

**LOCAL GOVERNMENT (RATES AND CHARGES) ACT
1986 No. 178**

NEW SOUTH WALES



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LOCAL GOVERNMENT (RATES AND CHARGES) ACT 1986 No. 178

NEW SOUTH WALES



Act No. 178, 1986

An Act with respect to rates and certain charges for 1987 under the Local Government Act 1919. [Assented to 17 December 1986]

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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:

PART I
PRELIMINARY

Short title

1. This Act may be cited as the "Local Government (Rates and Charges) Act 1986".

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. 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;

"land value" includes, without limiting section 134 or 153 of the Principal Act, 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;

"rating Act" means the Principal Act, the Local Government (Rates and Charges) Amendment Act 1983, the Local Government (Rates and Charges) Amendment Act 1984 and the Local Government (Rates and Charges) Amendment Act 1985;

"valuation-based rate" means a general purpose rate made otherwise than by the extension or further extension, in accordance with a rating Act, of a general purpose rate.

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PART 2

BASE LEVY FOR GENERAL PURPOSE RATES

Determination of appropriate base levy

4. 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 the amount applicable in relation to the parcel in accordance with the provisions of this Part or, if more than one amount is so applicable, the lower or lowest of those amounts.

Base levy—generally

5. The base levy for a parcel of land in respect of a general purpose rate is the amount levied on the parcel in respect of the rate for 1986.

Base levy—no general purpose rate levied for 1986

6. If no amount in respect of a general purpose rate was levied on a parcel of land for the whole of 1986, the base levy for the parcel is the amount that would have been levied had the land been ratable in the year for which the last valuation-based rate was made, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

Base levy—changes in use relevant to differential general rates

7. If—

- (a) a council made a differential general rate for 1983, 1984, 1985 or 1986 under section 118 of the Principal Act; and
- (b) the general rate that would have applied to a parcel of land in the relevant year 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 1987 is levied, have been an amount in the dollar different from that which did apply,

the base levy for the parcel is the amount that would have been levied had that different amount in the dollar applied in the relevant year, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

Base levy—strata title subdivisions

8. (1) If, since 1 January 1986, a parcel of land has been subdivided under the Strata Titles Act 1973, the base levy for the parcel is the amount or amounts of the general purpose rate which would, had the subdivision been completed immediately before 1 January in the year for which the last valuation-based rate was made, have been payable in accordance with section 92 of the Strata Titles Act 1973 or the Principal Act in respect of the parcel for that year, subject to any adjustment that would subsequently have been made to that amount or those amounts in accordance with a rating Act.

(2) If, since 1 January 1983, a parcel of land which was subdivided under the Strata Titles Act 1973 ceases to be subject to the provisions of that Act, the base levy for the parcel is the amount which would, had the land ceased to be subject to the provisions of that Act immediately before 1 January in the year for which the last valuation-based rate was made, have been levied in respect of the parcel for that year, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

Base levy—eligible pensioners

9. (1) If, since 1 January 1986, in relation to a parcel of land, an eligible pensioner (within the meaning of section 160AA of the Principal Act) has become and is, on the day on which a general purpose rate for 1987 is levied, the person solely or jointly ratable (as referred to in that section) in respect of the general purpose rate for 1987, the base levy for the parcel is the net amount resulting after the reduction, in accordance with section 160AA of the Principal Act, of the amount that would have been levied, had the land been ratable in the year for which the last valuation-based rate was made, that net amount being subject to any adjustment that would subsequently have been made to that net amount in accordance with a rating Act.

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(2) If, in relation to a parcel of land, an eligible pensioner (within the meaning of section 160AA of the Principal Act) was the person solely or jointly ratable (as referred to in that section) in respect of a general purpose rate for 1986, but is not, on the day on which a general purpose rate for 1987 is levied, the person so ratable, the base levy for the parcel is the amount that would have been levied had the land been ratable in respect of a person other than an eligible pensioner in the year for which the last valuation-based rate was made, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

Base levy—heritage valuations

10. (1) If, since 1 January 1983, a permanent conservation order has been made under the Heritage Act 1977 in relation to a parcel of land, the base levy for the parcel is the amount that would have been levied in respect of a heritage valuation (within the meaning of section 123 of that Act) of the parcel determined as if the permanent conservation order had been made before 1 January in the year for which the last valuation-based rate was made, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

(2) If, since 1 January 1983, a permanent conservation order made under the Heritage Act 1977 in relation to a parcel of land is revoked in whole or in part, the base levy for the parcel is the amount which would, had the order been so revoked immediately before 1 January in the year for which the last valuation-based rate was made, have been levied in respect of the parcel for that year, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

Base levy—coastal protection orders

11. (1) If, since 1 January 1983, an order has been made under section 39 of the Coastal Protection Act 1979 in relation to a parcel of land, the base levy for the parcel is the amount that would have been levied in respect of a valuation of the parcel determined as if the order had been made before 1 January in the year for which the last valuation-based rate was made, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

(2) If, since 1 January 1983, an order made under section 39 of the Coastal Protection Act 1979 in relation to a parcel of land is revoked, the base levy for the parcel is the amount which would, had the order been revoked immediately before 1 January in the year for which the last valuation-based rate was made, have been levied in respect of the parcel for that year, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

Base levy—physically damaged land

12. (1) This section applies to a parcel of land which has suffered physical damage (such as landslip or erosion) since 1 January 1983.

