



LOCAL GOVERNMENT AMENDMENT (RATES AND CHARGES) ACT 1995

No. 8 of 1995

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LOCAL GOVERNMENT AMENDMENT (RATES AND CHARGES) ACT 1995

No. 8 of 1995

AN ACT to amend the *Local Government Act 1993*

[Royal Assent 23 May 1995]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title

1—This Act may be cited as the *Local Government Amendment (Rates and Charges) Act 1995*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

3—In this Act, the *Local Government Act 1993** is referred to as the Principal Act.

Section 71 amended (Operational plan)

4—Section 71 (2) of the Principal Act is amended as follows:—

- (a) by omitting from paragraph (e) “area.” and substituting “area.”;
- (b) by inserting the following paragraph after paragraph (e):—
 - (f) any prescribed matter.

Section 86 amended (Interpretation of Part 9)

5—Section 86 of the Principal Act is amended as follows:—

- (a) by omitting the definition of “rate” and substituting the following definitions:—

“rate” means a general rate, separate rate, construction rate and service rate and includes—

- (a) for the purposes of Division 9, a charge made under this Part; and
- (b) for the purposes of Divisions 10 and 11—
 - (i) a charge made under this Part; and
 - (ii) any penalty imposed and interest charged under section 128;

“rates notice” means—

- (a) a supplementary notice under section 92; and
- (b) a notice under section 122;

* No. 95 of 1993. Amended by No. 82 of 1994 and by S.R. 1994, Nos. 2, 24 and 232.

- (b) by omitting “section 93.” from the definition of “service rate” and substituting “section 93;”;
- (c) by inserting the following definition after the definition of “service rate”:—

“supplementary valuation” means a supplementary valuation made under the *Land Valuation Act 1971*.

Section 89 amended (Adjustments to values)

6—Section 89 of the Principal Act is amended as follows:—

- (a) by inserting “(1)” before “The”;
- (b) by inserting “or in a municipal area any boundary of which has been adjusted” after “area” first occurring;
- (c) by adding the following subsection:—
 - (2) Any adjustment made under subsection (1) applies until a fresh valuation is made in respect of the municipal area under the *Land Valuation Act 1971*.

Section 90 amended (General rate)

7—Section 90 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “a general rate for that financial year on rateable land” and substituting “one general rate for that year on all rateable land in its municipal area”;
- (b) by inserting in subsection (3) “categories of” after “following”;
- (c) by inserting the following subsection after subsection (3):—
 - (4) In making a general rate, a council may set a minimum amount payable in respect of that rate if that rate does not include a fixed charge.

Section 92 substituted

8—Section 92 of the Principal Act is repealed and the following section is inserted in Division 2 of Part 9:—

Adjustment of amount payable

92—(1) If, during a financial year, a supplementary valuation is made of any land, a council may adjust the amount payable in respect of any rate for that land for that financial year.

(2) The general manager is to issue a supplementary notice in accordance with section 122 in respect of any amount payable as a result of an adjustment under this section.

(3) The general manager may refund or give credit for any amount paid in respect of a rate in excess of the amount payable as a result of an adjustment under this section.

Section 93 amended (Service rate)

9—Section 93 of the Principal Act is amended as follows:—

(a) by omitting subsection (1) and substituting the following subsection:—

(1) A council may make a service rate for a financial year on rateable land for any, all or a combination of the following services:—

- (a) water supply;
- (b) sewage removal;
- (c) nightsoil removal;
- (d) waste management;
- (e) stormwater removal;
- (f) fire protection;
- (g) any other prescribed service.

(b) by inserting in subsection (2) “category of” after “same”;

(c) by inserting the following subsections after subsection (2):—

(3) In making a service rate, a council may set a minimum amount payable in respect of that rate.

(4) A council must not make a service rate for a service referred to in subsection (1) in respect of Crown land if the council does not supply that service to that land.

(5) In subsection (4) “**Crown land**” means land owned by the Crown which is—

(a) unoccupied; or

(b) occupied exclusively for public purposes, other than under the *Homes Act 1935*.

