2)* “officer” means a valuation manager or a revision officer.

PART 5

VALUATIONS

18.—In this Part a reference, however expressed, to the carrying out of a valuation of a relevant property shall, in the case of a relevant property that is the subject of a valuation carried out under the repealed enactments or of a valuation previously carried out under this Part, be construed as a reference to the carrying out of a revaluation of that property.

References to valuations.

19.—(1) The Commissioner, after consultation with the Minister for the Environment and Local Government and the rating authority concerned, may make an order (in this Act referred to as a “valuation order”) specifying a rating authority area as being an area in relation to which the Commissioner proposes to appoint an officer of the Commissioner under *subsection (2)* to organise and secure the carrying out of a valuation of every relevant property situate in that area (other than any property specified in *paragraph (a)* or *(b)* of that subsection).

Valuation orders.

(2) As soon as may be after the making of a valuation order, the Commissioner shall appoint an officer of the Commissioner to organise and secure the carrying out of a valuation of every relevant property situate in the rating authority area specified in the order, other than—

- (a) any relevant property the subject of an order under *section 53*, or
- (b) any relevant property specified in *Schedule 4*.

(3) The officer so appointed is referred to in this Act as a “valuation manager”.

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(4) For the purposes of *subsection (2)*, a valuation manager shall arrange for the carrying out of a valuation of each property concerned by one or more officers of the Commissioner (who may include that valuation manager).

Date by reference to which valuation shall be made.

20.—(1) A valuation order shall specify one date by reference to which the value of every relevant property, the subject of the valuation mentioned in the order, shall be determined.

(2) The date so specified shall not be later than the date of the making of the valuation order.

Publication date for valuation lists.

21.—(1) A valuation order shall specify a date (in this Act referred to as the “publication date”) on which the Commissioner proposes to cause to be published under *section 23* a list comprising every relevant property that has been the subject of the valuation mentioned in the order, and the value of that property as determined by that valuation.

(2) Such a list shall be known, and is in this Act referred to, as a “valuation list”.

(3) The date so specified shall not be later than 3 years after the date of the making of the valuation order.

(4) The Commissioner may, with the consent of the Minister, by order amend a valuation order by substituting a different publication date for the publication date specified therein.

Publicity for valuation.

22.—(1) As soon as may be after he or she makes a valuation order, the Commissioner shall give notice, in such manner as he or she considers appropriate, of the fact of the making of the order and of the place or the means where or by which a copy of the order may be inspected under *subsection (2)*.

(2) As soon as may be after the making of a valuation order, the Commissioner and the rating authority to whose area the order relates shall, at such place or by such means as the Commissioner determines, make available a copy of the order for inspection by members of the public until the publication date specified in the order.

Publication of valuation list consequent on valuation.

23.—(1) On the relevant publication date, the Commissioner shall cause to be published the valuation list in respect of the relevant properties to which the valuation order concerned relates.

(2) Before that date, the Commissioner shall give notice, in such manner as he or she considers appropriate, of the fact that that list will be published on that date.

(3) On being so published, the valuation list shall—

(a) replace the existing valuation list or, as appropriate, the valuation list last previously published under this Part that relates to the same rating authority as the first-mentioned list relates to, and

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Valuation Act, 2001.

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- (b) have full force for the purposes of that rating authority making rates on properties situate in its area by reference to it. Pt.5 S.23

(4) The reference in this section to a valuation list being caused to be published on a publication date by the Commissioner is a reference to that list being made available by—

- (a) the Commissioner, and
(b) at the request of the Commissioner to that authority to do so, the rating authority to whose area the list relates,

at such place or by such means as the Commissioner determines, for inspection by members of the public during the period—

- (i) beginning on that date, and
(ii) ending on the date on which that list is replaced by another valuation list in relation to the same rating authority area.

24.—(1) On a date that is no later than 7 days before the date the Commissioner causes to be published under *section 23* a valuation list, the valuation manager who secured the carrying out of the valuation concerned under *section 19* shall cause to be issued to each occupier of every relevant property to which that valuation relates a certificate stating the value of that property as determined in accordance with that valuation.

Issue of valuation certificates consequent on valuation having been carried out.

(2) Such a certificate is referred to in this Act as a “valuation certificate”.

25.—(1) It shall be the duty of the Commissioner to exercise the powers conferred on him or her by *subsections (1) and (2) of section 19* from time to time in relation to each rating authority area so that the result referred to in *subsection (2)* is achieved.

Frequency with which powers under this Part are to be exercised.

(2) The result mentioned in *subsection (1)* is that a period of not less than 5 years and not more than 10 years elapses between the date on which any valuation list in relation to the area concerned is caused to be published under *section 23* and the date on which the next subsequent valuation list in relation to that area is caused to be so published.

26.—(1) The valuation manager who secured the carrying out of the valuation concerned under *section 19* shall, not less than 3 months before the date on which the valuation list based on that valuation is caused to be published under *section 23*, cause to be issued to the occupier of each property that will appear on the list a copy of the valuation certificate proposed to be issued under *section 24* in relation to that property, together with the notice referred to in *subsection (2)*.

Right of occupier to make representations in relation to proposed valuation.

(2) The notice mentioned in *subsection (1)* is a notice stating that the occupier concerned may, within 28 days from the date of the issue of the notice to him or her, if he or she is dissatisfied with any material particular stated in the copy of the valuation certificate, make representations to the valuation manager in relation to that matter (and such an occupier may make such representations, within that period, to the valuation manager accordingly).

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(3) The valuation manager referred to in *subsection (1)*, having considered or caused to be considered any representations made to him or her by an occupier under and in accordance with *subsection (2)*, may, if he or she thinks it appropriate to do so, cause the terms of the valuation certificate concerned proposed to be issued under *section 24* to be amended and that certificate, in the terms as so amended, to be issued under that section accordingly.

PART 6

REVISION OF VALUATIONS

Applications for
revisions of
valuation lists.

27.—(1) An occupier of a property may apply in writing to the Commissioner for the appointment by the Commissioner of a person under *section 28(3)* to exercise the powers under that section in relation to that property.

(2) A rating authority may apply in writing to the Commissioner for the appointment by the Commissioner of a person under *section 28(3)* to exercise the powers under that section in relation to one or more properties situate in the area of that authority and specified in the application.

(3) A person may, as respects a property in relation to which he or she is an interest holder, apply in writing to the Commissioner for the appointment by the Commissioner of a person under *section 28(3)* to exercise the powers under that section in relation to that property.

(4) An occupier of a property that appears on a valuation list may apply in writing to the Commissioner for the appointment by the Commissioner of a person under *section 28(3)* to exercise the powers under that section in relation to any other property that is situate in the rating authority area to which that list relates.

Revision of
valuation lists.

28.—(1) In this section “property concerned” means a property in relation to which a person, by virtue of his or her appointment under this section, is entitled to exercise the powers conferred by this section.

(2) The Commissioner may of his or her own volition appoint an officer of the Commissioner to exercise, in relation to such one or more properties as the Commissioner considers appropriate, the powers expressed by this section to be exercisable by a revision officer, and such an officer who is so appointed is referred to in this Act as a “revision officer”.

(3) If an application under *section 27* is made to the Commissioner, the Commissioner shall appoint an officer of the Commissioner to exercise, in relation to the property or properties to which the application relates, the powers expressed by this section to be exercisable by a revision officer, and such an officer who is so appointed is also referred to in this Act as a “revision officer”.

(4) A revision officer, if he or she considers that a material change of circumstances which has occurred since a valuation under *section 19* was last carried out in relation to the rating authority area in which the property concerned is situate or, as the case may be, since the last previous exercise (if any) of the powers under this subsection in relation to the property warrants the doing of such, may, in respect of that property—

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(a) if that property appears on the valuation list relating to that area, do whichever of the following is or are appropriate—

(i) amend the valuation of that property as it appears on the list,

(ii) exclude that property from the list on the ground that the property is no longer relevant property, that the property no longer exists or that the property falls within *Schedule 4*,

(iii) amend any other material particular in relation to that property as it appears on the list,

(b) if that property does not appear on the said valuation list and it is relevant property (other than relevant property falling within *Schedule 4* or to which an order under *section 53* relates), do both of the following—

(i) carry out a valuation of that property, and

(ii) include that property on the list together with its value as determined on foot of that valuation.

(5) A revision officer shall, if the property concerned is property that has been the subject of an application under *section 27*, within 6 months from the date of his or her appointment under *subsection (3)* in respect of that application—

(a) make a decision as to whether the circumstances referred to in *subsection (4)* exist for the exercise by him or her of the powers under that subsection in relation to that property,

(b) if he or she decides that those circumstances do exist, exercise those powers in relation to that property accordingly.

(6) If a revision officer exercises, in relation to the property concerned, any of the powers under *subparagraph (i)* or *(iii)* of *paragraph (a)*, or *paragraph (b)* of *subsection (4)*, he or she shall issue to the occupier of that property and to the rating authority in whose area the property is situate a new valuation certificate or, as the case may be, a valuation certificate in relation to the property.

(7) If a revision officer exercises, in relation to the property concerned, the powers under *subsection (4)(a)(ii)*, he or she shall issue to the occupier of that property and to the rating authority in whose area the property is situate a notice indicating the manner in which those powers have been exercised in relation to that property.

(8) A certificate under *subsection (6)* or a notice under *subsection (7)* shall be issued no later than 7 days before the relevant amendment to the valuation list under *subsection (10)* is made.

(9) If a revision officer decides that the circumstances referred to in *subsection (4)* do not exist for the exercise of the powers under that subsection in relation to a property referred to in *subsection (5)* he or she shall, forthwith after the making of that decision, issue to the person or as the case may be, each person who applied for his or her appointment under *subsection (3)* in respect of the property a notice of the decision.

(10) The revision officer concerned shall amend the relevant valuation list in the appropriate manner to take account of the exercise by him or her of the powers under *subsection (4)* in relation to a property.

(11) Without prejudice to the preceding provisions of this section, the Commissioner may, at any time, amend a valuation list so as to—

- (a) correct any clerical error therein, or
- (b) amend any other detail appearing on the list that in the opinion of the Commissioner is inaccurate (other than the valuation of any property).

(12) The Commissioner may also, at any time, amend a valuation list so as to take account of any alteration in a boundary that is made under or by virtue of any enactment.

(13) If the Commissioner exercises any of the powers under *subsection (11)* or *(12)* he or she shall, as soon as may be after the occasion concerned of their being exercised, issue to each occupier of a property that is affected by such exercise and to the rating authority in whose area that property is situate a new valuation certificate in relation to that property.

