

**LOCAL GOVERNMENT (RATES AND CHARGES)
AMENDMENT ACT 1988 No. 91**

NEW SOUTH WALES



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**LOCAL GOVERNMENT (RATES AND CHARGES) AMENDMENT
ACT 1988 No. 91**

NEW SOUTH WALES



Act No. 91, 1988

An Act to amend the Local Government Act 1919 with respect to rates and charges. [Assented to 15 December 1988]

Local Government (Rates and Charges) Amendment 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government (Rates and Charges) Amendment Act 1988.

Commencement

2. This Act commences on the date of assent.

Definitions

3. In this Act—

“general purpose rate” has the same meaning as in section 129 of the Principal Act;

“Principal Act” means the Local Government Act 1919.

Relationship with the Local Government Act 1919

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

Amendment of Local Government Act 1919 No. 41

5. The Principal Act is amended as set out in Schedules 1–4.

Making of rates and charges for 1989 etc.

6. Schedule 5 has effect.

**SCHEDULE 1—AMENDMENTS RELATING TO GENERAL
PURPOSE RATES**

(Sec. 5)

(1) Section 126 (**Minimum amounts**)—

(a) Section 126 (4) (a) (i)—

Omit “\$100”, insert instead “\$220”.

(b) Section 126 (4) (a) (ii)—

Omit the subparagraph, insert instead:

(ii) in the case of a rate for which a particular council may, under subsection (2) or (3), specify a minimum amount, such greater amount as the Minister may determine by instrument in writing; and

(2) Section 131A (**Maximum annual revenue from general purpose rates**)—

(a) Section 131A (1)–(1C)—

Omit section 131A (1), insert instead:

Local Government (Rates and Charges) Amendment 1988

SCHEDULE 1—AMENDMENTS RELATING TO GENERAL
PURPOSE RATES—*continued*

(1) A council shall not make general purpose rates for a year so as to produce an amount which exceeds the notional rate income of the council for the previous year as increased by the percentage applicable to the council under section 131 for the year for which the rate is made, except as provided by subsection (1B).

(1A) The notional rate income of a council for the previous year is the amount that would have been derived if the same general purpose rates and the same minimum amounts of general purpose rates as were made or specified for that previous year were made or specified for that previous year in respect of—

- (a) the valuations in the council's valuation book applicable as at 1 January in that previous year and required under this Act to be used in that previous year for the making and levying of general purpose rates (not including valuations of those parcels of ratable land for which supplementary valuations referred to in paragraph (b) have been furnished); and
- (b) supplementary valuations having the same base date as those valuations and which were furnished to the council under the Valuation of Land Act 1916 during that previous year; and
- (c) any estimates of increase in value which are provided to the council under section 131AA in respect of that previous year.

(1B) If general purpose rates made by a council for 1989 or a later year produce an amount which is less than the maximum amount permissible under subsection (1) for that year, the council may make general purpose rates for either or both of the next 2 years after the year for which the shortfall occurred so as to produce the maximum amount so permissible plus the whole or any part of the shortfall.

(1C) An amount of a shortfall caught up in accordance with subsection (1B) may be caught up once only.

(b) Section 131A (2)—

Omit "subsection (1)" wherever occurring, insert instead "this section".

SCHEDULE 1—AMENDMENTS RELATING TO GENERAL
PURPOSE RATES—*continued*

(3) Section 131AA—

After section 131A, insert:

Estimates of increase in value for purposes of notional rate income

131AA. (1) A council may, at any time before 30 November in any year, request the Valuer-General to provide estimates of increase in value for parcels of ratable land for which supplementary valuations are required to be furnished under the Valuation of Land Act 1916 but which, before the date of the request, have not been so furnished.

(2) The Valuer-General shall, before 31 December in the year in which a request is made, provide the estimates requested.

(3) An estimate shall be made with respect to the same base date as the valuations used for rating purposes for the year in which the request is made.

(4) An estimate may relate to all parcels of ratable land of the kind for which a class of general rate was made for the relevant year by the council.

(5) In this section, “class of general rate” means a general rate made under section 118 (3) or any differential general rate made under section 118 (4).

(4) Section 131B (**Application of secs. 129, 131, 131A and 131AA to county councils**)—

Omit “and 131A”, insert instead “, 131A and 131AA”.

(5) Section 139 (**Making and levying**)—

(a) Section 139 (1)—

Omit “next preceding the making thereof”, insert instead “in the year in which the rate is made or the year following the year in which the rate is made”.

(b) Section 139 (2)—

Omit “in which”, insert instead “for which”.

(6) Section 160AA (**Reduction of rates payable by certain classes of pensioners**)—

Section 160AA (4A) (a), (6A) (a)—

Omit “\$150” wherever occurring, insert instead “\$250”.