Section 94 amended (Service charge)

10—Section 94 of the Principal Act is amended as follows:—

(a) by inserting in subsection (1) “which the council supplies or makes available” after “that section”;

(b) by omitting subsection (2) and substituting the following subsections:—

(2) A council may make a service charge in respect of the amount of water supplied by the council.

(3) A council may, by absolute majority, declare that a service charge varies within different parts of the municipal area according to any or all of the factors specified in section 107.

(4) A council must not make a service charge for a service referred to in section 93 (1) in respect of Crown land if the council does not supply that service to that land.

(5) In subsection (4) “**Crown land**” means land owned by the Crown which is—

(a) unoccupied; or

(b) occupied exclusively for public purposes, other than under the *Homes Act 1935*.

Section 95 amended (General provisions)

11—Section 95 of the Principal Act is amended by omitting subsection (4) and substituting the following subsections:—

(4) If the service rate or service charge for the supply of water is not paid by the date on which it is due—

(a) a council may restrict the supply of water; and

(b) any costs incurred in restricting that supply are payable by the person liable to pay the service rate or service charge for that supply.

(5) A council may only restrict the supply of water after it has given notice in writing to the occupier at least 24 hours before it intends to do so.

Section 100 amended (Separate rate)

12—Section 100 (4) of the Principal Act is amended by inserting “category of” after “same”.

Section 101 amended (Intention to make separate rate)

13—Section 101 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

(1) Before the council makes a separate rate, the general manager is to—

(a) make all reasonable attempts to notify all ratepayers likely to be affected by the making of the rate; and

(b) notify the council’s intention to make the rate in a daily newspaper circulating in the municipal area.

Section 107 amended (Variation in rates)

14—Section 107 (1) of the Principal Act is amended by inserting “or a service rate” after “rate”.

Section 117 repealed

15—Section 117 of the Principal Act is repealed.

Section 122 amended (Rates notice)

16—Section 122 of the Principal Act is amended by omitting paragraph (n) and substituting the following paragraph:—

(n) if a minimum amount is payable, that minimum amount.

Section 124 amended (Instalment payments)

17—Section 124 (5) of the Principal Act is amended by omitting “the first” and substituting “any”.

Section 126 amended (Conditions of postponement)

18—Section 126 (2) (a) of the Principal Act is amended by omitting “council; or” and substituting “council; and”.

Section 128 amended (Late payments)

19—Section 128 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1) (c) “as specified in paragraphs (a) and (b)” after “interest”;
- (b) by inserting in subsection (2) “ten-year” after “official” in the expression “LTB”;
- (c) by omitting from subsection (2) “1 July” and substituting “1 March” in the expression “LTB”.

Section 129 amended (Remission of rates)

20—Section 129 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1) “or any penalty imposed or interest charged under section 128” after “ratepayer” second occurring;
- (b) by omitting from subsection (3) “paid” and substituting “, penalty or interest paid or payable”;
- (c) by inserting in subsection (4) “, penalty or interest” after “rates”.

Section 133 amended (Recovery of rates)

21—Section 133 (1) of the Principal Act is amended by omitting paragraph (b).

Section 136 amended (Indemnity)

22—Section 136 of the Principal Act is amended by omitting subsection (3).

Rates and charges

23—(1) Any rates or charges made by a council between 1 September 1994 and the commencement of this Act are valid as if they had been made in accordance with section 90 (1) of the Principal Act.

(2) Any rate made by a council on or after 17 January 1994 until the commencement of this Act under section 90 of the Principal Act based on a supplementary valuation under the *Land Valuation Act 1971* is valid.

(3) Any separate rate made by a council under the *Local Government Act 1962* before 17 January 1994 is valid until the earlier of the following dates:—

- (a) the date on which the separate rate ceases to apply;
- (b) 30 June 1996.

Local Government (Building and Miscellaneous Provisions) Act 1993 amended

24—The *Local Government (Building and Miscellaneous Provisions) Act 1993* is amended by omitting Division 2 of Part 6.

[*Second reading presentation speech made in:—
House of Assembly on 4 May 1995
Legislative Council on 12 April 1995*]