(14) An amendment of a valuation list made under *subsection (10)*, *(11)* or *(12)* shall have full force, from the date of its making, for the purposes of the rating authority concerned making a rate in relation to the property concerned by reference to that list as so amended.

(15) Where—

- (a) an amount of monies is paid on account of a rate made in respect of a property, and
- (b) it appears, consequent on an amendment of the value of the property made pursuant to an exercise of the powers under this section, that that payment involved an overpayment or an underpayment of the amount due in respect of such a rate,

then the balance owing or owed, as the case may be, to or by the person concerned may be paid or recovered, as appropriate—

- (i) in the case of an overpayment, by making a refund to the person concerned of an amount equal to that balance or allowing an amount equal to that balance as a credit against the amount owed by the person concerned on account of a rate made in respect of that or any other property, and
- (ii) in the case of an underpayment, by recovering from the person concerned an amount equal to that balance as arrears of the rate concerned (and, accordingly, any of the means provided under any enactment for the recovery of a rate may be employed for that purpose).

[2001.]

Valuation Act, 2001.

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29.—(1) A revision officer shall—

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Right of occupier to make representations in relation to proposed revision.

- (a) issue to the occupier of a property in relation to which he or she proposes to exercise the powers under *subparagraph (i) or (iii) of paragraph (a), or paragraph (b), of section 28(4)* a copy of the valuation certificate proposed to be issued under *section 28(6)* in relation to that property,
- (b) issue to the occupier of a property in relation to which he or she proposes to exercise the powers under *section 28(4)(a)(ii)* a notice indicating the terms of the notice proposed to be issued under *section 28(7)* in relation to that property,

and that copy shall be accompanied by or, as the case may be, that notice shall include the statement referred to in *subsection (2)*.

(2) The statement mentioned in *subsection (1)* is a statement in writing that the occupier concerned may, within 28 days from the date of the issue of the copy or notice to him or her, if he or she is dissatisfied with any material particular stated in the copy of the certificate or the notice, make representations to the officer in relation to the matter (and such an occupier may make such representations, within that period, to the officer accordingly).

(3) A revision officer, having considered any representations made to him or her by an occupier under and in accordance with *subsection (2)*, may, if he or she thinks it appropriate to do so, amend the terms of the valuation certificate concerned proposed to be issued under *subsection (6) of section 28* or, as the case may be, the notice concerned proposed to be issued under *subsection (7) of that section* and issue that certificate or notice, in the terms as so amended, under that *subsection (6) or (7)* accordingly.

PART 7

APPEALS

30.—(1) Each of the following, namely—

Appeals to the Commissioner.

- (a) an occupier of property, in respect of that property,
- (b) an occupier of relevant property, in respect of any other property situate in the same rating authority area as that relevant property is situate,
- (c) a rating authority, in respect of any property situate in its area, and
- (d) a person, in respect of any property in relation to which he or she is an interest holder,

may, within 40 days from the relevant date, appeal in writing to the Commissioner against—

- (i) the determination under *section 19 or 28* of the value of the property,
- (ii) any other detail stated in the relevant valuation list in relation to the property,

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- (iii) any decision by the valuation manager, revision officer or other officer of the Commissioner concerned to include or not to include the property in the relevant valuation list or to exclude the property from that list,
- (iv) in the case of a decision by the revision officer concerned to so exclude the property, any detail stated in the notice concerned issued under *section 28(7)*,
- (v) any decision by the revision officer concerned that the circumstances referred to in *section 28(4)* do not exist for the exercise of the powers under that section in relation to the property.

(2) In this section “relevant date” means, as appropriate—

- (a) the date of the relevant valuation list being caused to be published under *section 23*,
- (b) the date of issue under *section 28(6)* of a valuation certificate in relation to the property,
- (c) the date of issue under *section 28(7)* of a notice in relation to the property, or
- (d) the date of the making of the decision referred to in *subsection (1)(v)*.

Grounds of appeal under *section 30* to be stated.

31.—An appeal made under *section 30* shall, as appropriate—

- (a) specify—
 - (i) the grounds on which the appellant considers that the value of the property, the subject of the appeal (in this section referred to as “the property concerned”), being the value as determined under *section 19* or *28*, is incorrect, and
 - (ii) by reference to values stated in the valuation list in which the property concerned appears of other comparable properties, what the appellant considers ought to have been determined as the property’s value,
- (b) specify the grounds on which the appellant considers any detail in relation to the property concerned (other than the property’s value) as stated in the valuation certificate or notice concerned is incorrect,
- (c) specify the grounds on which the appellant considers that the property concerned ought or ought not to have been included in, or, as the case may be, to have been excluded from, the relevant valuation list and, in case the appellant considers the property concerned ought to have been so included, what he or she considers ought to be determined as the property’s value.

Notification of occupier of an appeal.

32.—(1) If an appeal is made under *section 30* by a person who is not the occupier of the property to which the appeal relates, the Commissioner shall serve on the occupier a copy of the appeal together with the notice referred to in *subsection (2)*.

[2001.]

Valuation Act, 2001.

[No. 13.]

(2) The notice mentioned in *subsection (1)* is a notice stating that the occupier concerned may, within 28 days from the date of the service of the notice on him or her, make observations or submissions in writing to the Commissioner in relation to the appeal (and such an occupier may, within that period, make such observations or submissions accordingly).

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(3) The Commissioner shall, in determining the appeal concerned under *section 33*, consider any observations or submissions made to him or her under and in accordance with *subsection (2)*.

33.—(1) In this section “the appeal” means an appeal made to the Commissioner under *section 30*.

Consideration of
appeals by
Commissioner.

(2) The Commissioner shall consider the appeal and may, as he or she thinks appropriate—

(a) disallow the appeal, or

(b) allow the appeal and, accordingly, do whichever of the following is appropriate—

(i) amend the value of, or any other detail in relation to, the property, the subject of the appeal, as stated in the relevant valuation list and, accordingly, issue a new valuation certificate in relation to the property to—

(I) the occupier of the property,

(II) the rating authority in whose area the property is situate, and

(III) if the said occupier or authority is not the appellant, or is not the only appellant, to the appellant or each other appellant, as the case may be,

(ii) decide that the property, the subject of the appeal, ought to be included in, or, as the case may be, ought to be excluded from, the relevant valuation list and—

(I) in the case of a decision that the property ought to be so included—

(A) determine the value of the property, and

(B) issue a valuation certificate in relation to the property to each of the persons referred to in *subparagraph (i)*,

(II) in the case of a decision that the property ought to be so excluded, notify each of the persons referred to in *subparagraph (i)* of that decision,

(iii) amend any detail in relation to the property, the subject of the appeal, stated in the relevant notice under *section 28(7)* and, accordingly, notify each of the persons referred to in *subparagraph (i)* of that amendment.

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(3) For the avoidance of doubt, the cases in which the powers under *subsection (2)(b)* are exercisable include the case where the Commissioner allows an appeal against a decision of a revision officer referred to in *section 30(1)(v)*.

(4) As soon as may be, but not earlier than 7 days, after the Commissioner has issued a valuation certificate under *subsection (2)* or made a notification under that subsection, he or she shall amend the relevant valuation list in a manner consonant with his or her decision to issue that certificate or make that notification.

(5) The Commissioner may employ such procedures as he or she considers appropriate for the purposes of the consideration of the appeal.

(6) The Commissioner shall make a decision on the appeal within 6 months from the date of his or her having received the appeal.

Appeals to Tribunal.

34.—(1) A person referred to in *subsection (1)* of *section 30* (whether or not he or she was the appellant or an appellant in the appeal concerned) may appeal in writing to the Tribunal against a decision of the Commissioner to allow or disallow an appeal under that section in relation to a property (whether or not the property falls within the same paragraph of that *subsection (1)* as the person falls within).

(2) Such an appeal shall be made within 28 days from the date on which the Commissioner issued the valuation certificate concerned or made the notification concerned under *section 33(2)*.

Grounds of appeal under *section 34* to be stated.

35.—An appeal made under *section 34* shall, as appropriate—

(a) specify—

(i) the grounds on which the appellant considers that the value of the property, the subject of the appeal (in this section referred to as “the property concerned”), being the value as determined or confirmed by the Commissioner under *section 33*, is incorrect, and

(ii) the value the appellant considers the Commissioner ought to have determined under *section 33* as being the value of the property concerned,

(b) specify the grounds on which the appellant considers any detail in relation to the property concerned (other than the property’s value) as stated in the valuation certificate concerned issued under *section 33(2)* or in the notification concerned made under that section is incorrect,

(c) specify the grounds on which the appellant considers that the property concerned ought to have been included in, or, as the case may be, ought to have been excluded from, the relevant valuation list by the Commissioner under *section 33(2)*, and, in case the appellant considers the property concerned ought to have been so included, what he or she considers ought to be determined as the property’s value.

[2001.]

Valuation Act, 2001.

[No. 13.]

36.—(1) As soon as may be after the receipt by it of an appeal made to it under *section 34*, the Tribunal shall serve a copy of the appeal on each of the following persons (unless the person is the appellant or an appellant in the matter) namely, the occupier of the property, the subject of the appeal, the rating authority in whose area that property is situated and the Commissioner.

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Notification of interested parties of appeal made for Tribunal.

(2) All other documentation and information in writing submitted in connection with the appeal shall be served by the Tribunal on each of the following persons (other than in a case where the person has submitted the particular documentation or information), namely—

- (a) the Commissioner (who shall be the respondent in, and be entitled to be heard, and adduce evidence at, the hearing of the appeal), and
- (b) the occupier of the property, the subject of the appeal, and any other person who appears to the Tribunal will be directly affected by its decision on the appeal (and the said occupier and each such person shall be entitled to be heard, and adduce evidence at, the hearing of the appeal).

37.—(1) The Tribunal shall consider an appeal made to it under *section 34* and may, as it thinks appropriate—

Consideration of appeals by Tribunal.

- (a) disallow the appeal and, accordingly, confirm the decision of the Commissioner, or
- (b) allow the appeal, and, accordingly, do whichever of the following is appropriate—
 - (i) amend the value of, or any other detail in relation to, the property, the subject of the appeal, as stated in the valuation certificate issued under *paragraph (b)(i) or (b)(ii) of section 33(2)*,
 - (ii) decide that the property, the subject of the appeal, ought to be included in, or, as the case may be, ought to be excluded from, the relevant valuation list and, in the case of a decision that the property ought to be so included, determine the value of the property,
 - (iii) amend any detail in relation to the property, the subject of the appeal, stated in the notification made under *section 33(2)(b)(iii)*.

