

**LOCAL GOVERNMENT (RATES AND CHARGES)
AMENDMENT ACT 1985 No. 169**

NEW SOUTH WALES



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**LOCAL GOVERNMENT (RATES AND CHARGES) AMENDMENT
ACT 1985 No. 169**

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 169, 1985

An Act with respect to rates and certain charges for 1986 under the Local Government Act 1919. [Assented to, 3rd December, 1985.]

Local Government (Rates and Charges) Amendment 1985

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 (Rates and Charges) Amendment Act 1985".

Principal Act

2. (1) The Local Government Act 1919 is referred to in this Act as the Principal Act.

(2) This Act shall be construed with, and as if it formed part of, the Principal Act.

Interpretation

3. (1) In this Act—

"general purpose rate" means a general rate, special rate, local rate or loan rate, but does not include a rate levied in respect of water or sewerage works, or proposed water or sewerage works, or in respect of a trading undertaking;

"the 1983 Act" means the Local Government (Rates and Charges) Amendment Act 1983;

"the 1984 Act" means the Local Government (Rates and Charges) Amendment Act 1984.

(2) A reference in this Act to the base levy for a parcel of land in respect of a general purpose rate is a reference to—

(a) except as provided by paragraphs (b) and (c)—the amount levied on the parcel in respect of the rate for 1985, subject to any adjustment under section 36 of the Valuation of Land Act 1916;

(b) except as provided by paragraph (c), where an amount is deemed by section 6 to have been levied on the parcel in respect of that rate—the amount so deemed to have been levied; or

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- (c) where, in relation to the parcel, an eligible pensioner (within the meaning of section 160AA of the Principal Act) is, on the day on which a general purpose rate for 1986 is levied, the person solely or jointly ratable, as referred to in that section, in respect of the general purpose rate for 1986 and was—
- (i) in the case of a council to which the provisions of section 5 (1) (a), (b) and (c) apply, the person solely or jointly ratable, as so referred to, in respect of the general purpose rate for 1983 levied on the parcel—the nett amount (being the nett amount resulting after the reduction, in accordance with section 160AA of the Principal Act, of the amount so levied for 1983) increased or decreased by the percentage, if any, specified by the council under section 5 of the 1983 Act;
 - (ii) in the case of a council to which the provisions of section 5 (2) (a) and (b) apply, the person solely or jointly ratable, as so referred to, in respect of the general purpose rate for 1984 levied on the parcel—the nett amount (being the nett amount resulting after the reduction, in accordance with section 160AA of the Principal Act, of the amount so levied for 1984) increased or decreased by the percentage, if any, specified by the council under section 5 of the 1984 Act; or
 - (iii) in the case of a council which, under section 4 (2) of the 1984 Act, made a general purpose rate for 1985, the person solely or jointly ratable, as so referred to, in respect of the general purpose rate for 1985 levied on the parcel—the nett amount resulting after the reduction, in accordance with section 160AA of the Principal Act, of the amount so levied for 1985,

subject to any adjustment under section 36 of the Valuation of Land Act 1916.

- (3) A reference in this Act to the base amount in respect of a charge for any service supplied by a council for the removal of garbage is a reference—
- (a) except as provided by paragraph (b)—to the amount charged for the service in 1985; or
 - (b) where an amount is deemed by section 11 to have been charged for the service in 1985—to the amount so deemed to have been charged.

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Making of rate for 1986

4. (1) Notwithstanding anything in the Principal Act, but subject to this Act, a council shall not make any general purpose rate for 1986.

(2) A council may, with the consent of the Minister given under subsection (3), make a general purpose rate for 1986.

(3) The Minister may, by instrument in writing—

- (a) consent, in special circumstances, to the making by a council of a general purpose rate for 1986; and
- (b) attach to the consent such conditions, if any, as the Minister thinks fit with respect to the making of the rate.

Extension of existing rates

5. (1) Where—

- (a) a council made a general purpose rate for 1983;
- (b) the council, by resolution under section 5 (1) of the 1983 Act, determined that the rate be extended to 1984; and
- (c) the council, by resolution under section 5 (1) of the 1984 Act, determined that the rate be further extended to 1985,

the council by resolution may, and shall if the rate was one which the council was required to make, determine that the rate as extended by it to 1985 be further extended to 1986.

