

**LOCAL GOVERNMENT (RATING AND FINANCE)
AMENDMENT ACT, 1982, No. 178**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 178, 1982.

An Act to amend the Local Government Act, 1919, with respect to the making, levying and payment of rates and with respect to the functions of the Local Government Grants Commission. [Assented to, 24th December, 1982.]

Local Government (Rating and Finance) Amendment.

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 "Local Government (Rating and Finance) Amendment Act, 1982".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 5 and Schedules 1–5 shall commence on 1st January, 1983.

Principal Act.

3. The Local Government Act, 1919, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO SECTION 118 OF THE PRINCIPAL ACT RELATING TO THE RATING OF MIXED DEVELOPMENT LAND.

SCHEDULE 2.—AMENDMENTS TO SECTION 126A OF THE PRINCIPAL ACT RELATING TO THE AGGREGATION OF VALUES.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE LIMIT OF RATES.

Local Government (Rating and Finance) Amendment.

SCHEDULE 4.—AMENDMENT TO SECTION 160AA OF THE PRINCIPAL ACT RELATING TO THE REDUCTION OF RATES PAYABLE BY CERTAIN CLASSES OF PENSIONERS.

SCHEDULE 5.—AMENDMENTS TO PART VIIA OF THE PRINCIPAL ACT.

SCHEDULE 6.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 41, 1919.

5. The Principal Act is amended in the manner set forth in Schedules 1-5.

Savings, transitional and other provisions.

6. Schedule 6 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO SECTION 118 OF THE PRINCIPAL ACT RELATING TO THE RATING OF MIXED DEVELOPMENT LAND.

(1) Section 118 (1), definition of "apportionment factor"—

Before the definition of "centre of population", insert:—

"apportionment factor", in relation to any mixed development land, means the apportionment factor determined in accordance with section 58B (2) of the Valuation of Land Act, 1916, in respect of the land;

Local Government (Rating and Finance) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO SECTION 118 OF THE PRINCIPAL ACT RELATING TO THE
RATING OF MIXED DEVELOPMENT LAND—*continued.*

- (2) Section 118 (1), definition of “mixed development land”—
After the definition of “home occupation”, insert:—
“mixed development land” has the meaning ascribed thereto in
section 58c of the Valuation of Land Act, 1916;
- (3) Section 118 (1), definition of “non-residential land”—
- (a) In paragraph (a) (i), before “a parcel”, insert “except as provided by subparagraph (iii),”.
 - (b) From paragraph (a) (i), omit “and”.
 - (c) In paragraph (a) (ii), before “a parcel”, insert “except as provided by subparagraph (iii),”.
 - (d) From paragraph (a) (ii), omit “and”, insert instead “or”.
 - (e) After paragraph (a) (ii), insert:—
 - (iii) where the land is mixed development land in respect of which an apportionment factor has been furnished to the council by the Valuer-General, that part of the mixed development land which is non-residential land as defined in section 58c of the Valuation of Land Act, 1916; and
 - (f) From paragraph (b), omit “a prescribed scheme within the meaning of Part XIIA or an interim development order within the meaning of section 342T (1)”, insert instead “an environmental planning instrument”.
- (4) Section 118 (6A)—
After section 118 (6), insert:—
- (6A) Where a council determines a general rate under subsection (4) (c) which applies to that part of any mixed development land which is not residential land and in respect of which an apportionment

Local Government (Rating and Finance) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO SECTION 118 OF THE PRINCIPAL ACT RELATING TO THE
RATING OF MIXED DEVELOPMENT LAND—*continued.*

factor has been furnished to the council by the Valuer-General,
then—

- (a) in relation to that part of the mixed development land which is not non-residential land, the general rate of the amount referred to in subsection (3) shall be levied on the land value of the land reduced by the percentage represented by the apportionment factor; and
- (b) in relation to that part of the mixed development land which is non-residential land, the general rate determined under subsection (4) (c) shall be levied on the percentage represented by the apportionment factor of the land value of the land.

(5) Section 118 (7)—

Omit “, if the Valuation of Land Act, 1916, applies to the area, or by section 18 of Schedule 3, if the Valuation of Land Act, 1916, does not apply, and the provisions of section 133, or of sections 18 to 22 of Schedule 3, as the case may require”, insert instead “and the provisions of that section”.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO SECTION 126A OF THE PRINCIPAL ACT RELATING TO THE
AGGREGATION OF VALUES.