(2) The Tribunal shall make a decision on an appeal made to it under *section 34* within 6 months from the date of its having received the appeal.

38.—The Commissioner shall, unless the result of the decision of the Tribunal under *section 37* or, as the case may be, of the High Court or Supreme Court under *section 39* makes it unnecessary to do so—

Amendment of valuation list, etc. to take account of decision of Tribunal, High Court or Supreme Court.

- (a) amend the relevant valuation list in a manner consonant with the decision of the Tribunal, the High Court or the Supreme Court under *section 37* or *39*, as the case may be, and

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- (b) (i) issue a new valuation certificate in relation to the property, the subject of the appeal concerned, or, in case the decision is that such property ought to be included in the relevant valuation list, a valuation certificate in relation to that property, to the occupier of that property and the rating authority in whose area that property is situated, or
- (ii) in case the decision is that the property, the subject of the appeal concerned, ought to be excluded from the relevant valuation list, notify the occupier of that property and the rating authority in whose area that property is situated of the amendment, under *paragraph (a)*, of that list in consequence of that decision.

Appeals to the
High Court and
Supreme Court.

39.—(1) After the determination of an appeal under *section 37* by the Tribunal, any party to the appeal, if dissatisfied with the determination as being erroneous in point of law, may declare in writing to the Tribunal his or her dissatisfaction and such a declaration shall be made within 21 days from the date of the Tribunal's having made its determination.

(2) The party, having declared his or her dissatisfaction, may, within 28 days from the date of the said determination, by notice in writing addressed to the chairperson of the Tribunal, require the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.

(3) The case shall set forth the facts and the determination of the Tribunal and the party requiring it shall transmit the case, when stated and signed by the chairperson of the Tribunal, to the High Court within 7 days from the date of receiving it.

(4) At or before the time when he or she transmits the case to the High Court, the party requiring it shall serve notice in writing of the fact that the case has been stated on his or her application, together with a copy of the case, on each other party to the appeal referred to in *subsection (1)*.

(5) The High Court shall hear and determine any question or questions of law arising on the case, and shall reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the Tribunal with the opinion of the Court thereon, or may make such other order in relation to the matter as the Court thinks fit.

(6) The High Court may cause the case to be sent back for amendment, and thereupon the case shall be amended accordingly, and judgement shall be delivered after it has been amended.

(7) An appeal shall lie to the Supreme Court from the decision of the High Court under this section.

Amendments of
valuation lists in
relation to similarly
circumstanced
property.

40.—(1) If the Commissioner amends under *section 38* a valuation list in relation to a particular property, he or she may also amend, in a manner consonant with the relevant decision, that or any other valuation list in relation to each other property appearing on that list that he or she considers is similarly circumstanced to the said property.

(2) In *subsection (1)* “the relevant decision” means the decision of the Tribunal, the High Court or the Supreme Court, as the case may be, that gave rise to the first-mentioned amendment in that subsection. Pr.7 S.40

(3) Unless the amendment under *subsection (1)* in relation to the similarly circumstanced property referred to in that subsection takes the form of the exclusion of that property from the relevant valuation list, the Commissioner shall, as soon as may be after he or she makes that amendment, issue a new valuation certificate or, as appropriate, a valuation certificate in relation to that property to—

- (a) the occupier of the property,
- (b) the rating authority in whose area the property is situated, and
- (c) any person who the Commissioner considers is an interest holder in relation to the property.

(4) If the amendment under *subsection (1)* in relation to the similarly circumstanced property referred to in that subsection takes the form of the exclusion of that property from the relevant valuation list, the Commissioner shall, as soon as may be after he or she makes that amendment, issue a notice to each of the persons referred to in *subsection (3)* specifying the nature of that amendment.

(5) The occupier of property in respect of which the Commissioner makes an amendment of a valuation list under *subsection (1)* may, within 28 days from the date of the issuing of the valuation certificate or notice concerned under *subsection (3)* or *(4)* to him or her, appeal, in writing, to the Tribunal against that amendment and *sections 35 to 39* shall, with any necessary modifications, apply in respect of that appeal.

PART 8

ANNUAL REPORT AND CERTAIN DUTIES OF PUBLIC BODIES

41.—(1) The Commissioner shall, as soon as may be, but not later than 2 months after the end of each year, make a report to the Minister in relation to the performance by the Commissioner of his or her functions under this Act in that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas. Annual report.

(2) Each report under *subsection (1)* shall include information in such form and regarding such matters as the Commissioner thinks fit or the Minister may direct.

42.—(1) If, in the course of performing any of its functions, any information comes to the notice of a public body which leads it to suppose that a valuation list requires to be amended under this Act in relation to a particular property, it shall be the duty of that body, as soon as may be after that information comes to its notice, to supply that information to the Commissioner. Duty of public body to provide certain information to Commissioner.

(2) In this section “public body” means—

- (a) a Department of State or any other office or agency of the State,

- (b) a rating authority, or
- (c) any other body established by or under any statute.

PART 9

EXISTING VALUATION LISTS

Existing valuation lists to continue in force and severability of properties appearing thereon.

43.—(1) Notwithstanding the repeal by *section 8* of the enactments specified in *Schedule 1*, an existing valuation list for a rating authority's area and the value of each property appearing thereon shall, subject to any amendment thereof made in accordance with the provisions of this Act, as applied by *section 44*, and any apportionment of the value under *subsection (3)*, continue in force in relation to that area for all purposes until the date on which a valuation list is caused to be published under *section 23* in relation to that area.

(2) Nothing in *subsection (1)* shall be construed as having the effect of continuing in force any provision of the repealed enactments specifying property appearing on an existing valuation list to be or to be not rateable.

(3) If part of a property appearing on an existing valuation list falls only within *Schedule 3* and part of it both within that Schedule and *Schedule 4* or *section 15(3)*, the Commissioner shall apportion between each of those parts the value of the property as stated in the list and so much of that value as is so apportioned—

- (a) to the part which falls only within *Schedule 3* shall, subject to any amendment of it of the kind referred to in *subsection (1)*, be the value, for the purposes of this Act, of that part until the date referred to in *subsection (1)*,
- (b) to the part which falls both within that Schedule and *Schedule 4* or *section 15(3)* shall, subject to any amendment of it of the kind as aforesaid, be the value, for the purposes of this Act, of that part in respect of the year in which this Act is commenced in circumstances where *subsection (2)* or, as the case may be, *subsection (3)* of *section 15* does not have effect until the following year.

(4) The exercise of any power conferred by this Act or any enactment referred to in *section 14(2)* in relation to part of property appearing on an existing valuation list shall not be affected by the fact that the property appears as a single property on that list or that another part of the property falls within *Schedule 4* or *section 15(3)*.

(5) *Subsection (1)* is without prejudice to *section 53(7)* (which requires the deletion, in certain circumstances, of the value of certain property from an existing valuation list).

Parts 6 and 7 (with exceptions) and certain other provisions to apply to existing valuation lists.

44.—(1) *Parts 6* and *7* (other than a provision of either of those Parts referred to in *subsection (3)*) shall apply in respect of an existing valuation list as they apply in respect of a valuation list with the modification referred to in *subsection (2)* and any other necessary modifications.

(2) The modification mentioned in *subsection (1)* is the substitution, in *section 28(4)*, for “a valuation under *section 19* was last carried out in relation to the rating authority area” of “a valuation

under the repealed enactments, or a revision of such a valuation under those enactments, was last carried out in relation to properties situate in the rating authority area”.

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(3) The provision of *Part 6* or *7* mentioned in *subsection (1)* is one that makes provision on the basis that the property concerned has been the subject of a valuation under *section 19*.

(4) Save where the context of the provision does not admit of such application (and apart from any special provision made in those Parts regarding existing valuation lists) each provision of *Parts 10* to *13* shall apply in respect of an existing valuation list as it applies in respect of a valuation list.

PART 10

CERTAIN ANCILLARY POWERS OF OFFICERS

45.—(1) An officer of the Commissioner may serve a notice on a person who is the owner or occupier of any property (whether relevant property or not) requiring him or her to supply, within a period specified in the notice (being a period of not less than 28 days beginning on the date of the service of the notice), and in a manner specified in the notice, to the officer such information as is specified in the notice, being information which is necessary for the purpose of the performance by that or any other officer of the Commissioner of his or her functions under this Act.

Power to require information to be supplied.

(2) A person who—

- (a) fails to comply with a notice under *subsection (1)*, or
- (b) supplies information which is false in a material respect in purported compliance with such a notice, knowing it to be so false or being reckless as to whether it is so false,

shall be guilty of an offence.

46.—(1) In this section “specified particulars” means, in relation to a property, such particulars as are determined by the Commissioner and specified in a form prepared by him or her for the purposes of this section.

Obligation of occupier of property to supply certain information.

(2) Within 28 days from the date on which a valuation order is made in relation to a rating authority area, the occupier of each relevant property (other than property referred to in *paragraph (a)* or *(b)* of *section 19(2)*) which is situated in that area on that date shall provide in writing to the Commissioner the specified particulars with respect to that property.

(3) The occupier of—

- (a) a relevant property which comes into existence after the date on which a valuation order is made in relation to the rating authority area in which the property is situated, or
- (b) a relevant property which was not a relevant property on the date on which such an order is made in relation to the rating authority area in which the property is situated,

(not being, in either case, property referred to in *paragraph (a)* or *(b)* of *section 19(2)*) shall, within 28 days from the date on which the property has come into existence or, as the case may be, it has become relevant property, provide in writing to the Commissioner the specified particulars with respect to that property.

(4) If, by reason of any change of circumstances after the particulars referred to in *subsection (2)* or *(3)* with respect to a property have been provided to the Commissioner, any of those particulars, as so provided, ceases to be correct, the occupier of the property shall, as soon as may be after that particular ceases to be correct, provide in writing to the Commissioner a statement correcting that particular.

(5) A person who—

(a) fails to comply with *subsection (2)*, *(3)* or *(4)*, or

(b) provides a particular or a statement which is false in a material respect in purported compliance with *subsection (2)*, *(3)* or, as the case may be, *(4)*, knowing it to be so false or being reckless as to whether it is so false,

shall be guilty of an offence.

(6) In proceedings for an offence under *subsection (5)* (being an offence consisting of a failure to comply with *subsection (2)* or *(3)*), it shall be a defence for the defendant to show both of the following, namely, that he or she was not aware of the specified particulars to be given with respect to the property concerned and that the means by which the notice under *subsection (7)* was given were not such as to make it reasonably likely that those particulars would have come to the defendant's knowledge.