(7) Section 160DB—

After section 160DA, insert:

Local Government (Rates and Charges) Amendment 1988

**SCHEDULE 1—AMENDMENTS RELATING TO GENERAL
PURPOSE RATES—*continued***

Ratepayers suffering hardship

160DB. (1) If, as a consequence of the making and levying of a rate on a valuation having a later base date than any valuation previously used by the council for the making and levying of a rate, a ratepayer suffers substantial hardship, the council, at its discretion, may, on the application of the ratepayer, waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable by the ratepayer in such circumstances, for such period and subject to such conditions as it thinks fit.

(2) If an applicant is dissatisfied with a council's decision under subsection (1), the applicant may request the council to review its decision and the council, at its discretion, may do so.

**SCHEDULE 2—AMENDMENTS RELATING TO RATING OF FARM
LAND**

(Sec. 5)

(1) Section 118 (**General rate**)—

(a) Section 118 (1), definitions of "farming" and "farm land"—

After the definition of "defined", insert:

"farming" means the business or industry of grazing, dairying, pig-farming, poultry farming, viticulture, orcharding, bee-keeping, horticulture, vegetable growing, the growing of crops of any kind, forestry, or oyster or fish farming within the meaning of the Fisheries and Oyster Farms Act 1935, or any combination of those businesses or industries;

"farm land" means a parcel of ratable land which is valued as one assessment and the dominant use of which is for farming which—

(a) has a significant and substantial commercial purpose or character; and

(b) is engaged in for the purpose of profit on a continuous or repetitive basis;

(b) Section 118 (1), definition of "non-residential land"—

Omit "a parcel of ratable land which is wholly or mainly used for the time being by the occupier for carrying on one or more of the businesses or industries referred to in paragraph (a) of the definition of 'rural land' in this subsection or an oyster farm referred to in paragraph (b) of that definition", insert instead "farm land".

*Local Government (Rates and Charges) Amendment 1988*SCHEDULE 2—AMENDMENTS RELATING TO RATING OF FARM
LAND—*continued*

- (c) Section 118 (1), definition of “rural land”—
Omit the definition.
- (d) Section 118 (4) (a) and (b) and (7) (a)—
Omit “rural” wherever occurring, insert instead “farm”.
- (e) Section 118 (7)—
Omit “30”, insert instead “60”.
- (f) Section 118 (7)—
Omit “court of petty sessions”, insert instead “Local Court”.

(2) Section 118AC—

After section 118AB, insert:

Application to have land declared to be farm land

118AC. (1) In this section, “farm land” has the same meaning as in section 118.

(2) A ratable person in respect of a parcel of land, or his or her agent, may apply to the council to have the land declared to be farm land.

(3) An application—

- (a) shall be in writing; and
- (b) shall include a description of the land to which the application relates.

(4) In order to have effect in a rating year, an application must be made before 30 September in the year preceding the rating year, unless the council, at its discretion, agrees to accept an application made after that date.

(5) On receiving an application, the council—

- (a) shall, unless it has reasonable grounds for believing that the land to which the application relates is not or may not be farm land, declare the land to be farm land; or
- (b) may, if it has reasonable grounds for believing that the land to which the application relates is not or may not be farm land, notify the applicant of such further information (if any) as may be required in order to satisfy the council that the land is farm land and, after having considered any such further information, shall declare whether or not the land is farm land.

*Local Government (Rates and Charges) Amendment 1988***SCHEDULE 2—AMENDMENTS RELATING TO RATING OF FARM LAND—*continued***

(6) The council shall notify the applicant in writing of its decision under subsection (5) and, if it has decided that the parcel of land is not farm land, shall include in its notification the reasons for its decision.

(7) A declaration that a parcel of land is farm land takes effect from 1 January immediately following the date on which the application in respect of the parcel was lodged with the council and continues in force until—

- (a) the land ceases to be farm land; or
- (b) the ratable person or his or her agent notifies the council in writing that the land has ceased to be farm land; or
- (c) the ownership of the land changes.

(8) The council need not annually review a declaration that land is farm land, but may review such a declaration—

- (a) as part of a general review of the classification of all or a number of parcels of land; or
- (b) because it has reason to believe that a parcel of land is no longer farm land.

(9) If a declaration that a parcel of land is farm land has effect and the council has made a determination under section 118 (4) in respect of ratable land referred to in section 118 (4) (b), the council may only levy a rate on that land in accordance with that determination.

(10) Without limiting section 118 (7), if an applicant is dissatisfied with a council's decision under subsection (5), the applicant may request the council to review its decision and the council, at its discretion, may do so.

(11) The ratable person, in respect of a parcel of land declared to be farm land, shall notify the council in writing within 30 days of the land ceasing to be farm land.

