

HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (PAYMENT OF RATES) AMENDMENT
ACT.

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 69, 1971.

An Act to require water, sewerage and drainage rates payable by certain classes of pensioners to be reduced; to validate certain matters; for these and other purposes to amend the Hunter District Water, Sewerage and Drainage Act, 1938; and for purposes connected therewith. [Assented to, 21st December, 1971.]

BE

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Hunter District Water, Sewerage and Drainage (Payment of Rates) Amendment Act, 1971".

Amendment of Act No. 11, 1938.
New sec. 104A.

Reduction of rates payable by certain classes of pensioners.

2. (1) The Hunter District Water, Sewerage and Drainage Act, 1938, is amended by inserting next after section one hundred and four the following new section:—

104A. (1) In this section—

"dwelling" means a building or part of a building used as a place of abode, but does not include a flat;

"eligible pensioner", in relation to a rate levied on land on which a dwelling, or on land on which a residential flat building containing a flat, is situated means—

(a) (i) a person who is in receipt of a pension under Part III or Part IV of the Social Services Consolidation Act 1947, as amended by subsequent Acts, of the Parliament of the Commonwealth; or

(ii) a person who is in receipt of a service pension under Division 5 of Part III of the Repatriation Act 1920, as amended by subsequent Acts, of the Parliament of the Commonwealth,

and who is the holder of a pensioner medical service entitlement card issued by the Commonwealth Department of Social Services;

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(b) a person who is in receipt of a pension No. 69, 1971 under Part III of the Repatriation Act 1920, as amended by subsequent Acts, of the Parliament of the Commonwealth as—

- (i) the widow of a member of the Forces;
- (ii) the unmarried mother of a deceased unmarried member of the Forces; or
- (iii) the widowed mother of a deceased unmarried member of the Forces,

and either—

- (iv) who is the holder of a pensioner medical service entitlement card issued by the Commonwealth Department of Social Services; or
- (v) whose assets and income are such as, if that person were a pensioner of the kind referred to in subparagraph (i) of paragraph (a) of this definition, would entitle that person to be the holder of a pensioner medical service entitlement card issued by the Commonwealth Department of Social Services; and

(c) a person who, under Part III of the Repatriation Act 1920, as amended by subsequent Acts, of the Parliament of the Commonwealth, is in receipt of a special pension referred to in the Second Schedule to that Act,

being a person who occupies that dwelling or flat as his or her sole or principal place of abode;

“flat”

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“flat” means a part of a residential flat building used as a place of abode and situated on land in respect of which a company is the ratable person, but does not include a lot under the Conveyancing (Strata Titles) Act, 1961;

“ratable person” and “person ratable” mean a person liable under this Act to pay a rate;

“rating contribution”, in relation to a flat, means the contribution to a rate which, under the articles of association of the company which is the ratable person in respect of the land on which the residential flat building containing that flat is situated, is required to be paid under those articles of association by the person entitled to possession of that flat;

“rating year” in relation to a rate means the period of twelve months commencing on the first day of July in any year for which that rate is levied;

“residential flat building” means a building containing two or more flats, but does not include a row of two or more dwellings attached to each other such as are commonly known as semi-detached or terrace buildings.

(2) A reference in this section—

(a) to a jointly eligible occupier is, in relation to a rate in respect of which an eligible pensioner is jointly ratable or in relation to a rating contribution in respect of which an eligible pensioner is jointly liable, a reference to a person who—

- (i) is the spouse of that eligible pensioner;
- (ii) is another eligible pensioner; or
- (iii) where another eligible pensioner and his or her spouse have the same sole or principal place of abode, is the spouse of that other eligible pensioner,

and

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and whose sole or principal place of abode is the No. 69, 1971
same as that of that firstmentioned eligible
pensioner; and

(b) to a water rate levied under this Act includes a
reference to a drainage rate levied in conjunction
with that rate.

(3) Where, on the day on which a rate is, for
the year commencing on the first day of July in the year
one thousand nine hundred and seventy-one or in any
subsequent year, levied on land on which is situated a
dwelling, the board is satisfied that an eligible pensioner
is the person solely ratable, or a person jointly ratable
with one or more other persons, in respect of that rate,
that rate shall, upon application being made to the board
in respect of that rate and upon production to the board
of evidence sufficient to enable it to calculate the amount
of the reduction, be reduced in accordance with
subsection four of this section.