(2) Where—

- (a) under section 4 (2) of the 1983 Act, a council made a general purpose rate for 1984; and
- (b) the council, by resolution under section 5 (2) of the 1984 Act, determined that the rate be extended to 1985,

the council by resolution may, and shall if the rate was one which the council was required to make, determine that the rate as extended by it to 1985 be further extended to 1986.

(3) Where, under section 4 (2) of the 1984 Act, a council made a general purpose rate for 1985, the council by resolution may, and shall if the rate was one which the council was required to make, determine that the rate be extended to 1986.

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(4) Where a council determines under subsection (1), (2) or (3) to extend, or further extend, a rate to 1986, the council by resolution may also determine that the rate as so extended, or further extended, be increased or decreased by a specified percentage for 1986, but any such increase shall not exceed—

- (a) 8 per cent; or
- (b) where, in the case of a particular council and its rate, the Minister by instrument in writing determines a greater percentage—that greater percentage.

(5) Notwithstanding anything in the Principal Act or this Act, where a rate is extended or further extended under this section, the amount payable for 1986 on a parcel of land in respect of the rate shall be an amount equal to—

- (a) where no increase or decrease of the rate is determined under subsection (4)—the base levy for that parcel in respect of that rate;
- (b) where the council determines that the rate be increased by a percentage under subsection (4)—that base levy as increased by that percentage; or
- (c) where the council determines that the rate be decreased by a percentage under subsection (4)—that base levy as decreased by that percentage,

but if that parcel would be ratable for a part only of 1986 had this Act not been enacted, that amount shall be reduced proportionately.

(6) A parcel of land is subject to a rate extended or further extended under this section in the same way as if the rate had been made and levied in 1986.

(7) For the purposes of the Principal Act, the amounts payable in respect of a rate extended or further extended under this section shall be deemed to be the amounts payable in respect of a rate made in 1986.

(8) Nothing in this Act limits any liability arising in relation to a parcel of land by virtue of any operation or effect of section 58 or 58A of the Valuation of Land Act 1916 or section 160C or 160E of the Principal Act.

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(9) A valuation, rating base factor or rating factor furnished under the Valuation of Land Act 1916 to a council in respect of a parcel of land, being a valuation, rating base factor or rating factor in respect of which a general purpose rate for 1986 would be payable but not being the valuation, rating base factor or rating factor in respect of which a general purpose rate for 1983, 1984 or 1985 was payable, shall have no force or effect for the purpose of the extension or further extension of a general purpose rate for 1986 pursuant to this section.

Calculation of base levy in certain cases

6. (1) In this section, "land value" includes a rating base factor under section 58D or 58E of the Valuation of Land Act 1916 and a rating factor under section 160E of the Principal Act.

(2) Where, but for this section, there would be no base levy for a parcel of land in respect of a general purpose rate, or where the parcel of land was subject to that rate for a part only of 1983 in the case of a council to which the provisions of section 5 (1) (a), (b) and (c) apply, or for a part only of 1984 in the case of a council to which the provisions of section 5 (2) (a) and (b) apply, or for a part only of 1985 in the case of a council which, under section 4 (2) of the 1984 Act, made a general purpose rate for 1985—

- (a) the council shall calculate the amount that would have been payable in respect of the parcel had the parcel been subject to that rate for the whole of that year; and
- (b) the amount so calculated shall, for the purposes of section 3 (2), be deemed to be the amount levied on the parcel in respect of that rate for 1983, 1984 or 1985, as the case may require.

(3) Where, but for this subsection, there would be no land value by reference to which the council may calculate the amount referred to in subsection (2), the council shall request the Valuer-General to furnish all details of or relating to the land value that would have been furnished had the parcel been ratable for 1983, 1984 or 1985, as the case may require, and the Valuer-General shall furnish those details as requested.