(7) Without prejudice to *section 22*, as soon as may be after he or she makes a valuation order, the Commissioner shall give notice, in such manner as he or she thinks appropriate, of—

(a) the means by which a person may inspect or, if the person so wishes, obtain a copy of the form referred to in *subsection (1)* (and the Commissioner shall, accordingly, make available and supply on request, free of charge, by those means a copy of the form to the person),

(b) the effect of *subsections (2)* to *(5)* and, in the case of *subsection (5)*, the penalties provided for by *section 65* in respect of the offence provided for by that subsection.

(8) As regards *subsections (4)* and *(5)* and, in the case of the latter subsection, the penalties provided for by *section 65* in respect of the offence provided for by that subsection, the Commissioner shall, in addition to giving the notice under *subsection (7)* with respect thereto, give, in the appropriate period, in such manner and at such intervals (not being of more than 6 months duration in any case) as he or she thinks appropriate, notice of the effect of those subsections and the said penalties.

(9) In *subsection (8)* “appropriate period” means the period beginning on the elapse of such time from the giving of the notice under *subsection (7)* as the Commissioner considers reasonable and ending on the publication date specified in the valuation order concerned referred to in *subsection (7)*.

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47.—(1) Subject to *subsection (2)*, an officer of the Commissioner, in the performance of his or her functions under this Act, may, for the purpose of surveying and carrying out a valuation of any relevant property, at any reasonable time—

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Power to enter.

(a) enter on that property, and

(b) if it is necessary in order to so enter on that property or to survey or carry out a valuation thereof, enter on any other property,

and may survey and carry out a valuation of the first-mentioned property accordingly.

(2) An officer of the Commissioner shall not, without the consent of the occupier of the property, exercise the powers under *subsection (1)* in relation to a property referred to in *paragraph (a)* or *(b)* of that subsection unless, at least 3 days before the date on which he or she intends to so exercise those powers, he or she serves on the occupier of the property a notice of that intention.

(3) A person who obstructs or impedes an officer of the Commissioner in the exercise of any of his or her powers under this section shall be guilty of an offence.

PART 11

BASIS OF VALUATION

48.—(1) The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.

Method of
determining
property's value
generally.

(2) *Subsection (1)* is without prejudice to *section 49*.

(3) Subject to *section 50*, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant.

49.—(1) If the value of a relevant property (in *subsection (2)* referred to as the “first-mentioned property”) falls to be determined for the purpose of *section 28(4)*, (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

Method of
determining
property's value
under *section 28(4)*.

(2) For the purposes of *subsection (1)*, if there are no properties comparable to the first-mentioned property situated in the same rating authority area as it is situated in then—

(a) in case a valuation list is in force in relation to that area, the determination referred to in *subsection (1)* in respect of the first-mentioned property shall be made by the means specified in *section 48(1)*, but the amount estimated by

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those means to be the property's net annual value shall, in so far as is reasonably practicable, be adjusted so that amount determined to be the property's value is the amount that would have been determined to be its value if the determination had been made by reference to the date specified in the relevant valuation order for the purposes of *section 20*,

- (b) in case an existing valuation list is in force in relation to that area, the determination referred to in *subsection (1)* in respect of the first-mentioned property shall be made by the means specified in *section 48(1)* and by reference to the net annual values of properties (as determined under the repealed enactments) on 1 November 1988, but the amount estimated by those means to be the property's net annual value shall, in so far as it is reasonably practicable, be adjusted so that the amount determined to be the property's value is the amount that would have been determined to be its value if the determination had been made immediately before the commencement of this Act.

Valuation on the contractor's basis.

50.—If, in determining the net annual value of property or any part of it in accordance with *section 48*, a method of valuation relying on the notional cost of constructing or providing the property or part is used, then, notwithstanding *subsection (3)* of that section, the net annual value of the property or part, for the purposes of that section, shall be an amount equal to 5 per cent of the aggregate of the replacement cost, depreciated where appropriate, of the property or part and the site value of the property or, as the case may be, part.

Valuation of certain elements of relevant properties.

51.—(1) In determining, under any provision of this Act, the value of a relevant property, the following shall be valued and taken account of in such determination—

- (a) any plant in or on the property, being plant specified in *Schedule 5*,
- (b) the water or other motive power (if any) of the property, and
- (c) all cables, pipelines and conduits (whether underground, on the surface or overhead and including all pylons, supports and other constructions which pertain to them) that form part of the property.

(2) The value of any matter referred to in *paragraph (a)*, *(b)* or *(c)* of *subsection (1)* shall be determined in the same manner as the value of the property to which it relates is determined under the provision concerned of this Act.

(3) Nothing in *paragraph (b)* of *subsection (1)* shall be construed as permitting the value of any machinery in or on the property concerned (not being machinery that constitutes plant specified in *Schedule 5*) to be taken account of under that subsection unless it is machinery erected and used for the production of the motive power concerned.

(4) In *subsection (3)* the reference to machinery erected and used for the production of motive power includes a reference to electrical power connections.

(5) Notwithstanding anything in *paragraph (a)* of *subsection (1)*, a part of any plant referred to in that paragraph which is capable of being moved by mechanical or electrical means, other than a telescopic container, shall not be valued or taken account of in the determination of the value of the property to which it relates.

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52.—(1) For the avoidance of doubt—

Valuations in relation to land or buildings used for advertising stations.

- (a) in determining, under a provision of this Act, the value of land or a building which is used, temporarily or permanently, for the exhibition of advertisements, the use of the land or building for that purpose shall not be taken into account if such use is made pursuant to a right that exists, separately from the land or building, to make use of the land or building for that purpose,
- (b) if land or a building is solely used, temporarily or permanently, for the exhibition of advertisements and such use is not prevented by *paragraph (a)* from being taken account of in determining, under a provision of this Act, the value of the land or building, then, if the land or building is not occupied for any other purpose, regard shall be had, in making that determination, solely to the fact of its being used for that purpose.

(2) References in this section to land or a building being used for the exhibition of advertisements shall be construed as including references to land or a building being used for the erection of any structure used for the exhibition of advertisements.

53.—(1) The Minister may, by order, require the Commissioner to carry out a valuation of relevant properties (taken as a whole as respects the particular undertaking), being properties—

Global valuation of property of public utility undertakings.

- (a) referred to in *subsection (5)*, or
- (b) referred to in that subsection and falling within a specified category or categories,

and occupied by—

- (i) a specified public utility undertaking, or
- (ii) each public utility undertaking falling within a specified class of such undertaking.

(2) The value of the properties concerned determined in accordance with such a valuation is referred to in this Act as a “global valuation”.

(3) An order under *subsection (1)* shall not—

- (a) be made save after consultation by the Minister with the Minister for the Environment and Local Government and any other Minister of the Government who, in the opinion of the Minister, is concerned in the matter, or
- (b) provide for the valuation of any relevant property occupied by a public utility undertaking for the purpose of generating electricity.

(4) An order under *subsection (1)* shall specify a date by reference to which the global valuation or valuations to which it relates shall be made and the date by which that valuation or those valuations shall be required to be entered in the central valuation list under *section 55*.

(5) The properties mentioned in *subsection (1)* are those properties, wherever situated, occupied by the undertaking or each undertaking concerned (whether entered in a valuation list or an existing valuation list or not) that, in the opinion of the Commissioner, are used by the undertaking for—

- (a) in case the undertaking is a company, the principal objects of the undertaking as set out in its memorandum of association,
- (b) in any other case, the principal purposes for which, in the opinion of the Commissioner, the undertaking carries on business.

(6) The Commissioner shall—

- (a) in the fifth year after the year in which a global valuation in relation to an undertaking is carried out under an order under *subsection (1)* or is last carried out under this subsection, or
- (b) at such earlier time as the Minister, after consultation with the Minister for the Environment and Local Government and any other Minister of the Government who, in the opinion of the Minister, is concerned in the matter, may require him or her to do so,

carry out a further valuation, being a valuation of the kind referred to in *subsection (1)*, with respect to the relevant properties occupied by the undertaking referred to in that subsection, and such a valuation is also referred to in this Act as a “global valuation”.

(7) As soon as may be after a global valuation in relation to an undertaking is entered in the central valuation list under *section 55*, any value in relation to any property comprised in that valuation which is entered in a valuation list or an existing valuation list shall be deleted by the Commissioner from that list.

(8) The Commissioner shall apportion the global valuation in relation to an undertaking between each of the rating authorities in whose areas property comprised in the valuation is situate in such manner as the Minister shall, after consultation with the Minister for the Environment and Local Government, by order prescribe and so much of the valuation as is so apportioned to each such authority shall, accordingly, be the valuation of the property of the undertaking situate in the area of the authority.

(9) An undertaking in relation to which a global valuation is being carried out shall, within 2 months from the date of being requested in writing to do so by the Commissioner, supply to the Commissioner such information as he or she may require for the purpose of the performance of his or her functions under this section.

(10) The Commissioner shall—

- (a) in the case of a global valuation referred to in *subsection (1)*, on the date specified in that behalf in the order concerned referred to in that subsection, and
- (b) in the case of a global valuation referred to in *subsection (6)*, on such date as he or she considers appropriate,

issue to the undertaking concerned and the Minister for the Environment and Local Government a certificate (in this Act referred to as a “global valuation certificate”) specifying the value, as determined under that order or *subsection (6)*, as the case may be, of the properties comprised in the valuation and stating such other information as the Commissioner considers appropriate.

(11) The Commissioner shall, on a date that is not less than 3 months before the date on which he or she issues, in its final terms, under *subsection (10)*, a global valuation certificate, issue a copy of that certificate, in the terms he or she proposes to so issue it under that subsection, to the undertaking concerned and the Minister for the Environment and Local Government, together with the notice referred to in *subsection (12)*.

(12) The notice mentioned in *subsection (11)* is a notice stating that, if the undertaking concerned or the Minister for the Environment and Local Government is dissatisfied with any material particular stated in the copy of the certificate referred to in that subsection, it or that Minister of the Government may, within 28 days from the date of the issuing of the copy to it or him or her, make submissions under this subsection to the Commissioner in relation to the matter (and such an undertaking and that Minister of the Government may make such submissions, within that period, to the Commissioner accordingly).

(13) Submissions under *subsection (12)* shall, as appropriate—

- (a) specify—
 - (i) the grounds on which the person making the submissions (“the person concerned”) considers the global valuation as made under an order under *subsection (1)* or *subsection (6)*, as the case may be, and indicated in the copy of the proposed global valuation certificate concerned is incorrect, and
 - (ii) by reference to such matters as the person concerned considers appropriate, what that person considers the global valuation in relation to the undertaking concerned ought to be,
- (b) specify the grounds on which the person concerned considers any other detail (other than in respect of the global valuation) stated in the said copy is incorrect,
- (c) specify the grounds on which the person concerned considers that a property ought to have been included in, or, as the case may be, excluded from, the said global valuation and what adjustment he or she considers ought to be made to that valuation were that property to be so included or excluded, as the case may be.