SCHEDULE 3—AMENDMENTS RELATING TO GARBAGE REMOVAL SERVICES

(Sec. 5)

Part 7, Division 2A—

After Division 2, insert:

Division 2A—Garbage removal services**Determination of appropriate base amount**

165A. A reference in this Division 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 Division.

**SCHEDULE 3—AMENDMENTS RELATING TO GARBAGE
REMOVAL SERVICES—*continued***

Base amount—generally

165B. The base amount for a garbage removal service for a year is the amount charged for the service in the previous year.

Base amount—no amount charged for the previous year

165C. (1) The base amount for a year, 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 the previous year, is the same amount as was payable in the previous year for the garbage removal service provided to a parcel of land which the council, having regard to all the circumstances, considers to be a comparable parcel.

(2) In this section, “parcel of land” includes a lot under the Strata Titles Act 1973 or the Strata Titles (Leasehold) Act 1986.

Making of garbage removal charges

165D. (1) A council shall not make a charge for a service supplied by it for the removal of garbage in respect of the year commencing on 1 January 1989, or any subsequent year, except in accordance with this section.

(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 any charge made for the previous year for the building in which the dwelling is situated as increased or decreased by the specified percentage under section 165E (2).

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SCHEDULE 3—AMENDMENTS RELATING TO GARBAGE
REMOVAL SERVICES—*continued*

Extension of existing garbage removal charges

165E. (1) If, in accordance with the Local Government (Rates and Charges) Act 1987 or this Act, a council made a charge in respect of a year for a service supplied by it for the removal of garbage or extended a charge to a year for such a service, the council by resolution may determine that the charge be extended to the following year.

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

- (a) the percentage specified for the purposes of this paragraph by the Minister, by order published in the Gazette, as the maximum percentage increase for that year for councils generally; 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) 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, apart from this Division, that charge would be payable for a part only of a year, that amount shall be reduced proportionately.

(4) If the rate or extent of the service supplied by a council in respect of a year for the removal of garbage is increased or decreased, nothing in this Division 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 the year to which it is extended.

**SCHEDULE 3—AMENDMENTS RELATING TO GARBAGE
REMOVAL SERVICES—*continued***

Invalidity of certain charges

165F. (1) A charge made by a council for a service supplied by it in respect of a year for the removal of garbage is wholly invalid if it is made in contravention of this Division or in contravention of any condition attached to the consent given under section 165D (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 165E exceeds the amount determined in accordance with section 165E (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).

**SCHEDULE 4—AMENDMENTS RELATING TO CHARGES AND
FEES FOR WATER SUPPLY AND SEWERAGE AND DRAINAGE**

(Sec. 5)

Section 378A—

Omit the section, insert instead:

Charges and fees for water supply and sewerage and drainage services

378A. (1) A council may, instead of levying a rate under this Part, or in addition to any such rate, levy—

- (a) in respect of the supply of water—
 - (i) a charge by measure for all water supplied (including a minimum charge); or
 - (ii) a charge by measure for all water supplied (including one or more standard charges); and
- (b) in respect of the provision of sewerage or drainage services, a standard charge for those services.

(2) A council may levy charges (not being a charge referred to in subsection (1)) and fees for or in connection with the supply of water or the provision of sewerage or drainage services.

(3) If, in the opinion of a council, the amount of the rate on any land would not be sufficient to pay for water used (or likely to be used) in connection with the land, the council may, by notice in writing, direct the owner of the land (within the time specified in the notice)—

- (a) to pay for the supply of water at a charge fixed by resolution of the council; or

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SCHEDULE 4—AMENDMENTS RELATING TO CHARGES AND FEES FOR WATER SUPPLY AND SEWERAGE AND DRAINAGE—
continued

(b) to instal a meter and pay for the water by measure, and in collecting any such charge or payment, credit shall be given for the amount of the rate if paid.

(4) Any charge for the supply of water as referred to in subsection (1) may differ according—

- (a) to the different quantities of water supplied; or
- (b) to the purposes for which the water is supplied.

(5) If a charge for the supply of water as referred to in subsection (1) is altered during the period to which the charge relates, the water supplied during that period shall be regarded as having been supplied evenly on a daily basis throughout that period, unless the council which has levied the charge otherwise determines.

(6) Any charge or fee for or in connection with the supply of water or the provision of sewerage or drainage services—

- (a) may be levied in respect of land (including Crown land) which is not ratable under this Part; and
- (b) may be fixed by ordinance or, if there is no such fixed charge or fee, may be otherwise fixed by resolution of the council which levies the charge or fee, subject to any maximum amount prescribed by ordinance; and
- (c) may be recovered as rates.

(7) A charge for the supply of water or for the provision of sewerage or drainage services as referred to in subsection (1) to any ratable land shall be paid by the person for the time being ratable in respect of the land.