(2) A council may obtain from the Valuer-General an assessment of the value of a parcel of land to which this section applies.

(3) The value of a parcel of land to which this section applies consists of the amount, determined by the Valuer-General, on the assumption that the physical damage to the land existed immediately before 1 January in the year for which the last valuation-based rate was made, to be the value that would have applied in respect of the parcel for the purpose of the making and levying of a general purpose rate for that year.

(4) The council may resolve that the base levy in relation to all parcels of land to which this section applies shall be determined by reference to the values of those parcels determined under this section.

(5) The base levy for a parcel of land subject to a resolution of the council under this section is the amount that would have been levied in respect of the parcel if the last valuation-based rate that was made had been made in respect of the value of the parcel determined under this section, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

Base levy—minimum rates for occupied land

13. If—

- (a) in the year for which the last valuation-based rate was made, a council determined a minimum general purpose rate for vacant land (within the meaning of section 126 (1) of the Principal Act) and a minimum general purpose rate for land other than vacant land; and
- (b) since that year, a parcel of vacant land has ceased to be vacant land,

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the base levy for the parcel is the amount that would have been levied had the land been land other than vacant land as at 1 January in that year, subject to any adjustment that would subsequently have been made to that amount in accordance with a rating Act.

Values of land

14. (1) The Valuer-General shall, at the request of a council and in accordance with this Act, determine all such values for parcels of land within the area of the council as may be necessary for the purposes of this Act.

(2) A council shall include a value determined in respect of a parcel of land in a rate notice specifying an amount of a general purpose rate which has been calculated by reference to the value.

(3) The rate notice shall be accompanied by a notice informing the person on whom the rate notice is served of the effect of subsections (4) and (5).

(4) An objection may be made by letter to the Valuer-General within one month after the date of service of a rate notice to a value determined under this Act and included in the rate notice as if the value were a valuation under the Valuation of Land Act 1916.

(5) Sections 35 and 36 of the Valuation of Land Act 1916 and Part IV of that Act apply to and in respect of an objection to a value determined under this Act in the same way as they apply to and in respect of a valuation under that Act.

PART 3

1987 GENERAL PURPOSE RATES

Making of rates for 1987

15. (1) Notwithstanding anything in the Principal Act, but subject to this Act, a council shall not make any general purpose rate for 1987.

(2) A council may, with the consent of the Minister given under subsection (3), make a general purpose rate for 1987.

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(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 1987; and
- (b) attach to the consent such conditions, if any, as the Minister thinks fit with respect to the making of the rate.

(4) Without limiting the conditions that the Minister may attach to a consent, the Minister may specify the valuations that are to be used for the making of the rate.

(5) A council may, notwithstanding anything in this Act and without the necessity for a consent or order of the Minister, make a minimum general purpose rate for 1987 in relation to a parcel of vacant flood liable land (within the meaning of section 126 (1) of the Principal Act).

Extension of existing rates

16. (1) If, in accordance with a rating Act, a council made a general purpose rate for 1986 or extended a general purpose rate to 1986, 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 1987.

(2) If, under subsection (1), a council determines to extend a rate to 1987, the council by resolution may also determine that the rate as so extended be increased or decreased by a specified percentage for 1987, but any such increase shall not exceed—

- (a) 7 per cent; or
- (b) if, in the case of a particular council and its rate, the Minister by instrument in writing determines a greater percentage—that greater percentage.

(3) If a rate extended under subsection (1) comprises a differential general rate made under section 118 (4) of the Principal Act, the council may, for the purposes of subsection (2), treat each amount of the general rate as if it were a separate rate.

(4) Notwithstanding anything in the Principal Act or this Act, if a rate is extended under this section, the amount payable for 1987 on a parcel of land in respect of the rate is an amount equal to—

- (a) if no increase or decrease of the rate is determined under subsection (2)—the base levy for that parcel in respect of that rate;

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(b) if the council determines that the rate be increased by a percentage under subsection (2)—that base levy as increased by that percentage; or

(c) if the council determines that the rate be decreased by a percentage under subsection (2)—that base levy as decreased by that percentage.

but if that parcel would be ratable for a part only of 1987 had this Act not been enacted, that amount shall be reduced proportionately.

(5) A parcel of land is subject to a rate extended under this section in the same way as if the rate had been made and levied in 1987.

(6) For the purposes of the Principal Act, the amounts payable in respect of a rate extended under this section shall be deemed to be the amounts payable in respect of a rate made in 1987.

(7) 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.

(8) 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 1987 would, but for this Act, be payable, shall have no force or effect except as provided by this Act.