(4) The amount by which a rate is required
to be reduced by subsection three of this section is—

(a) where the person making the application under
that subsection is, on the date on which he makes
the application, an eligible pensioner and, in
respect of that rate, solely ratable or jointly
ratable with one or more jointly eligible
occupiers but with no other person and—

(i) the applicant is in respect of another
rate leviable in the same rating year in
respect of the same land solely ratable
or so jointly ratable—one-half of the
aggregate of that rate and the other rate
or eighty dollars, whichever is the lesser;
or

(ii) the applicant is solely ratable or so
jointly ratable in respect only of a water
rate—one-half of that water rate or forty
dollars, whichever is the lesser; or

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(b) where the person making the application under that subsection is, on the date on which he makes the application, an eligible pensioner and, in respect of that rate, jointly ratable with one other person who is not a jointly eligible occupier, or with two or more other persons, any of whom is not a jointly eligible occupier and—

- (i) the applicant is in respect of another rate leivable in the same rating year in respect of the same land so jointly ratable—an amount that bears to one-half of the sum of those rates the same proportion as the part of those rates for which, as between all persons liable to pay those rates, the applicant and any jointly eligible occupier are liable bears to the sum of those rates or eighty dollars, whichever is the lesser; or
- (ii) the applicant is so jointly ratable in respect only of a water rate—an amount that bears to one-half of that rate the same proportion as the part of that rate for which, as between all persons liable to pay that rate, the applicant and any jointly eligible occupier are liable bears to that rate or forty dollars, whichever is the lesser.

(5) Where, on the day on which a rate is, for the year commencing on the first day of July in the year one thousand nine hundred and seventy-one or in any subsequent year, levied on land on which is situated a residential flat building containing a flat—

- (a) a company is the ratable person in respect of that rate; and

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(b) the board is satisfied—

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- (i) that an eligible pensioner is, by reason of his holding, alone or with other persons, shares in that company, entitled to possession of that flat; and
- (ii) that that eligible pensioner is solely liable, or jointly liable with another shareholder or other shareholders so entitled, to make, in respect of that flat, a rating contribution towards the payment of that rate,

that rate shall, upon application being made to the board in respect of that rate and upon production to the board of evidence sufficient to enable it to calculate the amount of the reduction, be reduced in accordance with subsection six of this section.

(6) The amount by which a rate is required to be reduced by subsection five of this section is—

- (a) where the person making the application under that subsection is, on the date on which he makes the application, an eligible pensioner and, in respect of the rating contribution, solely liable or jointly liable with one or more jointly eligible occupiers but with no other person and—
 - (i) the applicant is in respect of another rate leviable in the same rating year in respect of the same land solely liable or so jointly liable in respect of a rating contribution relating to that other rate— one-half of the rating contribution in respect of that and that other rate or eighty dollars, whichever is the lesser; or
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(ii) the rating contribution is in respect only of a water rate—one-half of the rating contribution in respect of that water rate or forty dollars, whichever is the lesser; or

(b) where the person making the application under that subsection is, on the date on which he makes the application, an eligible pensioner and, in respect of the rating contribution, jointly liable with one other person who is not a jointly eligible occupier or with two or more other persons, any of whom is not a jointly eligible occupier and—

(i) the applicant is in respect of another rate leviable in the same rating year in respect of the same land so jointly liable in respect of a rating contribution relating to that other rate—an amount that bears to one-half of the sum of those rates the same proportion as the part of those rating contributions for which, as between all persons liable to pay those rating contributions, the applicant and any jointly eligible occupier are liable bears to the sum of those rates or eighty dollars, whichever is the lesser; or

(ii) the rating contribution is in respect only of a water rate—an amount that bears to one-half of that rate the same proportion as the part of that rating contribution for which, as between all persons liable to pay that rating contribution, the applicant and any jointly eligible occupier are liable bears to that rate or forty dollars, whichever is the lesser.