(8) Except as provided in subsection (7), the charge or fee for the supply of water or for the provision of sewerage or drainage services shall be paid by the person to whom or at whose request the service is supplied or provided.

(9) The provisions of sections 150, 158 and 160AA apply to and in respect of a charge for the supply of water and for the provision of sewerage services as if the charge were a rate payable under this Act.

(10) If the Crown is liable to pay a charge or fee under this section, the charge or fee shall be paid in accordance with the provisions of this Act relating to payment of rates by the Crown.

**SCHEDULE 5—MAKING OF RATES AND CHARGES FOR 1989
ETC.**

(Sec. 6)

Determination of notional rate income for 1988

1. (1) For the purposes of section 131A (1) of the Principal Act, as amended by this Act, the notional rate income of a council for 1988 is the amount that would have been derived if the same general purpose rates and the same minimum amounts of general purpose rates as applied for 1988 in accordance with the Local Government (Rates and Charges) Act 1987 (being the rates and amounts made, specified, extended or further extended in accordance with that Act) had been made and levied for 1988 on the value of all ratable land as comprised in—

- (a) the valuations last used before the date of assent to this Act by the council for the making and levying of a valuation-based rate; and
- (b) any supplementary valuations having the same base date as those valuations and which were furnished to the council under the Valuation of Land Act 1916 after the making of the rate.

(2) In this clause, “valuation-based rate” means a general purpose rate made otherwise than by the extension or further extension, in accordance with 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, the Local Government (Rates and Charges) Act 1986 or the Local Government (Rates and Charges) Act 1987, of a general purpose rate.

(3) Section 131A (1A) of the Principal Act, as amended by this Act, does not apply to the notional rate income of a council for 1988.

Valuations applicable to the making and levying of general purpose rates for 1989

2. (1) A council may, by resolution, determine that its general purpose rates for 1989 shall be made and levied on the value of all ratable land in the area as comprised in the valuations referred to in clause 1 (1) (a) and (b).

(2) If a council does not so resolve, its general purpose rates for 1989 shall be made and levied on the valuations in the council’s valuation book applicable as at 1 January 1989 and required under the Principal Act to be used for the making and levying of general purpose rates, except as provided by subclause (3).

(3) A council which is required under section 134A of the Principal Act to use rating base factors determined in accordance with section 58D of the Valuation of Land Act 1916 for the making of a rate in respect of water or sewerage works, or proposed water or sewerage works, for 1989 shall use those rating base factors for the purpose of making and levying general purpose rates for 1989.

Local Government (Rates and Charges) Amendment 1988

**SCHEDULE 5—MAKING OF RATES AND CHARGES FOR 1989
ETC.—*continued***

Minimum amounts of rates

3. Notwithstanding anything in the Principal Act, if the minimum amount of a general rate of a council for 1988 exceeded \$220, the council may determine the minimum amount for the general rate for 1989 and any subsequent year to be an amount not greater than the minimum amount of the general rate for any previous year.

Maximum percentage increase of revenue from general purpose rates for 1989

4. The percentage specified for 1989 by the Minister in accordance with section 131 (1) of the Principal Act shall be taken to be 6.5 per cent.

Maximum percentage increase for garbage removal services for 1989

5. The percentage specified for 1989 by the Minister in accordance with section 165E (2) (a) of the Principal Act, as amended by this Act, shall be taken to be 6.5 per cent.

Application to have land declared to be farm land

6. (1) The amendments made to the Principal Act by section 5 and Schedule 2 shall not apply to the making and levying of general purpose rates for 1989 by a council unless the council, by resolution, determines that those amendments shall so apply.

(2) If a council makes a determination under this clause, section 118AC of the Principal Act, as amended by this Act, applies to the making and levying of general purpose rates for 1989 by the council, subject to the following modifications:

- (a) in order to have effect for 1989, an application under that section must be made before 28 February 1989, unless the council, at its discretion, agrees to accept an application made after that date; and
- (b) a declaration under that section in respect of such an application that a parcel of land is farm land has effect from 1 January 1989.

Validation of certain rates and charges

7. Anything done before the date of assent to this Act which would have been valid if this Act had been in force when the thing was done is validated.

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SCHEDULE 5—MAKING OF RATES AND CHARGES FOR 1989
ETC.—*continued*

Use of certain valuations for determination of notional rate income for 1989

8. Valuations used in accordance with this Act by a council for the making and levying of general purpose rates for 1989 shall, for the purposes of section 131A (1A) of the Principal Act, as amended by this Act, be taken to have been required under the Principal Act to be used in that year for the making and levying of those rates.

[*Minister's second reading speech made in—
Legislative Assembly on 10 November 1988
Legislative Council on 29 November 1988*]