Aggregation, etc., of values of certain parcels subject to minimum amounts

17. (1) A council which—

(a) made a class of general rate (within the meaning of section 126A of the Principal Act) which is extended to 1987; and

(b) specified a minimum amount of the class under section 126 (2) (a) of the Principal Act or minimum amounts of the class under section 126 (2) (b) of the Principal Act,

may resolve that section 126A (3) of the Principal Act shall apply to the levying of the class in 1987.

(2) A council which, in the resolution making a class of general rate (within the meaning of section 126A of the Principal Act) which is extended to 1987, resolved that section 126A (3) of the Principal Act shall apply to the levying of that class of general rate, may resolve that section 126A (3) of the Principal Act shall not apply to the levying of the class in 1987.

Invalidity of certain rates

18. (1) A general purpose rate made by a council for 1987 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 15 (3) with respect to the making of the rate.

(2) If the amount payable on a parcel of land in respect of a general purpose rate extended by section 16 exceeds the amount determined in accordance with section 16 (4), 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

19. Parts 1, 2 and 3 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 Parts to a council were references to a county council.

PART 4**BASE AMOUNT FOR GARBAGE REMOVAL SERVICES****Determination of appropriate base amount**

20. A reference in this Act to the base amount for a garbage removal service is a reference to the amount applicable in relation to the service in accordance with the provisions of this Part or, if more than one amount is so applicable, the lower or lowest of those amounts.

Base amount—generally

21. The base amount for a garbage removal service is the amount charged for the service in 1986.

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Base amount—no base amount for 1986

22. If no amount in respect of a garbage removal service was charged to the owner or occupier of a parcel of land by a council for the whole of 1986, the base amount is the amount that would have been payable by the owner or occupier had a charge been made in the year for which the last charge for a garbage removal service was made by the council otherwise than by the extension or further extension, in accordance with a rating Act, of such a charge, subject to any adjustment that would subsequently have been made to that charge in accordance with a rating Act.

Base amount—strata title subdivisions

23. If, since 1 January 1986, a parcel of land has been subdivided under the Strata Titles Act 1973, the base amount for a garbage removal service provided in relation to the parcel is the amount which would have been payable for the service if the parcel had been so subdivided immediately before 1 January in the year for which the last charge for a garbage removal service was made by the council otherwise than by the extension or further extension, in accordance with a rating Act, of such a charge, subject to any adjustment that would subsequently have been made to that charge in accordance with a rating Act.

PART 5

1987 GARBAGE REMOVAL CHARGES

Making of garbage removal charges for 1987

24. (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 1987 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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(4) A council may, notwithstanding anything in this Act and without the necessity for a consent or order of the Minister, make a charge referred to in subsection (1) for each separate dwelling in a building under company title, that is, a building containing more than one separate dwelling the ownership of or right to occupy which is conferred by the ownership of shares in a company.

(5) A charge made under subsection (4) for a separate dwelling shall not exceed the amount of the charge made in 1986 for the building in which the dwelling is situated as increased or decreased by the specified percentage under section 25 (2).

Extension of existing garbage removal charges

25. (1) If, in accordance with a rating Act, a council made a charge in 1986 for a service supplied by it for the removal of garbage or extended a charge to 1986 for such a service, the council by resolution may determine that the charge be extended to 1987.

(2) If, under subsection (1), a council determines to extend a charge to 1987, the council by resolution may also determine that the charge as so extended be increased or decreased by a specified percentage for 1987, but any such increase shall not exceed—

(a) 7 per cent; or

(b) if, in the case of a particular council and its charge, the Minister by instrument in writing determines a greater percentage—that greater percentage.

(3) Notwithstanding anything in the Principal Act or this Act (subsection (4) excepted), if a charge is extended under this section, the amount payable for the removal of garbage in respect of the charge is an amount equal to—

(a) if no variation of the charge is determined under subsection (2)—the base amount in respect of that charge;

(b) if the council determines that the charge shall be increased by a percentage under subsection (2)—that base amount as increased by that percentage; or

(c) if the council determines that the charge shall be decreased by a percentage under subsection (2)—that base amount as decreased by that percentage.

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but if that charge would be payable for a part only of 1987 had this Act not been enacted, that amount shall be reduced proportionately.

(4) If the rate or extent of the service supplied by a council in 1987 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.

(5) A person is subject to a charge extended under this section in the same way as if the charge had been made in 1987.

Invalidity of certain charges

26. (1) A charge made by a council for a service supplied by it in 1987 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 24 (3) with respect to the making of the charge.

(2) If the amount payable by way of a charge for the removal of garbage extended by section 25 exceeds the amount determined in accordance with section 25 (3), 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).

PART 6

MISCELLANEOUS

Early making and fixing of rates and charges for 1987

27. (1) Notwithstanding anything in the Principal Act, a council may, before 1 January 1987—

- (a) resolve to make or fix for 1987 a rate or charge that it could make or fix during 1987; or
- (b) resolve to extend to 1987 a rate or charge that it could so extend during 1987.

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(2) If, 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.