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(4) Where—

- (a) a council made a differential general rate for 1983, 1984 or 1985 under section 118 of the Principal Act; and
- (b) the general rate that would have applied to a parcel of land in 1983, 1984 or 1985, as the case may require, would, had the land been used at the date on which the rate was levied for the purpose for which it is used at the date on which the rate for 1986 is levied, have been an amount in the dollar different from that which did apply,

then—

- (c) the council shall calculate the amount that would have been payable in respect of the parcel had that different amount in the dollar applied in 1983, 1984 or 1985, as the case may require; and
- (d) the amount so calculated shall, for the purposes of section 3 (2), be deemed to be the amount levied on the parcel in respect of that rate for 1983, 1984 or 1985, as the case may require.

(5) Where, at any time since 1 January 1983 in the case of a council to which the provisions of section 5 (1) (a), (b) and (c) apply, or at any time since 1 January 1984 in the case of a council to which the provisions of section 5 (2) (a) and (b) apply, or at any time since 1 January 1985 in the case of a council which, under section 4 (2) of the 1984 Act, made a general purpose rate for 1985, a parcel of ratable land has been subdivided under the Strata Titles Act 1973—

- (a) the council shall calculate the amount or amounts of the general purpose rate which would, had the subdivision been completed immediately before 1 January 1983, or 1 January 1984, or 1 January 1985, as the case may require, have been payable in accordance with section 92 of the Strata Titles Act 1973 or the Principal Act in respect of the parcel for 1983, 1984 or 1985, as the case may require; and
- (b) the amount or amounts so calculated shall, for the purposes of section 3 (2), be deemed to be the amount or amounts levied on the parcel in respect of that rate for 1983, 1984 or 1985, as the case may require.

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Invalidity of certain rates

7. (1) A general purpose rate made by a council for 1986 is wholly invalid if it is made in contravention of this Act or in contravention of any condition attached to the consent given under section 4 (3) with respect to the making of the rate.

(2) Where the amount payable on a parcel of land in respect of a general purpose rate extended or further extended by section 5 exceeds the amount determined in accordance with section 5 (5), the rate shall, to that extent, be invalid.

(3) The Minister may, by order published in the Gazette, exempt a general purpose rate from the operation of subsection (1) or (2).

(4) Section 601 of the Principal Act does not apply to or in respect of a rate to the extent to which the rate is invalid by virtue of subsection (1) or (2), and section 599 of that Act does not prevent a person's liability for a rate being disputed on the ground of that invalidity.

County councils

8. Sections 3–7 (section 3 (3) excepted) apply to and in respect of rates made by a county council that, if made by a council, would be general purpose rates, and so apply as if references in those sections to a council were references to a county council.

Making of garbage removal charges for 1986

9. (1) Notwithstanding anything in the Principal Act, but subject to this Act, a council shall not make a charge for a service supplied by it in 1986 for the removal of garbage.

(2) A council may, with the consent of the Minister given under subsection (3), make a charge referred to in subsection (1).

(3) The Minister may, by instrument in writing—

- (a) consent, in special circumstances, to the making by a council of a charge referred to in subsection (1); and
- (b) attach to the consent such conditions (if any) as the Minister thinks fit with respect to the making of the charge.

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Extension of existing garbage removal charges

10. (1) Where—

- (a) a council made a charge for a service supplied by it in 1983 for the removal of garbage;
- (b) the council, by resolution under section 10 (1) of the 1983 Act, determined that the charge be extended to 1984; and
- (c) the council, by resolution under section 10 (1) of the 1984 Act, determined that the charge be extended to 1985,

the council by resolution may determine that the charge as extended by it to 1985 be further extended to 1986.

(2) Where—

- (a) a council made a charge for a service supplied by it in 1984 for the removal of garbage; and
- (b) the council, by resolution under section 10 (2) of the 1984 Act, determined that the charge be extended to 1985,

the council by resolution may determine that the charge as so extended by it to 1985 be further extended to 1986.

(3) Where, under section 9 (2) of the 1984 Act, a council made a charge for a service supplied by it in 1985 for the removal of garbage, the council by resolution may determine that the charge be extended to 1986.