(14) The Commissioner shall consider any submissions made to him or her under and in accordance with *subsection (12)* and may, if he or she thinks it appropriate to do so, amend the terms of the

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global valuation certificate concerned proposed to be issued under *subsection (10)* and issue that certificate, in the terms as so amended, under that subsection accordingly.

Appeals against
global valuations.

54.—(1) An undertaking, a rating authority and the Minister for the Environment and Local Government may, within 3 months from the date of the Commissioner's having issued the certificate concerned, each appeal in writing to the Tribunal against—

- (a) a global valuation in relation to the undertaking made pursuant to *section 53* and specified in a global valuation certificate issued under that section,
 - (b) any other detail stated in the said certificate,
 - (c) any decision by the Commissioner to include or not to include any property in that global valuation.
- (2) An appeal made under *subsection (1)* shall, as appropriate—
- (a) specify—
 - (i) the grounds on which the appellant considers that the global valuation made pursuant to *subsection (1)* or, as the case may be, *subsection (6)* of *section 53* and specified in the global valuation certificate concerned is incorrect,
 - (ii) by reference to such matters as the appellant considers appropriate, what the appellant considers the global valuation in relation to the undertaking concerned ought to be,
 - (b) specify the grounds on which the appellant considers that any other detail (other than in respect of the global valuation) stated in the said certificate is incorrect,
 - (c) specify the grounds on which the appellant considers that a property ought to have been included in, or, as the case may be, excluded from, the said global valuation and what adjustment he or she considers ought to be made to that valuation were that property to be so included or excluded, as the case may be.

(3) As soon as may be after the receipt by it of an appeal made to it under *subsection (1)*, the Tribunal shall serve a copy of the appeal on the Commissioner and whoever of the following is not the appellant, namely, the undertaking concerned or the Minister for the Environment and Local Government.

(4) All other documentation and information in writing submitted in connection with the appeal shall be served by the Tribunal on each of the following persons (other than in a case where the person has submitted the particular documentation or information) namely—

- (a) the Commissioner (who shall be the respondent in, and be entitled to be heard, and adduce evidence at, the hearing of the appeal), and
- (b) the undertaking concerned, the Minister for the Environment and Local Government and, if it is the appellant

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or an appellant, the rating authority concerned, (and the undertaking, that Minister of the Government and such a rating authority shall be entitled to be heard, and adduce evidence at, the hearing of the appeal).

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(5) The Tribunal shall consider an appeal made to it under *subsection (1)* and may, as it thinks appropriate—

- (a) disallow the appeal and, accordingly, confirm the decision of the Commissioner, or
- (b) allow the appeal and, accordingly, do whichever of the following is appropriate—
 - (i) amend the global valuation of, or any other detail in relation to, the property, the subject of the appeal, as specified in the global valuation certificate concerned,
 - (ii) decide that property ought to have been included in, or, as the case may be, ought to have been excluded from, the said global valuation and, accordingly, may amend that valuation (and, for this purpose, determine the value of any property that it decides ought to be included in, or excluded from, that valuation).

(6) The Tribunal shall make a decision on an appeal made to it under *subsection (1)* within 6 months from the date of its having received the appeal, or as soon as possible thereafter.

(7) The Commissioner shall, unless the result of the decision of the Tribunal under *subsection (5)* or, as the case may be, of the High Court or Supreme Court under *section 39* (as applied by *subsection (8)*) makes it unnecessary to do so, amend the relevant global valuation certificate in a manner consonant with the decision of the Tribunal, the High Court or the Supreme Court under *subsection (5)* or *section 39* (as so applied), as the case may be.

(8) *Section 39* shall apply to a determination of the Tribunal under this section as it applies to a determination of the Tribunal under *section 37*.

55.—(1) The Commissioner shall maintain and make available for inspection, at his or her office, by members of the public a list, which shall be known, and is in this Act referred to, as the “central valuation list”, specifying—

Central valuation list.

- (a) the global valuation made pursuant to *section 53* in relation to each undertaking and for the time being in force,
- (b) the amount of that valuation that has been apportioned to each rating authority in accordance with *section 53(8)*,
- (c) as respects such global valuations generally which are for the time being in force, the aggregate of the amounts of those valuations that have been apportioned to each rating authority in accordance with *section 53(8)*, and
- (d) such other particulars as the Commissioner considers appropriate.

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(2) Relevant property entered in the central valuation list shall be rateable in the area of the rating authority in which it is situate to the like extent as relevant property entered in a valuation list or existing valuation list and so situate is rateable.

PART 12

RATES INCOMES OF LOCAL AUTHORITIES

Power to limit rates income.

56.—(1) In this section—

“appropriate year” means the financial year immediately following the financial year in which the first valuation under *section 19* is carried out in relation to relevant properties situate in the area of the rating authority concerned;

“consumer price index number” means the All Items Consumer Price Index Number compiled by the Central Statistics Office;

“consumer price index number relevant to the appropriate year” means the consumer price index number most recently published by the Central Statistics Office before the date on which the rating authority concerned determines the rate in the pound of the rate in respect of the appropriate year;

“consumer price index number relevant to the preceding year” means the consumer price index number lastly published by the Central Statistics Office in the period beginning on the 1st day of January of the preceding year and ending immediately after the day that falls 12 months before the day on which the consumer price index number referred to in the preceding definition is published;

“preceding year” means the financial year last mentioned in the definition of “appropriate year” in this subsection.

(2) The Minister for the Environment and Local Government shall, with the consent of the Minister, make an order requiring a rating authority to exercise its powers to make rates in such a manner as to secure that the total amount liable to be paid to it in respect of rates made by it in the appropriate year does not exceed an amount equal to the total amount liable to be paid to it in respect of rates made by it in the preceding year multiplied by the figure specified in *subsection (3)*.

(3) The figure mentioned in *subsection (2)* is the quotient, rounded up to 3 decimal places, obtained by dividing the consumer price index number relevant to the appropriate year by the consumer price index number relevant to the preceding year.

PART 13

MISCELLANEOUS

Transitional provisions in relation to matters not completed under Act of 1988 or Act of 1852.

57.—(1) A property in relation to which an application has been made under subsection (1) of section 3 of the Act of 1988, being an application in respect of which a determination under subsection (3) of that section has not been made before the commencement of this Act or in respect of which such a determination has been so made but that determination has not been issued under the said subsection (3) before such commencement, shall be deemed to be property in

relation to which the Commissioner has made an appointment of an officer of the Commissioner under *section 28*. Pr.13 S.57

(2) The person who was assigned by the Commissioner under the Act of 1852 to deal with that application shall be deemed to have been the officer of the Commissioner so appointed.

(3) Such an application is referred to in *subsection (4)* as a “relevant application”.

(4) Subject to *subsection (9)*, so much of *subsections (4) to (9)* of *section 28* in *Part 6* and the other Parts of this Act as are appropriate, having regard to the steps that may already have been taken under the Act of 1988 in relation to the application concerned, shall apply to a relevant application with any necessary modifications.

(5) An appeal made to the Commissioner under, and in accordance with, *section 19* or *31* of the Act of 1852, being an appeal in respect of which a determination by the Commissioner under that Act has not been made before the commencement of this Act or in respect of which such a determination has been so made but that determination has not been published under that Act before such commencement, shall be deemed to be an appeal made to the Commissioner under *section 30(1)*.

(6) Subject to *subsection (9)*, so much of this Act (other than *section 31*) as is appropriate, having regard to the steps that may already have been taken under the Act of 1852 in relation to such an appeal, shall apply to the appeal with any necessary modifications.

(7) An appeal made to the Tribunal under, and in accordance with, *section 3(5)* of the Act of 1988, being an appeal which has not been heard by the Tribunal under that Act before the commencement of this Act or which has been so heard but in respect of which a determination has not been made by the Tribunal before such commencement, shall be deemed to be an appeal made to the Tribunal under *section 34*.

(8) Subject to *subsection (9)*, so much of this Act (other than *section 35*) as is appropriate, having regard to the steps that may already have been taken under the Act of 1988 in relation to such an appeal, shall apply to the appeal with any necessary modifications.

(9) The officer of the Commissioner, the Commissioner or the Tribunal, as the case may be, in considering, by virtue of this section, an application referred to in *subsection (1)* or an appeal referred to in *subsection (5)* or (7), where he or she or it is of opinion that the property concerned is property of a nature that could not have been the subject of an appointment such as is referred to in *subsection (1)* or an appeal such as is referred to in *subsection (5)* or (7) if this Act had been in operation at the time of the making of the application or appeal—

- (a) shall give notice to the person or persons concerned of that opinion and invite, by means of that notice, that person or those persons to make submissions in relation to the matter to him or her or it within a specified period (and that person or those persons may make such submissions within that period accordingly),
- (b) may, subject to *section 67*, having considered any such submissions made to him or her or it within that period, dispose of the application or appeal in such manner as he or she or it considers appropriate.

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Transitional provision to take account of global valuations made before carrying out of valuation under section 19.

58.—(1) An order under *section 53(8)* may provide that, in respect of the period for which an existing valuation list remains in force by virtue of *section 43* in relation to the area of a rating authority, the valuation referred to in that subsection which is apportioned to that authority by the order shall stand adjusted in a manner specified in the order to make it relative to the value of other properties appearing on the said list.

(2) If provision as aforesaid is made by an order under *section 53(8)*, the Commissioner shall ensure that, in respect of the period referred to in *subsection (1)*, the central valuation list specifies, in addition to the amounts respectively provided by *paragraphs (b) and (c) of section 55(1)* to be specified in that list, but in a separate part of that list from the part in which those amounts are specified, the said amounts as they stand adjusted pursuant to the said order.

Treatment of certain mines, rights to drill and apartments for rates purposes.

59.—(1) A mine which has been opened on a date before the commencement of this Act (not being a date that falls more than 7 years before such commencement) shall not be rateable until the year after the year in which the mine shall have been opened for 7 years.

(2) An abandoned mine which has been reopened on a date before the commencement of this Act (not being a date that falls more than 7 years before such commencement) shall not be rateable until the year after the year in which the mine shall have been reopened for 7 years.

(3) A right to drill for and take away petroleum in respect of a particular oil pool, being a pool from which oil was first produced on a date before the commencement of this Act (“the date of first production”), not being a date that falls more than 20 years before such commencement, shall not be rateable until the 20th year from the date of first production.