(1) Section 126A (1) (b)—

Omit “subsection (3)”, insert instead “subsections (3) and (4B)”.

Local Government (Rating and Finance) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO SECTION 126A OF THE PRINCIPAL ACT
RELATING TO THE AGGREGATION OF VALUES—*continued.*

(2) Section 126A (1) (b), (3)—

Omit “more than one separate parcel” wherever occurring, insert instead “one or more separate parcels”.

(3) Section 125A (1) (b)—

Omit “that subsection”, insert instead “those subsections”.

(4) Section 126A (4A), (4B)—

After section 126A (4), insert:—

(4A) Nothing in subsection (3) requires a council to aggregate the land values of 2 or more separate parcels referred to in that subsection where each parcel is—

(a) a parcel on which a dwelling is erected; or

(b) a parcel which comprises, or substantially comprises, a dwelling in a residential flat building,

or the parcels are a combination of the parcels referred to in paragraphs (a) and (b).

(4B) Where a person is the ratable person in respect of 2 or more separate parcels, 2 or more of which consist of a lot or lots in a strata plan within the meaning of the Strata Titles Act, 1973, nothing in subsection (3) requires a council to aggregate the land values of those parcels which consist of those lots, except in so far as to aggregate the land value of a lot which comprises, or substantially comprises, a dwelling and the land value or land values of a lot or lots, if any, whether in the same strata plan or not, on which a facility or facilities appurtenant to the dwelling is or are located.

Local Government (Rating and Finance) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO SECTION 126A OF THE PRINCIPAL ACT
RELATING TO THE AGGREGATION OF VALUES—*continued.*

(5) Section 126A (6)—

Omit “Land and Valuation Court”, insert instead “Land and Environment Court”.

(6) Section 126A (6)—

Omit “, if the Valuation of Land Act, 1916, applies to the area, or by section 18 of Schedule 3, if the Valuation of Land Act, 1916, does not apply, and the provisions of section 133, or of sections 18 to 22 of Schedule 3, as the case may require,” insert instead “and the provisions of that section”.

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIMIT OF RATES.

(1) Sections 129, 130—

Omit the sections, insert instead:—

Interpretation: secs. 131–131B.

129. In sections 131, 131A and 131B, “general purpose rate” means a general rate, special rate, local rate or loan rate, but does not include—

- (a) a rate levied in respect of water or sewerage works, or proposed water or sewerage works, or in respect of a trading undertaking;
- (b) a rate levied under any special Act, as referred to in section 128; or

Local Government (Rating and Finance) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIMIT OF RATES—*continued.*

- (c) a rate of a class or description prescribed by ordinance for the purposes of this paragraph.

(2) Section 131—

Omit the section, insert instead:—

Variation of revenue from general purpose rates.

131. (1) The Minister may, by order published in the Gazette, specify the percentage by which councils' revenue from general purpose rates for a specified year (being the year in which the order is so published or a later year) may be increased.

(2) The Minister may, by order published in the Gazette, specify the percentage by which a specified council's revenue from general purpose rates for a specified year (being the year in which the order is so published or a later year) may be increased.

(3) Subject to subsection (4), a percentage specified under subsection (1) applies to all councils uniformly, but does not apply to a council specified (in the order by which the percentage is specified) as being a council to which the percentage does not apply.

(4) A percentage specified under subsection (1) for a year does not apply, and (where relevant) shall be deemed never to have applied, to a council to which a percentage specified under subsection (2) for that year applies, whether the order by which the percentage specified under subsection (1) was made before, on or after the day on which the order by which the percentage specified under subsection (2) was made.

(5) Orders under subsections (1) and (2) may be contained in the same instrument or in different instruments.

Local Government (Rating and Finance) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIMIT OF RATES—*continued.*

(3) Section 131A (1)—

Omit the subsection, insert instead:—

(1) A council shall not make general purpose rates for a year if the amount calculated as at 1st January in that year as the amount payable thereby as rates (based on—

(a) where the council is, under section 134A, required to use the rating base factor of ratable land as the basis of a rate levied or leviable in that year—the sum of the rating base factors; or

(b) where the council is not so required—the land value, as shown in the council's valuation book as at 1st January in that year, of all the ratable land in the council's area) exceeds the amount determined in accordance with the following formula:—

$$A = R + (R \times P)$$

where—

A represents the amount to be determined;

R represents the council's revenue from the making and levying of general purpose rates in respect of the preceding year, based on—

(i) where the council was, under section 134A, required to use the rating base factor of ratable land as the basis of a rate levied or leviable in that preceding year—the sum of the rating base factors; or

(ii) where the council was not so required—the land value,

as shown in the council's valuation book as at 31st December in that preceding year, of all the ratable land in the council's area; and

Local Government (Rating and Finance) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIMIT OF RATES—*continued.*

P represents the percentage specified under section 131 (1) or (2),
as the case may require, applicable to the council in respect
of the firstmentioned year.