(4) Where a council determines under subsection (1), (2) or (3) to extend, or further extend, a charge to 1986, the council by resolution may also determine that the charge as so extended, or further extended, be increased or decreased by a specified percentage for 1986, but any such increase shall not exceed—

- (a) 8 per cent; or
- (b) where, in the case of a particular council and its charge, the Minister by instrument in writing determined a greater percentage—that greater percentage.

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(5) Notwithstanding anything in the Principal Act or this Act (subsection (6) excepted), where a charge is extended or further extended under this section, the amount payable for the removal of garbage in respect of the charge shall be an amount equal to—

- (a) where no variation of the charge is determined under subsection (1), (2) or (3)—the base amount in respect of that charge;
- (b) where the council determines that the charge shall be increased by a percentage under subsection (4)—that base amount as increased by that percentage; or
- (c) where the council determines that the charge shall be decreased by a percentage under subsection (4)—that base amount as decreased by that percentage,

but if that charge would be payable for a part only of 1986 had this Act not been enacted, that amount shall be reduced proportionately.

(6) Where the rate or extent of the service supplied by a council in 1986 for the removal of garbage is increased or decreased, nothing in this Act prevents the council from increasing or decreasing the amount of the charge for the service proportionately to the increase or decrease in the rate or extent.

(7) A person is subject to a charge extended or further extended under this section in the same way as if the charge had been made in 1986.

Calculation of base amount in certain cases

11. (1) Where, but for this section, there would be no base amount in respect of a charge for any service supplied by a council for the removal of garbage, or where that charge was made for a part only of 1983 in the case of a council to which the provisions of section 10 (1) (a), (b) and (c) apply, or for a part only of 1984 in the case of a council to which the provisions of section 10 (2) (a) and (b) apply, or for a part only of 1985 in the case of a council which, under section 9 (2) of the 1984 Act, made a charge for a service supplied by it in 1985 for the removal of garbage—

- (a) the council shall calculate the amount that would have been payable had the charge been made for the whole of that year; and
- (b) the amount so calculated shall, for the purposes of section 3 (3), be deemed to be the amount charged in 1983, 1984 or 1985, as the case may require.

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(2) Where, at any time since 1 January 1983 in the case of a council to which the provisions of section 10 (1) (a), (b) and (c) apply, or at any time since 1 January 1984 in the case of a council to which the provisions of section 10 (2) (a) and (b) apply, or at any time since 1 January 1985 in the case of a council which, under section 9 (2) of the 1984 Act, made a charge for a service supplied by it in 1985 for the removal of garbage, a parcel of land has been subdivided under the Strata Titles Act 1973—

- (a) the council shall calculate the amount of the charge which would, had the parcel been so subdivided immediately before 1 January 1983, or 1 January 1984, or 1 January 1985, as the case may require, have been payable for the service in 1983, 1984 or 1985, as the case may require; and
- (b) the amount so calculated shall, for the purposes of section 3 (3), be deemed to be the amount charged for the service 1983, 1984 or 1985, as the case may require.

Invalidity of certain charges

12. (1) A charge made by a council for a service supplied by it in 1986 for the removal of garbage is wholly invalid if it is made in contravention of this Act or in contravention of any condition attached to the consent given under section 9 (3) with respect to the making of the charge.

(2) Where the amount payable by way of a charge for the removal of garbage extended or further extended by section 10 exceeds the amount determined in accordance with section 10 (5), the charge shall, to that extent, be invalid.

(3) The Minister may, by order published in the Gazette, exempt a charge for the removal of garbage from the operation of subsection (1) or (2).

Early making and fixing of rates and charges for 1986

13. (1) Notwithstanding anything in the Principal Act, a council may, before 1 January 1986—

- (a) resolve to make or fix for 1986 a rate or charge that it could make or fix during 1986; or
- (b) resolve to extend to 1986 a rate or charge that it could so extend during 1986.

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(2) Where, before the date of assent to this Act, a council resolved to make or fix, or extend, a rate or charge as provided by subsection (1), the council shall be deemed to have so resolved on that date of assent.
