

**LOCAL GOVERNMENT (PAYMENT OF RATES)
AMENDMENT ACT.**

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 71, 1971.

An Act to require rates payable by certain classes of pensioners to be reduced and to make further provisions for the payment of rates by instalments; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith. [Assented to, 21st December, 1971.]

BE

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No. 71, 1971 **B**E 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 "Local Government (Payment of Rates) Amendment Act, 1971".

Amendment of Act No. 41, 1919.

2. The Local Government Act, 1919, is amended—

Sec. 143. (Due date.)

(a) by omitting from section one hundred and forty-three the word "Every" and by inserting in lieu thereof the words "Subject to section 160DA of this Act, every";

New sec. 160AA.

(b) by inserting next after section 160A the following new section :—

Reduction of rates payable by certain classes of pensioners.

160AA. (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

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- (ii) a person who is in receipt of a ^{No. 71, 1971} 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;
- (b) a person who is in receipt of a pension 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,

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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” 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;

“general rate” means a rate levied under this Act, other than a water rate or sewerage rate;

“rating contribution”, in relation to a flat, means the contribution 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;

“residential flat building” has the meaning ascribed thereto in section three hundred and four of this Act;

“sewerage

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“sewerage rate” means a local rate or loan rate levied under this Act in connection with works of sewerage operated or to be operated by the council by which the rate is levied; No. 71, 1971

“water rate” means a local rate or loan rate levied under this Act in connection with works of water supply operated or to be operated by the council by which the rate is levied.

(2) A reference in this section 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—

- (a) is the spouse of that eligible pensioner;
- (b) is another eligible pensioner; or
- (c) 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 whose sole or principal place of abode is the same as that of that firstmentioned eligible pensioner.

(3) Where, on the day on which a rate is, for the year commencing on the first day of January in the year one thousand nine hundred and seventy-two or in any subsequent year, levied on land on which is situated a dwelling, 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 in respect of that rate, to the council

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which levied it and upon production to that council 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—one-half of that rate, but so that the reduction does not exceed—

(i) in the case of a general rate—the amount of eighty dollars; or

(ii) in the case of a water rate or a sewerage rate—the amount of forty dollars in respect of each such rate; 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 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—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

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occupier are liable bears to the whole of No. 71, 1971
that rate, but so that the reduction does
not exceed—

- (i) in the case of a general rate—the amount of eighty dollars; or
- (ii) in the case of a water rate or a sewerage rate—the amount of forty dollars in respect of each such rate.

(5) Where, on the day on which a rate is, for the year commencing on the first day of January in the year one thousand nine hundred and seventy-two 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
- (b) the council which levied that rate is satisfied—
 - (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 that council in respect of that rate and upon production to that council of evidence sufficient to enable it to calculate the amount of the reduction, be reduced in accordance with subsection six of this section.

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(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—one-half of that rating contribution, but so that the reduction shall not exceed—
- (i) in the case of a rating contribution in respect of a general rate—the amount of eighty dollars; or
 - (ii) in the case of a rating contribution in respect of a water rate or a sewerage rate—the amount of forty dollars in respect of each such contribution; 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—an amount that bears to one-half of that rating contribution 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

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eligible occupier are liable bears to the whole of that rating contribution, but so that the reduction does not exceed—

- (i) in the case of a rating contribution in respect of a general rate—the amount of eighty dollars; or
- (ii) in the case of a rating contribution in respect of a water rate or a sewerage rate—the amount of forty dollars in respect of each such rating contribution.

(7) A person who is an eligible pensioner or 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.

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(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
- (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.

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(9) Where the Minister deems it proper ^{No. 71, 1971} 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

- (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

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(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 year commencing on the first day of January during which the order is made, whether or not that date is before or after the date on which the order is made.

(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 the charging of interest on overdue rates and as to such other matters as he thinks fit and any such order shall have effect according to its tenor.

(12) The council shall write off the amount by which rates are reduced pursuant to this section and, notwithstanding anything in this Act or in any ordinance, 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.

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(13) The Minister shall, out of moneys No. 71, 1971 provided by Parliament, pay to the council an amount equal to that written off by the council 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.

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

(c) by inserting next after section 160D the following New sec. 160DA. new section :—

160DA. (1) Notwithstanding anything in this Act, the person liable to pay any rates levied in the year commencing on the first day of January in the year one thousand nine hundred and seventy-two or on that day in any subsequent year may, if on the day immediately preceding the day on which those rates are levied rates are not owing to the council by that person in respect of the land referred to in the rate notice for those rates, elect within one month after service of the rate notice to pay those rates by four instalments. Election to pay current rates by instalments.

(2) Any amount shown on a rate notice and which represents extra charges payable in respect of rates levied during the previous year shall, unless the council has, otherwise than in that rate notice or in a rate notice served in that previous year, made written demand for payment of that

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amount, be deemed, for the purposes of subsection one of this section, not to be rates owing to the council.

(3) An election under subsection one of this section shall be made in the prescribed form and manner or, if the form and manner are not prescribed, in writing to the council which levied the rate.

(4) Where an election has been made in accordance with subsections one and three of this section—

- (a) each instalment shall be of an amount equal to one-fourth of the rates, disregarding any remainder, together, in the case of the first instalment, with that remainder;
- (b) the first instalment shall be due and payable on the date that is one month after service of the rate notice; and
- (c) the second, third and fourth instalments shall be due and payable on dates that are respectively three, five and seven months after service of the rate notice.

(5) Where a person who has elected to pay rates by instalments in accordance with this section pays those instalments in accordance with the requirements of this section—

- (a) the council shall accept those payments; and
- (b) any instalments of those rates which are not due for payment—
 - (i) shall not be recoverable by the council; and

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(ii) shall not be increased pursuant to No. 71, 1971
section one hundred and fifty-eight
of this Act.

(6) Where a person who has elected to pay rates by instalments in accordance with this section fails to pay any instalment on or before the day provided for payment of that instalment—

- (a) the total amount of the instalments unpaid on that day shall become due and payable to, and recoverable by, the council; and
- (b) the provisions of this Act relating to overdue rates shall apply in respect of the unpaid balance of the rates,

as if that person had not so elected.

MARGINAL