(4) An apartment—

(a) which ceases to be used as part of an apart-hotel for a period of 12 months or less, and

(b) which, but for this subsection, would not be rateable during that period by reason of its being a domestic premises,

shall be rateable during that period, unless otherwise exempted from being rateable by virtue of this Act.

Evidence of valuation list.

60.—(1) A copy of a valuation list or part of such a list which is certified by an officer of the Commissioner, duly authorised by the Commissioner in that behalf, to be such a copy shall, until the contrary is proved, be regarded as a true copy of that list or part.

(2) The production to the Tribunal or a court of a document purporting to be a copy of a valuation list or part of such a list and to be certified as such a copy by an officer of the Commissioner shall, without proof of the signature of that officer or that he or she was an officer of the Commissioner duly authorised by the Commissioner to so certify the document, be sufficient evidence, until the contrary is proved, of the matters stated in the document.

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61.—(1) If a relevant property is situated partly in one rating authority area and partly in another rating authority area or areas, the Commissioner may, if he or she considers appropriate to do so, treat the property, for the purposes of this Act (including for the purposes of *subsection (2)*), as if the property—

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Relevant property constructed over boundary of rating authority area.

- (a) were situate in such one of those areas as he or she determines, or
- (b) in case the property is situate in more than 2 such areas (without prejudice to the power to treat it in the manner provided for by *paragraph (a)*), were situate in such lesser number of areas than it is in fact situate as he or she determines.

(2) In relation to relevant property that is situate in 2 or more rating authority areas, the Commissioner shall apportion between each of the rating authorities concerned the value of the property determined under this Act in such manner as he or she considers appropriate and so much of that value as is so apportioned to each such authority shall, accordingly, be the value of the part of the property situate in the area of the authority.

(3) Any provision of this Act conferring a power to issue a valuation certificate or a new valuation certificate shall, in relation to property that is the subject of an apportionment under *subsection (2)*, be construed as requiring that there be issued, on the occasion of the power being exercised, a separate such certificate to each rating authority in respect of which that apportionment is made.

(4) The value of the property which is stated in such a certificate shall be the value of the property as provided for in the apportionment under *subsection (2)*.

62.—(1) The Commissioner may, whenever he or she considers it appropriate to do so, revoke the appointment of an officer of the Commissioner made under—

Power to revoke certain appointments and appoint substitutes.

- (a) *section 19(2)* (which relates to valuation managers), or
- (b) *subsection (2)* or (3) of *section 28* (each of which relates to revision officers),

and appoint another officer of the Commissioner for the purpose concerned under *section 19(2)* or *subsection (2)* or (3) of *section 28*, as appropriate.

(2) An officer of the Commissioner appointed in succession to another such officer whose appointment under an aforesaid provision is so revoked may carry on and complete anything commenced by his or her predecessor.

(3) A reference in this Act to the valuation manager who secured the carrying out of a valuation under *section 19* shall—

- (a) if the power of revocation and appointment of another officer of the Commissioner referred to in *subsection (1)* has been exercised in relation to that particular office, be construed (unless the case falls within *paragraph (b)*) as a reference to the officer of the Commissioner who for the time being stands appointed under *section 19(2)* for the purpose concerned, and

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- (b) if the power of revocation as aforesaid has been exercised in relation to that particular office after the carrying out of the valuation to which the appointment revoked relates but before the completion of any act required by this Act to be done, or caused to be done, by that manager in consequence of the carrying out of that valuation, be deemed to be a reference to the officer of the Commissioner who for the time being stands appointed by the Commissioner to do or complete, or organise and secure the doing or completion of, that act (which appointment the Commissioner is hereby empowered to make).

Correctness of valuation list.

63.—(1) The statement of the value of property as appearing on a valuation list shall be deemed to be a correct statement of that value until it has been altered in accordance with the provisions of this Act.

(2) The omission from a valuation list of any matter or particular required by this Act to be entered therein or the presence of any inaccuracy in such a list shall not, of itself, deprive of its effect for the purposes of this Act, or any other enactment, any other matter or particular entered in that list.

(3) The fact that a valuation certificate or new valuation certificate, or a draft of such a certificate proposed to be issued to the person concerned—

- (a) has not been issued, as required by this Act, to the person concerned, or
- (b) has been issued in accordance with this Act to that person but has not been received by him or her,

shall not deprive of its effect for the purposes of this Act, or any other enactment, any matter or particular entered in the relevant valuation list.

Prosecutions.

64.—(1) Subject to *subsection (2)*, proceedings for an offence under this Act may be brought and prosecuted by the Commissioner.

(2) Proceedings for an offence under *paragraph 13(4) of Schedule 2* shall not be brought and prosecuted by the Commissioner save with the consent of the Director of Public Prosecutions.

(3) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.

Penalties.

65.—(1) A person guilty of an offence under this Act (other than under *paragraph 9 of Schedule 2*) shall be liable, on summary conviction, to a fine not exceeding £1,500.

(2) A person guilty of an offence under *paragraph 9 of Schedule 2* shall be liable, on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 6 months or both.

(3) If the contravention in respect of which a person is convicted of an offence under this Act is continued after the conviction, the person shall be guilty of a further offence on every day on which the

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contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding £250. Pr.13 S.65

66.—(1) A certificate, notice or other document under this Act shall, subject to *subsection (2)*, be addressed to the person concerned by name, and may be issued to, given to or, as the case may be, served on the person in one of the following ways: Issue of certificates, service of notices, etc.

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address,
- (d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the certificate, notice or other document relates to land, by delivering it to some person over 16 years of age resident or employed on the land or by affixing it in a conspicuous position on or near the land, or
- (e) by such other means as may be prescribed.

(2) Where a certificate, notice or other document under this Act is to be issued or given to, or served on, a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words the owner or, as the case may require, the occupier.

(3) A person who, at any time during the period of 3 months after a certificate, notice or other document is affixed under *subsection (1)(d)*, removes, damages or defaces the certificate, notice or other document without lawful authority shall be guilty of an offence.

(4) For the purposes of this section, a company shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

67.—(1) In this section “property concerned” means property referred to in *subsection (9)*. Valuation for certain purposes of property falling within *Schedule 4*.

(2) Notwithstanding the preceding sections of this Act, the Commissioner may, in relation to property concerned that falls within *Schedule 4* and for the purpose of the provision referred to in *subsection (9)*, on application being made to him or her in that behalf by a person who appears to the Commissioner to have a sufficient interest in the matter, cause the value of the property to be determined as if the property were relevant property rateable under this Act.

(3) The value of the property so determined shall be deemed to be the rateable valuation of the property within the meaning, and for the purpose, of the provision referred to in *subsection (9)*.

(4) The Commissioner shall issue to the person referred to in *subsection (2)* a certificate stating the value of the property referred to in that subsection as determined thereunder.

(5) The Commissioner shall, before deciding whether to accede to an application under *subsection (1)* in relation to property that appears on an existing valuation list which is for the time being in force, require the applicant to show cause why the valuation of the property appearing on that list will not suffice for the purpose of the provision referred to in *subsection (9)*.

(6) If an officer of the Commissioner, the Commissioner or the Tribunal, in dealing with an application or appeal referred to in *subsection (9)* of *section 57*, considers, having received a submission to that effect under and in accordance with that subsection, that—

- (a) the property, the subject of the application or appeal, is property concerned, and
- (b) the application or appeal ought to be dealt with under that subsection so as to secure a determination of the value of the property for the purpose of the provision referred to in *subsection (9)*,

he or she or it shall deal with the application or appeal under *subsection (9)* of *section 57* accordingly.

(7) The value of the property that is determined or confirmed by virtue of the property being so dealt with shall be deemed to be the rateable valuation of the property within the meaning, and for the purpose, of the provision referred to in *subsection (9)*.

(8) The officer of the Commissioner concerned or, in the case of an appeal referred to in *subsection (6)*, the Commissioner shall issue to the person who made the application or appeal referred to in that subsection a certificate stating the value of the property as determined or confirmed by virtue of its being dealt with in the manner referred to in that subsection.

(9) The provision mentioned in the preceding subsections of this section is any provision of a statute passed before the commencement of this Act, or of an instrument made under such a statute, which imposes as a condition or as one of the conditions for the enjoyment of, or the entitlement to, any right under the statute or instrument a condition expressed to relate to the rateable valuation of a property.

(10) In *subsection (9)* “statute” has the same meaning as it has in the Interpretation Act, 1937.

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SCHEDULE 1

Section 8.

ENACTMENTS REPEALED

Session and Chapter or Number and Year	Short Title	Extent of Repeal
1 & 2 Vict., c. 56	Poor Relief (Ireland) Act, 1838	Sections 63 and 64
6 & 7 Vict., c. 36	Scientific Societies Act, 1843	The whole Act
15 & 16 Vict., c. 63	Valuation (Ireland) Act, 1852	The whole Act (other than section 28)
17 Vict., c. 8	Valuation (Ireland) Amendment Act, 1854	The whole Act
23 Vict., c. 4	Annual Revision of Rateable Property (Ireland) Amendment Act, 1860	The whole Act
27 & 28 Vict., c. 52	Valuation of Rateable Property (Ireland) Act, 1864	The whole Act
37 & 38 Vict., c. 70	Valuation (Ireland) Amendment Act, 1874	The whole Act
52 & 53 Vict., c. 27	Advertising Stations (Rating) Act, 1889	The whole Act
57 & 58 Vict., c. 60	Merchant Shipping Act, 1894	Section 731 in so far as it relates to rates
1 Edw. VII, c. 37	Valuation (Ireland) Act, 1901	The whole Act
No. 27 of 1930	Local Government (Dublin) Act, 1930	Section 69 and the Second Schedule
No. 47 of 1931	Railways (Valuation for Rating) Act, 1931	The whole Act
No. 35 of 1934	Limerick City Management Act, 1934	Section 28 and the Second Schedule
No. 28 of 1937	Commissioner of Valuation (Substitute) Act, 1937	The whole Act
No. 21 of 1939	Air-raid Precautions Act, 1939	Section 59
No. 25 of 1939	Waterford City Management Act, 1939	Section 27 and the Schedule
No. 5 of 1941	Cork City Management (Amendment) Act, 1941	Section 19 and the First Schedule
No. 24 of 1946	Local Government Act, 1946	Sections 13 and 21 and the Second Schedule
No. 14 of 1959	Fisheries (Consolidation) Act, 1959	Section 55(6)
No. 7 of 1960	Petroleum and Other Minerals Development Act, 1960	Section 54
No. 35 of 1978	Local Government (Financial Provisions) Act, 1978	Section 3 in so far as it relates to a domestic hereditament, a community hall or a farm building
No. 2 of 1986	Valuation Act, 1986	The whole Act
No. 2 of 1988	Valuation Act, 1988	The whole Act
No. 11 of 1997	National Cultural Institutions Act, 1997	Section 64

SCHEDULE 2

Section 12.

