

**LOCAL GOVERNMENT (RATES AND CHARGES) ACT
1987 No. 233**

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Principal Act
4. Definitions

PART 2—BASE LEVY FOR GENERAL PURPOSE RATES

5. Determination of appropriate base levy
6. Base levy—generally
7. Base levy—no general purpose rate levied for 1987
8. Base levy—changes in use or zoning
9. Base levy—changes in use relevant to differential general rates
10. Base levy—strata title subdivisions
11. Base levy—eligible pensioners
12. Base levy—heritage valuations
13. Base levy—coastal protection orders
14. Base levy—changes in water rights
15. Base levy—physically damaged land
16. Base levy—minimum rates for occupied land
17. Values of land

PART 3—1988 GENERAL PURPOSE RATES

18. Making of rates for 1988
19. Extension of existing rates
20. Aggregation etc. of values of certain parcels subject to minimum amounts
21. Rebate—eligible pensioners
22. Invalidity of certain rates
23. County councils

Local Government (Rates and Charges) 1987

PART 4—BASE AMOUNT FOR GARBAGE REMOVAL SERVICES

- 24. Determination of appropriate base amount
- 25. Base amount—generally
- 26. Base amount—no base amount for 1987
- 27. Base amount—strata title subdivisions

PART 5—1988 GARBAGE REMOVAL CHARGES

- 28. Making of garbage removal charges for 1988
- 29. Extension of existing garbage removal charges
- 30. Invalidity of certain charges

PART 6—MISCELLANEOUS

- 31. Early making and fixing of rates and charges for 1988
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LOCAL GOVERNMENT (RATES AND CHARGES) ACT 1987 No. 233

NEW SOUTH WALES



Act No. 233, 1987

An Act with respect to rates and certain charges for 1988 under the Local Government Act 1919. [Assented to 16 December 1987]

See also Local Government (Pensioners Rates) Amendment Act 1987.

Local Government (Rates and Charges) 1987

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Local Government (Rates and Charges) Act 1987.

Commencement

2. This Act shall commence on the date of assent to this Act.

Principal Act

3. (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.

Definitions

4. In this Act—

“eligible pensioner” has the same meaning as in section 160AA of the Principal 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, the Local Government (Rates and Charges) Amendment Act 1985 and the Local Government (Rates and Charges) Act 1986;

“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.

PART 2—BASE LEVY FOR GENERAL PURPOSE RATES

Determination of appropriate base levy

5. 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.

*Local Government (Rates and Charges) 1987***Base levy—generally**

6. 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 1987.

Base levy—no general purpose rate levied for 1987

7. If no amount in respect of a general purpose rate was levied on a parcel of land for the whole of 1987, 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 or zoning

8. If, since 1 January in the year for which the last valuation-based rate was made, pursuant to an environmental planning instrument under the Environmental Planning and Assessment Act 1979—

- (a) a parcel of land is rezoned; or
- (b) provision is made enabling a parcel of land to be used, with or without development consent, for a purpose—
 - (i) which is different from the purpose for which it could be used before the environmental planning instrument took effect; or
 - (ii) which is in addition to any other purpose for which the parcel may be used,

the base levy for the parcel is the amount of the general purpose rate which would, had the change (or the later or latest change) relating to the zoning or use occurred 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—changes in use relevant to differential general rates

9. If—

- (a) a council made a differential general rate for 1983, 1984, 1985, 1986 or 1987 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 1988 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

10. (1) If, since 1 January 1987, 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 1987, 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

11. (1) If, since 1 January 1987, in relation to a parcel of land, an eligible pensioner has become and is, on the day on which a general purpose rate for 1988 is levied, the person solely or jointly ratable (as referred to in section 160AA of the Principal Act) in respect of the general purpose rate for 1988, 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 which 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.

(2) If, in relation to a parcel of land, an eligible pensioner was the person solely or jointly ratable (as referred to in section 160AA of the Principal Act) in respect of a general purpose rate for 1987, but is not, on the day on which a general purpose rate for 1988 is levied, the person so ratable, the base levy for the parcel is the amount which 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

12. (1) If, since 1 January 1987, 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 which would have been levied in

Local Government (Rates and Charges) 1987

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 1987, 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.

(3) A base levy determined for a parcel of land under this section shall not be the base levy for the parcel unless it is lower than any other base levy which would be determined for the parcel if this section did not apply.

(4) If—

- (a) a base levy that applied to a parcel of land for the 1987 rating year was the base levy determined under section 10 (1) of the Local Government (Rates and Charges) Act 1986; and
- (b) the base levy so determined was not lower than any other base levy which would have been determined for the parcel if that subsection had not applied,

the base levy for the parcel in respect of a general purpose rate is the amount which would have been levied on the parcel in respect of the rate for 1987 if that subsection had not applied to the parcel.

