

1993—No. 584

LOCAL GOVERNMENT ACT 1993—REGULATION

(Containing further savings and transitional provisions consequential on the commencement of the Local Government Act 1993 on 1 July 1993)

NEW SOUTH WALES



(Published in Gazette No. 136 of 10 December 1993)

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1993, has been pleased to make the Regulation set forth hereunder.

GARRY WEST, M.P.,
Minister for Local Government and Co-operatives.

The Local Government (Savings and Transitional) Regulation 1993 is amended:

- (a) by inserting at the end of clause 2 the following subclause:
 - (2) Clauses 48A, 48B, 48C, 48D, 49A and 52 are taken to have commenced on 1 July 1993.
- (b) by omitting from clause 11 (1) (b) the word “approval” where firstly occurring and by inserting instead the word “activity”;
- (c) by omitting clause 27 (b) and by inserting instead the following paragraph:
 - (b) as if subsection (2) (b) were omitted; and
- (d) by inserting at the end of clause 27 the following subclause:
 - (2) The report prepared in accordance with this clause is to be included as a supplement to the annual report for the year ending on 30 June 1995.
- (e) by inserting in clause 32 (3) after the word “amount” where thirdly occurring the words “(disregarding any fraction of a cent)”;

(f) by inserting after clause 32 (3) the following subclause:

(4) An amount of a shortfall caught up in accordance with section 131A (1B) of the old Act is not required to be halved for the purposes of this clause and may be caught up fully.

(g) by omitting clause 34 and by inserting instead the following clause:

Provisions of the old Act that do not apply

34. Sections 118AAA, 118AC (4), 132A, 158, 158A, 160, 160A, 160AA (9A), 160DA, 163 and 378 (4) of the old Act do not apply to the making and levying of rates for the transition period, but, subject to this Regulation, the corresponding provisions of the new Act, in so far as they are relevant, do apply.

(h) by inserting after clause 34 the following clauses:

Application to have land declared to be farm land for transition period

34A. In order to have effect in the transition period, an application under section 118AC of the old Act must be made before 31 December 1993, unless the council, at its discretion, agrees to accept an application made after that date.

Rating of mines

34B. In the case of a mine:

- (a) if a rate is made and levied for the transition period on a valuation based on output in accordance with section 153 of the old Act—section 118A of the old Act applies to the rate so levied; and
- (b) if a rate is made and levied for the transition period on the land value—section 118A of the old Act does not apply to the rate so levied.

Minimum amount of general rate

34C. Clause 28B of Ordinance No. 5 made under the old Act applies to the making and levying of rates for the transition period as if the reference in that clause to the amount of \$259 were a reference to the amount of \$268.

(i) by omitting clause 35 and by inserting instead the following clause:

Advertisement of estimates

35. (1) The estimates required to be advertised under section 138 of the old Act are to show the estimates for the council's consolidated fund for the transition period.

(2) The estimates are to include:

- (a) the amount of each rate made as referred to in clause 32 (1); and
- (b) the estimated income from each such rate for the transition period.

(3) The estimates are required to be accompanied by a statement that explains that the estimates are for the transition period only.

(j) by inserting after clause 37 (3) the following subclauses:

(4) If the full amount of the rates, or the water and sewerage charges made under section 378A of the old Act, levied for the transition period, or the first instalment of those rates or charges, is unpaid on the expiration of 1 month after service of the rate notice:

- (a) interest accrues on the amount of the first instalment of the rates or charges on a daily basis; and
- (b) the second instalment of the rates or charges does not then become immediately due and payable but only becomes due and payable and attracts interest on a daily basis if it is unpaid on the expiration of 3 months after service of the rate notice.

(5) Interest accrues at a simple or compound rate as determined by the council and notified in the rate notice or in a notice that accompanies the rate notice.

(6) Interest accrues on a daily basis on the amount of any rates, or the amount of any water or sewerage charges made under section 378A of the old Act, that is due and payable but unpaid as at 31 December 1993 at a simple or compound rate as determined by the council and notified before that date to the person liable to pay the rates or charges.

(7) Other charges imposed during the transition period and unpaid by the date on which they become due and payable are not liable to interest.