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(7) A person who is an eligible pensioner or No. 69, 1971 a jointly eligible occupier is—

- (a) to the extent to which any rate that, but for this section, would be payable by him is reduced under subsection three of this section, discharged from liability as between that person and any other person jointly liable to pay that rate; and
- (b) to the extent to which any rate in respect of which he would, but for this section, be liable to pay a rating contribution is reduced under subsection five of this section, discharged from liability—
 - (i) as between that person and any other person jointly liable to pay that rating contribution; and
 - (ii) for the payment of that rating contribution.

(8) Where the Minister deems it proper to do so to avoid hardship, he may, by order, direct that—

- (a) a person specified in the order—
 - (i) who occupies a dwelling or flat as his sole or principal place of abode, which dwelling or flat is the sole or principal place of abode of an eligible pensioner;
 - (ii) who is jointly ratable with that eligible pensioner or with that eligible pensioner and one or more other persons in respect of the land on which that dwelling is situated or is jointly liable with that eligible pensioner or with that eligible pensioner and one or more other persons to pay a rating contribution in respect of that flat; and

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(iii) in respect of whom a reduction of rates would not, if that person were solely ratable in respect of that land or solely liable in respect of that rating contribution, be required to be made under subsection three or five of this section; or

(b) any person belonging to a class of persons specified in the order, being persons referred to in paragraph (a) of this subsection,

shall, on and from the effective date of the order, be deemed, for the purposes of this section, to be or to have been an eligible pensioner, and any such order shall have effect according to its tenor.

(9) Where the Minister deems it proper to do so to avoid hardship, he may, by order, direct that—

(a) a person specified in the order—

(i) who occupies a dwelling or flat as his sole or principal place of abode;

(ii) who, although not liable, or although liable jointly with one or more other persons, to do so, has, for such period as, in the opinion of the Minister, warrants the making of an order under this subsection in respect of that person, paid the whole of the rates in respect of the land on which that dwelling is situated or the whole of the rating contributions in respect of that flat or is, in the opinion of the Minister, likely to pay the whole of those rates or the whole of those rating contributions in circumstances that in the opinion of the Minister warrant the making of an order under this subsection; and

(iii) who is an eligible pensioner; or

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(b) any person belonging to a class of persons specified in the order being persons referred to in paragraph (a) of this subsection,

shall, on and from the effective date of the order, be deemed, for the purposes of this section—

(c) in the case of rates—to be or to have been the person solely ratable in respect of the land on which the dwelling is situated; or

(d) in the case of rating contributions—to be or to have been the person solely liable, under the articles of association of the company which is the ratable person in respect of the land on which is situated the residential flat building containing the flat occupied by him, for the rating contributions in respect of that flat,

and any such order shall have effect according to its tenor.

(10) An order under subsection eight or nine of this section shall take effect or be deemed to have taken effect on such date (in this section referred to as the "effective date") as is specified in the order, being a date in the rating year during which the order is made, whether or not that date is before or after the date on which the order is made or before or after the commencement of this Act.

(11) Where the Minister makes an order under subsection eight or nine of this section that is deemed to have taken effect on a date that is before the date of the making of the order, he may, in that order or in a subsequent order, give such directions as to refunding any rates or rating contributions that have been paid and as to such other matters as he thinks fit and any such order shall have effect according to its tenor.

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(12) The board shall write off the amount by which rates are reduced pursuant to this section and, notwithstanding anything in this Act or in any by-laws, shall not, except where such amount has been written off as a result of any wilfully false statement in an application made under this section, at any time thereafter take proceedings for the recovery of the amount written off pursuant to this section.

(13) The Minister shall, out of moneys provided by Parliament, pay to the board an amount equal to that written off by the board pursuant to this section.

(14) Any person who makes a wilfully false statement in an application made under this section is guilty of an offence under this Act and liable to a penalty not exceeding two hundred dollars.

(15) Any application under this section shall be made within the time and in the manner prescribed by the by-laws, but if no such by-laws are in force then the application shall be made within the time and in the manner fixed by resolution of the board, and where an application is made for an order referred to in subsection eight or nine of this section, as the Minister may require.

(2) The amendment made by subsection one of this section shall be deemed to have commenced upon the first day of July, one thousand nine hundred and seventy-one.

JUSTICES