THE VALUATION TRIBUNAL

1.—(1) The Tribunal shall consist of a chairperson and such number of deputy chairpersons (if any) and ordinary members as the Minister may determine from time to time, being such number as the Minister considers necessary for the performance by the Tribunal of its functions under this Act.

(2) The members of the Tribunal shall be appointed from time to time as occasion requires by the Minister and, subject to the provisions of this Act, shall hold office upon such terms and conditions as the Minister may determine at the time of their appointment.

(3) A person who was a member of the Tribunal immediately before the commencement of this Act shall continue in office as such a member for the remainder of the term of office for which he or she was appointed, unless he or she sooner dies or resigns from office.

(4) The term of office of a member of the Tribunal shall be such period not exceeding 5 years as the Minister may determine when appointing him or her and, subject to the provisions of this Act, a member of the Tribunal shall be eligible for re-appointment as such a member.

(5) A member of the Tribunal may at any time resign his or her office as such a member by letter addressed to the Minister and the resignation shall take effect on and from the date of receipt of the letter.

(6) Where a casual vacancy occurs among the members of the Tribunal, the Minister may, if he or she thinks it appropriate to do so, take such steps as are necessary to fill the vacancy and the person appointed to fill the vacancy shall hold office for the remainder of the term of office for which his or her predecessor was appointed.

(7) Members of the Tribunal shall be paid such remuneration (if any), and such allowances for expenses, as the Minister may from time to time determine.

(8) Where a member of the Tribunal is—

- (a) nominated as a member of Seanad Éireann, or
- (b) elected as a member of either House of the Oireachtas or to the European Parliament, or
- (c) regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having being elected to the European Parliament,

he or she shall thereupon cease to be a member of the Tribunal.

(9) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a member of the Tribunal.

2.—(1) The Minister shall from time to time as occasion requires appoint a member of the Tribunal to be chairperson thereof.

(2) Where a chairperson of the Tribunal ceases during his or her term of office as such chairperson to be a member of the Tribunal, he or she shall thereupon also cease to be chairperson of the Tribunal. SCH.2

(3) The chairperson of the Tribunal, shall, unless he or she sooner dies, resigns or otherwise ceases to be chairperson, hold office as such chairperson until the expiration of his or her term of office as a member of the Tribunal but, if he or she is re-appointed as a member of the Tribunal, he or she shall be eligible for re-appointment as chairperson of the Tribunal.

3.—(1) The Minister shall from time to time as occasion requires appoint a member of the Tribunal to be a deputy chairperson thereof.

(2) Where a deputy chairperson of the Tribunal ceases during his or her term of office as such deputy chairperson to be a member of the Tribunal, he or she shall thereupon also cease to be deputy chairperson of the Tribunal.

(3) A deputy chairperson of the Tribunal shall, unless he or she sooner dies, resigns or otherwise ceases to be a deputy chairperson, hold office as such deputy chairperson until the expiration of his or her term of office as a member of the Tribunal but, if he or she is re-appointed as a member of the Tribunal, he or she shall be eligible for re-appointment as a deputy chairperson of the Tribunal.

(4) Whenever the chairperson of the Tribunal is of the opinion that for the speedy dispatch of the business of the Tribunal it is expedient that the Tribunal should act by divisions, he or she may direct accordingly and if he or she directs, then, until he or she revokes his or her direction:

- (a) the Tribunal may act by such number of divisions as may be determined by the chairperson of the Tribunal from time to time;
- (b) a division of the Tribunal shall consist of 3 members of the Tribunal chosen by the chairperson of the Tribunal of whom at least one shall be the chairperson or a deputy chairperson of the Tribunal;
- (c) the chairperson of the Tribunal shall assign to a division of the Tribunal the appeals to be determined by it;
- (d) the chairperson of a division of the Tribunal shall be the person who is the chairperson of the Tribunal or, if the chairperson of the Tribunal is not a member of the division, the member thereof who is a deputy chairperson of the Tribunal; and
- (e) for the purposes of an appeal assigned to it, a division of the Tribunal shall have all the powers of the Tribunal and the chairperson of a division of the Tribunal shall have all the powers of the chairperson of the Tribunal and references in this Act to the Tribunal and the chairperson of the Tribunal shall be construed as including references to a division and the chairperson of a division, respectively.

4.—(1) If and whenever the number of members of the Tribunal is 3, an appeal to the Tribunal shall be heard and determined by the 3 members.

(2) If and whenever the number of members of the Tribunal is more than 3 and a direction under *paragraph 3(4)* of this Schedule is not in force, an appeal to the Tribunal shall be heard and determined by 3 members thereof chosen by the chairperson of the Tribunal and, if the chairperson of the Tribunal is not among the members thereof chosen to hear and determine the appeal, one of those members chosen by the chairperson of the Tribunal shall act as chairperson thereof.

(3) The Tribunal shall issue a written judgement setting forth the reasons for its determination in each appeal.

5.—(1) The Tribunal shall hold sittings and at the sittings may take evidence and may receive submissions by or on behalf of the appellant and the respondent in an appeal under this Act and any other person appearing to the Tribunal to have an interest in or to be likely to be affected by the determination of the appeal.

(2) Sittings of the Tribunal shall be held in private.

6.—A witness whose evidence has been, is being or is to be given before the Tribunal shall be entitled to the same privileges and immunities as a witness in a court.

7.—A determination of the Tribunal at or in relation to an appeal may be that of a majority of the members hearing the appeal.

8.—The chairperson of the Tribunal may—

- (a) direct in writing a person whose evidence is required by the Tribunal to attend before the Tribunal on a date and at a time and place specified in the direction and there to give evidence and to produce any document or thing in his or her possession or power specified in the direction,
- (b) direct any such person to produce to him or her any specified document or thing in his or her possession or power,
- (c) give any other directions for the purpose of an appeal that appear to him or her reasonable and just.

9.—A person who—

- (a) having been directed under *paragraph 8* of this Schedule to attend before the Tribunal and having had tendered to him or her any sum in respect of the expenses of his or her attendance which a witness summoned to attend before the District Court would be entitled to have tendered to him or her, without just cause or excuse disobeys the direction,
- (b) being in attendance before the Tribunal pursuant to a direction under the said *paragraph 8*, refuses to take the oath on being required by the Tribunal to do so or refuses to answer any question to which the Tribunal may lawfully require an answer,
- (c) without just cause or excuse disobeys a direction under *subparagraph (a)* of the said *paragraph 8* in relation to the giving of evidence or the production of a document or thing or a direction under *subparagraph (b)* or *(c)* of the said *paragraph 8*, or

- (d) does any other thing in relation to the proceedings before the Tribunal which, if done in relation to proceedings before a court by a witness in the court, would be contempt of the court, SCH.2

shall be guilty of an offence.

10.—If a person gives false evidence before the Tribunal in such circumstances that, if he or she had given the evidence before a court, he or she would be guilty of perjury, he or she shall be guilty of that offence.

11.—(1) The procedure of the Tribunal shall, subject to the provisions of this Act, be such as shall be determined by the Tribunal by rules made by it with the consent of the Minister and the rules shall, without prejudice to the generality of the foregoing, make provision for—

- (a) notifying the persons concerned of the date, time and place of the relevant sitting of the Tribunal,
- (b) enabling the persons concerned to present their cases to the Tribunal in person or through a representative,
- (c) the examination (on oath or otherwise as the Tribunal may determine) of witnesses before the Tribunal by the Tribunal,
- (d) the examination and cross-examination (on oath or otherwise as the Tribunal may determine) of witnesses before the Tribunal by or on behalf of the persons concerned,
- (e) the determination by the Tribunal whether evidence at the Tribunal should be given on oath,
- (f) the administration by the chairperson of the Tribunal of the oath to witnesses before the Tribunal,
- (g) the giving of a notice in writing to every interested party of every determination of the Tribunal in relation to an appeal to it, and
- (h) the making of a sufficient record of the proceedings of the Tribunal.

(2) A notice of appeal to the Tribunal shall be in such form as is prescribed by rules made under this paragraph.

(3) Rules made under paragraph 11 of the First Schedule to the Act of 1988 that were in force immediately before the commencement of this Act shall continue in force, subject to the modifications of their effect provided for in *subparagraph (4)* of this paragraph, as if they were made under this paragraph and may be amended or revoked accordingly.

(4) The modifications mentioned in *subparagraph (3)* of this paragraph are—

- (a) the substitution in the rules concerned for references to a provision of the repealed enactments of references to the corresponding provision of this Act, and

- (b) any other modifications necessary to ensure that the operation of the rules are consistent with this Act.

12.—(1) Subject to *subparagraph (3)* of this paragraph, the Tribunal may order that the costs and expenses of a person concerned in an appeal to it under this Act in respect of the appeal should be paid by another person concerned in the appeal, may determine the amount of any such costs and expenses and shall, unless there is good reason for not doing so, order that the costs and expenses of a successful appellant or respondent in an appeal to the Tribunal under this Act in respect of the appeal shall be paid by the unsuccessful respondent or appellant, as the case may be, in the appeal.

(2) The amount of the costs and expenses of a person, ordered by the Tribunal under this paragraph to be paid to the person, may be recovered as a simple contract debt in any court of competent jurisdiction by that person from the person ordered by the Tribunal to pay them.

(3) The Tribunal shall not order that the costs and expenses of an appellant or respondent in an appeal to it under this Act shall be paid by an owner or occupier of relevant property other than that to which the appeal relates.

13.—(1) Where a member of the Tribunal has a beneficial interest in property which is the subject of an appeal to the Tribunal under this Act or in any other property affected, or likely to be affected, by such an appeal, or has any other interest in the appeal which would be likely to influence him or her in relation to the determination of the appeal, the member shall—

- (a) disclose to the Tribunal the nature of his or her interest,
- (b) take no part in the discussion on, or the consideration of, the appeal,
- (c) neither vote nor otherwise act as a member of the Tribunal in relation to the determination of the appeal.

(2) For the purposes of this paragraph, a member of the Tribunal shall be regarded as having a beneficial interest in property if—

- (a) he or she or his or her spouse is the owner or occupier of the property or the part owner or part occupier, whether as joint tenant, tenant-in-common or otherwise, with one or more other persons of the property, or
- (b) he or she or his or her spouse is connected with the owner or occupier of the property or is an employer or employee or principal or agent of, or a trustee or caretaker of the property for, the owner or occupier thereof, or a person connected with such owner or occupier.