(k) by omitting clause 40 (a) and by inserting instead the following paragraph:

“eligible pensioner” means:

- (i) a person who receives a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991 of the Commonwealth, or a service

pension under Part III of the Veterans' Entitlements Act 1986 of the Commonwealth, and who is the holder of a Pensioner Concession Card issued by or on behalf of the Commonwealth Government; or

(ii) a person who receives a pension from the Commonwealth Department of Veterans' Affairs as:

- the widow or widower of a member of the Defence or Peacekeeping Forces, or
- the unmarried mother of a deceased unmarried member of the Defence or Peacekeeping Forces, or
- the widowed mother of a deceased unmarried member of the Defence or Peacekeeping Forces,

and who does not have income and assets that would prevent him or her from being granted a Pensioner Concession Card if he or she were eligible for such a card; or

(iii) a person who receives a special rate of pension under section 24 of the Veterans' Entitlements Act 1986 of the Commonwealth; and

(l) by inserting in clause 43 (a) after the matter "1994" the words "and having the same base date";

(m) by omitting clause 48 (1) and by inserting instead the following subclause :

(1) A rate or charge made and levied before 1 July 1994 under the old Act (or the old Act as applied by this Part) and any interest or extra charges accrued under the old Act (or the old Act as applied by this Part) on such a rate or charge are, for the purpose only of enabling their recovery under the new Act, taken to be made or levied, or to have accrued, under the new Act.

(n) by inserting after clause 48 the following clauses:

Certificates under s. 160 of the old Act

48A. A certificate issued after 1 July 1993 by a council and expressed to be a certificate under section 160 of the old Act is taken to be a certificate issued under section 603 of the new Act and has effect accordingly.

Transfers of land under s. 160A of the old Act

48B. A transfer dated or effected after 1 July 1993 and expressed to be a transfer under section 160A of the old Act is taken to be a transfer under section 570 of the new Act and has effect accordingly.

Notices (including notices of transfer) under s. 163 of the old Act

48C. A notice dated or given after 1 July 1993 and expressed to be a notice under section 163 of the old Act is taken to be a notice under section 604 of the new Act and has effect accordingly.

Council fees for services

48D. (1) Section 612 of the new Act does not apply to the determination by the council of the amount of an approved fee to be charged by the council before 1 July 1994.

(2) Nothing in the new Act or this clause limits the operation of section 167 of the old Act to a charge or fee fixed by a council before 1 July 1994.

(o) by inserting before clause 50 the following clause:

National works

49A. The repeal of Part 26 of the old Act does not affect the status as a national work of a work or place that was a national work immediately before the repeal. Such a work or place is taken to be a national work for the purposes of Part 9 of the Public Works Act 1912.

(p) by inserting after clause 51 the following clause:

References to unrepealed provisions of the old Act

52. Clause 4 of Schedule 7 to the new Act does not apply to:

- (a) a provision of the old Act that was not repealed by the Local Government (Consequential Provisions) Act 1993; or
- (b) a provision of the old Act that is repealed by the Local Government (Consequential Provisions) Act 1993 but the repeal of which has not taken effect.

EXPLANATORY NOTE

This Regulation makes further savings and transitional provisions consequential on the commencement of the Local Government Act 1993 (the new Act) and the repeal of most of the provisions of the Local Government Act 1919 (the old Act) on 1 July 1993.

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Because the new Act changes the financial year of a council from the year commencing on 1 January to the year commencing on 1 July, some further transitional arrangements are required to provide for:

- (a) annual reporting for the period of 6 months from 1 January 1994 to 30 June 1994 (paragraphs (c) and (d)); and
- (b) the making and levying of rates for the period of 6 months from 1 January 1994 to 30 June 1994 (paragraphs (e)–(m)).

Certain action taken after 1 July 1993 but inadvertently expressed to be done under the provisions of the old Act rather than under the corresponding provisions of the new Act is saved (paragraph (n)).

Existing national works are to retain their status (paragraph (o)).

References to provisions of the old Act that have not been repealed are not to be taken to be references to corresponding provisions in the new package of local government legislation (paragraph (p)).

An error of expression is corrected (paragraph (b)).

Some amendments are given a retrospective operation as from 1 July 1993 (paragraph (a)). The authority for this is found in clause 2 (2) of Schedule 7 to the new Act.

The Regulation is made under section 748 of, and clauses 2, 3 (2), 4 (2) and 55 of Schedule 7 to, the new Act.