(4) Section 131B—

Omit “130, 131, 131A and 131C”, insert instead “131 and 131A”.

SCHEDULE 4.

(Sec. 5.)

AMENDMENT TO SECTION 160AA OF THE PRINCIPAL ACT RELATING TO
THE REDUCTION OF RATES PAYABLE BY CERTAIN CLASSES OF
PENSIONERS.

Section 160AA (13)—

After “equal to”, insert “half”.

SCHEDULE 5.

(Sec. 5.)

AMENDMENTS TO PART VIIA OF THE PRINCIPAL ACT.

(1) Sections 218A (2) (b) (ii), (3) (a) (ii), 218D (2) (a), (2A)—

After “Local Government” wherever occurring insert “and Lands”.

(2) Division 2—

Omit the Division.

Local Government (Rating and Finance) Amendment.

SCHEDULE 5—*continued.*AMENDMENTS TO PART VIIA OF THE PRINCIPAL ACT—*continued.*

(3) Section 218PA—

After section 218P, insert:—

Furnishing of certain advice to the Minister.

218PA. (1) The Minister may, from time to time, request the Grants Commission to submit to him proposals for the disbursement of money available for disbursement by or at the direction of the Minister.

(2) The Grants Commission shall comply with a request made to it under subsection (1) as soon as practicable after the request is made.

(3) Upon a receipt of a request made to it under subsection (1), the Grants Commission may require the production by the council of any area of any information which may, in the opinion of the Grants Commission, assist it in complying with the request.

(4) A requirement under subsection (3) may specify the form in which the information is to be produced and the person or body of persons, incorporate or unincorporate, to whom it is to be produced.

SCHEDULE 6.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation: Sch. 6.

1. (1) Expressions used in this Schedule have the same meanings as in the Principal Act, as amended by this Act.

Local Government (Rating and Finance) Amendment.

SCHEDULE 6—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) A reference in this Schedule to a council includes a reference to a county council.

Maximum increase in standard rates for year commencing on 1.1.1983.

2. (1) This clause applies to a council, not being a council in respect of which the Minister has, for the year commencing on 1st January, 1983, made a special variation under section 131 (5) of the Principal Act, as in force immediately before 1st January, 1983.

(2) Notwithstanding anything contained in the Principal Act, where a council to which this clause applies has, for the year commencing on 1st January, 1982, made and levied general purpose rates which have caused or will cause to be payable to the council an amount which is less than the maximum amount that the council could, in accordance with sections 129, 130, 131, 131A and 131B of the Principal Act, as in force immediately before 1st January, 1983, have obtained in respect of that year (the difference between those amounts being referred to in this subclause as "the catch-up amount") the council may, for the year commencing on 1st January, 1983, make general purpose rates so as to cause to be payable to the council an amount not exceeding an amount determined in accordance with the formula set out in section 131A (1) of the Principal Act, as amended by this Act (as if, in that formula—

- (a) where, for the year commencing on 1st January, 1983, the Minister has determined a specified percentage under section 131 (4) of the Principal Act, as in force immediately before 1st January, 1983, P represented the specified percentage so determined; or
- (b) where, for the year commencing on 1st January, 1983, the Minister has specified a percentage under section 131 (1) of the Principal Act, as amended by this Act, P represented the percentage so specified),

increased by—

- (c) the catch-up amount; or
- (d) one-third of the specified percentage so determined, or one-third of the percentage so specified, as the case may be,

whichever is the lesser.

Local Government (Rating and Finance) Amendment.

SCHEDULE 6—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Liability of Minister for provision of certain money.**

3. Nothing in the Principal Act, as amended by this Act, affects the liability of the Minister to pay to a council an amount equal to that written off by the council pursuant to section 160AA of the Principal Act, as in force immediately before 1st January, 1983, in respect of a rate made and levied for the year commencing on 1st January, 1982, or any preceding year.