Base levy—coastal protection orders

13. (1) If, since 1 January 1987, 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 that parcel is the amount which 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 1987, 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.

Local Government (Rates and Charges) 1987

Base levy—changes in water rights

14. (1) If, since 1 January in the year for which the last valuation-based rate was made, water rights relating to a parcel are acquired, or cease, or are varied, the base levy for the parcel is the amount of the general purpose rate which would, had the acquisition, cessation or variation (or the later or latest acquisition, cessation or variation) occurred 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.

(2) In this section, “water right” means a right or other authority under an Act, whether conferred by licence, permit or otherwise, to take or use water, or to take and use water.

Base levy—physically damaged land

15. (1) This section applies to a parcel of land which has suffered physical damage (such as landslide 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 which 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

16. 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

Local Government (Rates and Charges) 1987

(b) since that year, a parcel of vacant land has ceased to be vacant land, the base levy for the parcel is the amount which 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

17. (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—1988 GENERAL PURPOSE RATES

Making of rates for 1988

18. (1) Notwithstanding anything in the Principal Act, but subject to this Act, a council shall not make any general purpose rate for 1988.

(2) A council may, with the consent of the Minister given under subsection (3), make a general purpose rate for 1988.

(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 1988; and

Local Government (Rates and Charges) 1987

- (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 1988 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

19. (1) If, in accordance with a rating Act, a council made a general purpose rate for 1987 or extended a general purpose rate to 1987, 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 1988.

(2) If, under subsection (1), a council determines to extend a rate to 1988, the council by resolution may also determine that the rate as so extended be increased or decreased by a specified percentage for 1988, but any such increase shall not exceed—

- (a) 6.5 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 1988 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;
- (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

Local Government (Rates and Charges) 1987

(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 1988 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 1988.

(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 1988.

(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 1988 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

20. (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 1988; 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 1988.

(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 1988, 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 1988.

Rebate—eligible pensioners

21. If the amount that would be payable under this Act for 1988 on a parcel of land in respect of general purpose rates by a person who is an eligible pensioner, if the person were not an eligible pensioner, is—

- (a) \$350 or more—the amount otherwise payable under this Act by the person as an eligible pensioner shall be reduced by \$25; or
- (b) more than \$300 but less than \$350—the amount otherwise payable under this Act by the person as an eligible pensioner shall be reduced by 50 cents for each dollar by which the amount exceeds \$300.

Local Government (Rates and Charges) 1987

Invalidity of certain rates

22. (1) A general purpose rate made by a council for 1988 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 18 (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 19 exceeds the amount determined in accordance with section 19 (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

23. 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

24. 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

25. The base amount for a garbage removal service is the amount charged for the service in 1987.

Base amount—no base amount for 1987

26. 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 1987, the base amount is the amount which 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.

*Local Government (Rates and Charges) 1987***Base amount—strata title subdivisions**

27. If, since 1 January 1987, 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—1988 GARBAGE REMOVAL CHARGES**Making of garbage removal charges for 1988**

28. (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 1988 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.

(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)—

- (a) 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; and
- (b) for each separate dwelling in a building for which there is a single title.

(5) A charge made under subsection (4) for a separate dwelling shall not exceed the amount of the charge made in 1987 for the building in which the dwelling is situated as increased or decreased by the specified percentage under section 29 (2).

Local Government (Rates and Charges) 1987

Extension of existing garbage removal charges

29. (1) If, in accordance with a rating Act, a council made a charge in 1987 for a service supplied by it for the removal of garbage or extended a charge to 1987 for such a service, the council by resolution may determine that the charge be extended to 1988.

(2) If, under subsection (1), a council determines to extend a charge to 1988, the council by resolution may also determine that the charge as so extended be increased or decreased by a specified percentage for 1988, but any such increase shall not exceed—

- (a) 6.5 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,

but if that charge would be payable for a part only of 1988 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 1988 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 1988.

Local Government (Rates and Charges) 1987

Invalidity of certain charges

30. (1) A charge made by a council for a service supplied by it in 1988 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 28 (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 29 exceeds the amount determined in accordance with section 29 (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 1988

31. (1) Notwithstanding anything in the Principal Act, a council may, before 1 January 1988—

- (a) resolve to make or fix for 1988 a rate or charge that it could make or fix during 1988; or
- (b) resolve to extend to 1988 a rate or charge that it could so extend during 1988.

(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.