(3) For the purposes of this paragraph, an interest in property which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the person having it shall not be regarded as a beneficial interest in the property.

(4) A person who contravenes or fails to comply with a requirement of this paragraph shall be guilty of an offence.

(5) In any proceedings for an offence under *subparagraph (4)* of this paragraph, it shall be a defence for the person charged with the

offence to prove that, at the time of the alleged offence, he or she did not know and had no reason to believe— SCH.2

(a) that he or she had a beneficial interest in the property concerned, or

(b) that the beneficial interest to which the alleged offence relates was one in relation to which a requirement of this paragraph applied.

(6) A member of the Tribunal who is convicted of an offence under *subparagraph (4)* of this paragraph shall, on such conviction, cease to be such a member.

(7) Where a person who has a beneficial interest in property to which an appeal to the Tribunal under this Act relates contravenes or fails to comply with a requirement of this paragraph, such contravention or failure shall render invalid the determination of the appeal.

(8) Where a determination by the Tribunal of an appeal under this Act is rendered invalid by virtue of *subparagraph (7)* of this paragraph, the appeal shall be determined again by the Tribunal.

(9) Any question whether a person is connected with another, for the purposes of *subparagraph (2)* of this paragraph, shall be determined in accordance with the following provisions of this subparagraph (any provision that one person is connected with another person being taken to mean also that that other person is connected with the first-mentioned person):

(a) a person is connected with an individual if that person is a relative of the individual,

(b) a person, in his or her capacity as a trustee of a trust (whether of the property referred to in *subparagraph (2)(b)* of this paragraph or not), is connected with an individual who or any of whose children, or as respects whom any body corporate which he or she controls, is a beneficiary of the trust,

(c) a person is connected with any person with whom he or she is in partnership,

(d) a company is connected with another person if that person has control of it or if that person and persons connected with that person together have control of it,

(e) any 2 or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

(10) In *subparagraph (9)* of this paragraph—

“control” has the meaning assigned to it by section 432 of the Taxes Consolidation Act, 1997, and any cognate words shall be construed accordingly;

“relative”, in relation to a person, means a brother, sister, parent or spouse of the person or a child of the person or of the spouse.

(11) For the purposes of *subparagraphs (2)* and *(9)* of this paragraph, “spouse”, in relation to a person, does not include a spouse who is living separately and apart from the person.

SCHEDULE 3

RELEVANT PROPERTY

1.—Property (of whatever estate or tenure) which falls within any of the following categories and complies with the condition referred to in *paragraph 2* of this Schedule shall be relevant property for the purposes of this Act:

- (a) buildings,
- (b) lands used or developed for any purpose (irrespective of whether such lands are surfaced) and any constructions affixed thereto which pertain to that use or development,
- (c) railways and tramways, including running line property and non-running line property,
- (d) harbours, piers, docks and fixed moorings,
- (e) mines, quarries, pits and wells,
- (f) rights of fishery,
- (g) profits *à prendre*, other than rights of fishery,
- (h) tolls,
- (i) easements and other rights over land,
- (j) rights to drill for and take away petroleum,
- (k) canals, navigations and rights of navigation,
- (l) advertising stations and land and any buildings used as advertising stations,
- (m) electricity generating stations, including where appropriate—
 - (i) all buildings and structures,
 - (ii) all tanks, including fuel oil tanks, water tanks and chemical tanks,
 - (iii) boilers, furnaces and ancillary fuel handling equipment,
 - (iv) cooling water inlet and outlet facilities, including pump-houses, culverts, pipe-works, weirs and outfall works,
 - (v) natural gas installations,
 - (vi) effluent disposal works, including chimneys and treatment plant,
 - (vii) wind generators, turbines and generators, together with ancillary plant and electrical equipment, including transformers,
 - (viii) docks, cooling towers, embankments, canals (head race, tail race), locks, penstocks and surge tanks,

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- (ix) dams, weirs, bridges, jetties, railways, roads and SCH.3 reservoirs,
- (x) all ancillary on site developments,
- (xi) all electric lines.
- (n) the entire networks subsumed in an undertaking including, as the case may be—
 - (i) signal transmission and reception equipment, all associated masts, lines, cables, posts, pylons, supports, brackets, ducting, tubing and all equipment necessary for normal effective functioning of the networks up to the supply point for each individual consumer,
 - (ii) all pipeline networks and systems, including pressurising and pressure reducing equipment, together with associated site developments,
 - (iii) storage and containment facilities, including tanks, silos or other plant or developments used for the storage and for containment of any substance whether solid or fluid (liquid or gaseous),
 - (iv) gas works, gas pipelines and natural gas terminals,
 - (v) telecommunications, radio and television relay and rediffusion networks, including lines, cables and ancillary appendages necessary for the working of such networks,
 - (vi) electricity transformer stations, including—
 - (I) all buildings and structures,
 - (II) all site developments,
 - (III) transformers,
 - (IV) electrical equipment, including switchgear, circuit breakers and associated developments,
 - (V) all electric lines,
 - (vii) electric lines (within the meaning of the Electricity (Supply) Act, 1927, as amended by section 46 of the Electricity (Supply) (Amendment) Act, 1945), including transmission and distribution networks and consumer service mains and networks on, over, or under ground, together with lines and cables with their respective supports (including poles, pylons and brackets), culverts, cuttings, ductings and pole transformers, used in association with those electricity conductors,
- (o) any building or part of a building or lands or waterways or harbours directly occupied by the State, including lands or buildings occupied by any Department or office of State, the Defence Forces or the Garda Síochána or used as a prison or place of detention.

2.—The condition mentioned in *paragraph 1* of this Schedule is that the property concerned—

- (a) is occupied and the nature of that occupation is such as to constitute rateable occupation of the property, that is to say, occupation of the nature which, under the enactments in force immediately before the commencement of this Act (whether repealed enactments or not), was a prerequisite for the making of a rate in respect of occupied property, or
- (b) is unoccupied but capable of being the subject of rateable occupation by the owner of the property.

RELEVANT PROPERTY NOT RATEABLE

- 1.—Agricultural land.
- 2.—Land developed for horticulture.
- 3.—Land developed for forestry.
- 4.—Land developed for sport.
- 5.—Farm buildings.
- 6.—Any domestic premises (but subject to *section 59(4)* (which provides that apartments are rateable in certain limited circumstances)).
- 7.—Any land, building or part of a building used exclusively for the purposes of public religious worship.
- 8.—Any land, building or part of a building used by a body for the purposes of caring for sick persons, for the treatment of illnesses or as a maternity hospital, being either—
 - (a) a body which is not established and the affairs of which are not conducted for the purpose of making a private profit from an activity as aforesaid, or
 - (b) a body the expenses incurred by which in carrying on an activity as aforesaid are defrayed wholly or mainly out of moneys provided by the Exchequer and the care or treatment provided by which is made available to the general public (whether with or without a charge being made therefor).
- 9.—Any burial ground or crematorium which is not established or operated for the purposes of making a private profit and the income derived from the operation of which is used wholly to defray the expenses (including expenses of a capital nature) incurred in its operation.
- 10.—Any land, building or part of a building occupied by a school, college, university, institute of technology or any other educational institution and used exclusively by it for the provision of the educational services referred to subsequently in this paragraph and otherwise than for private profit, being a school, college, university, institute of technology or other educational institution as respects which the following conditions are complied with—
 - (a) (i) it is not established and the affairs of it are not conducted for the purposes of making a private profit, or
 - (ii) the expenses incurred by it in providing the educational services concerned are defrayed wholly or mainly out of moneys provided by the Exchequer,and
 - (b) in either case it makes the educational services concerned available to the general public (whether with or without a charge being made therefor).
- 11.—Any art gallery, museum, library, park or national monument which is normally open to the general public and which is not established or maintained for the purpose of making a private profit.

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12.—Property (whether falling within *paragraph 11* or not) occupied by—

- (a) the National Museum of Ireland,
- (b) the National Library of Ireland,
- (c) the National Gallery of Ireland,
- (d) the Irish Museum of Modern Art Company,
- (e) the Arts Council,
- (f) the Heritage Council,
- (g) the National Concert Hall Company,
- (h) the Chester Beatty Library, or
- (i) the National Theatre Society Limited.

13.—Any buoy, beacon or lighthouse.

14.—Any land, building or part of a building occupied for the purpose of caring for elderly, handicapped or disabled persons by a body, being either—

- (a) a body which is not established and the affairs of which are not conducted for the purpose of making a private profit from an activity as aforesaid, or
- (b) a body the expenses incurred by which in carrying on an activity as aforesaid are defrayed wholly or mainly out of moneys provided by the Exchequer.

15.—Any building or part of a building used exclusively as a community hall.

16.—Any land, building or part of a building which is occupied by a body, being either—

- (a) a charitable organisation that uses the land, building or part exclusively for charitable purposes and otherwise than for private profit, or
- (b) a body which is not established and the affairs of which are not conducted for the purpose of making a private profit and—
 - (i) the principal activity of which is the conservation of the natural and built endowments in the State, and
 - (ii) the land, building or part is used exclusively by it for the purpose of that activity and otherwise than for private profit.

17.—Any land, building or part of a building occupied by a society established for the advancement of science, literature or the fine arts and which is used exclusively for that purpose and otherwise than for private profit.

18.—Any turf bog or turf bank used exclusively for the purpose of cutting turf or for making turf mould therefrom for fuel or manure.

19.—(1) Any building or part of a building occupied by a member of either House of the Oireachtas or a representative in the European Parliament which is used exclusively for the purposes of accommodating his or her constituency office and the whole or part of the expenses incurred in maintaining that accommodation are defrayed by that member or representative. SCH.4

(2) In this paragraph “constituency office” means an office which is used solely for the provision of representative services by the member of the House of the Oireachtas or representative in the European Parliament concerned in his or her capacity as such a member or representative but does not include the head office of a political party or any other office occupied by a political party.

SCHEDULE 5

Section 51.

PLANT REFERRED TO IN *SECTION 51*

1.—All constructions affixed to a relevant property (whether on or below the ground) and used for the containment of a substance or for the transmission of a substance or electric current, including any such constructions which are designed or used primarily for storage or containment (whether or not the purpose of such containment is to allow a natural or a chemical process to take place), but excluding any such constructions which are designed or used primarily to induce a process of change in the substance contained or transmitted.

2.—All fixed furnaces, boilers, ovens and kilns.

3.—All ponds and reservoirs.