

LOCAL GOVERNMENT ACT 1993—REGULATION

(Local Government (Rates and Charges) Regulation 1993)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1993, has been pleased to make the Regulation set forth hereunder.

GARRY WEST, M.P.,
Minister for Local Government and Co-operatives.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Local Government (Rates and Charges) Regulation 1993.

Commencement

2. This Regulation commences on 1 July 1993.

Definitions

3. (1) In this Regulation:

the Act means the Local Government Act 1993.

(2) In this Regulation, a reference to a form is a reference to a form set out in Schedule 1.

(3) Expressions used in this Regulation which are defined in the Act have the meanings set out in the Act.

To what areas and councils does this Regulation apply?

4. (1) This Regulation applies to those parts of the State that are constituted as areas for the purposes of the Act.

(2) This Regulation (except provisions relating to the making and levying of ordinary rates) applies to county councils in the same way as it applies to councils.

PART 2—LEVYING OF RATES AND CHARGES**Land used for caravan park or manufactured home estate not to be categorised as residential**

5. If the dominant use of land is for a caravan park or a manufactured home estate, the land is not to be categorised as residential for rating purposes.

Application for change of category of rateable land

6. (1) An application under section 525 of the Act to have rateable land declared to be within a particular category for the purposes of section 514 of the Act must contain the following information:

- (a) particulars of the present and recent previous uses of the land (if known) and of uses of the land (if known) since a declaration was last made about the land under section 514 of the Act;
- (b) particulars of reasons why the category of the land should be changed.

(2) An application under section 525 of the Act is to be signed by the rateable person or the person's agent making the application.

(3) Any such application may be made in Form 1.

(4) This clause applies to a sub-category for a category of rateable land in the same way as it applies to a category of land.

Rates and charges notices

7. A rates and charges notice must contain the following information:

- (a) the land to which it relates;
- (b) the land value of the land to which it relates and the base date of the general valuation from which the land value is derived;
- (c) particulars of each rate or charge levied on the land by the notice;
- (d) if the rate consists of a base amount to which an ad valorem amount is added, particulars of the base amount;

- (e) the date the notice is taken to have effect;
- (f) particulars of any outstanding arrears of rates and charges levied on the land and of any interest payable on those amounts;
- (g) the total amount due and the dates for payment of the rates or charges concerned;
- (h) the amounts payable for, and the due dates for payment of, instalments of rates or charges;
- (i) particulars of any waiver of an amount of special rate in consideration of payment of a lump sum;
- (j) a statement that concessions are available to eligible pensioners for any quarter in which they are eligible pensioners;
- (k) particulars of any concession extended in respect of payment of the rates;
- (l) particulars of any discount for prompt payment in full of a rate or charge;
- (m) particulars of any postponement of rates or postponed rates;
- (n) particulars of any option to pay a lump sum towards the capital cost of any works, services or facilities instead of a special rate in the notice;
- (o) a statement that if payment is not made on or before the due date or dates interest accrues on the overdue amount;
- (p) a statement as to how to make inquiries about the notice;
- (q) the text, or a summary, of the following provisions of the Act (if applicable):
 - section 524 (Notice of change of category)
 - section 525 (Application for change of category)
 - section 526 (Appeal against declaration of category)
 - section 555 (What land is exempt from all rates?)
 - section 556 (What land is exempt from all rates, other than water supply special rates and sewerage special rates?)
 - section 557 (What land is exempt from water supply special rates and sewerage special rates?)
 - section 562 (Payment of rates and charges by quarterly instalments)
 - section 563 (Discount for prompt payment in full)
 - section 564 (Agreement as to periodical payment of rates and charges)
 - section 566 (Accrual of interest on overdue rates and charges)

- section 567 (Writing off of accrued interest)
- section 574 (Appeal on question of whether land is rateable).

PART 3—PAYMENT OF RATES AND CHARGES

Payment of rates and standing charges by quarterly instalments

8. A council is required to issue a quarterly notice under section 562 of the Act for payment of an instalment at least 30 days before the instalment is payable.

Request for transfer of land in payment of rates, charges or accrued interest

9. A request to the council for the acceptance of a transfer of land under section 570 of the Act in payment of rates, charges or accrued interest must be in writing, be signed by each owner or person having an interest in the land concerned and contain the following information:

- (a) title particulars and the rate assessment number of the land;
- (b) particulars of any mortgage, charge, lien or other encumbrance affecting the land.

Additional circumstances in which rates or charges may be written off

10. The council may write off rates and charges and interest accrued on unpaid rates and charges in the following circumstances:

- (a) if rates are reduced under section 527 of the Act following a change in the category of rateable land;
- (b) if a rate or charge is discounted under section 563 of the Act;
- (c) if an amount of a special rate is waived under section 565 of the Act;
- (d) if an amount of increase of rate is waived, reduced or deferred under section 601 of the Act;
- (e) if an amount payable to the council is rounded down as permitted under clause 31 of the Local Government (Financial Management) Regulation 1993.

Procedures for writing off rates and charges

11. (1) The council must, from time to time, by resolution, fix the amount of rates and charges above which rates and charges may be written off only by resolution of the council.

(2) An amount above or below that amount can be written off either by resolution of the council or by order in writing of the council's general manager.

(3) An amount of rates or charges of or below that amount can be written off either by resolution of the council or by order in writing of the council's general manager. In the absence of a resolution under subclause (2), rates and charges can be written off only by resolution of the council.

(4) A resolution or order writing off an amount of rates or charges must:

- (a) specify the name of the person whose debt is being written off; and
- (b) identify the account concerned; and
- (c) specify the amount written off,

or must refer to a record kept by the council in which those particulars are recorded.

(5) An amount of rates or charges can be written off under this clause only:

- (a) if there is an error in the assessment; or
- (b) if the amount is not lawfully recoverable; or
- (c) if as a result of a decision of a court; or
- (d) if the council or the general manager believes on reasonable grounds that an attempt to recover the amount would not be cost effective.

(6) The fact that an amount of rates or charges is written off under this clause does not prevent the council concerned from taking legal proceedings to recover the amount.

(7) The general manager must advise the council of rates and charges written off by written order of the general manager.

(8) A resolution under clause 41 of Ordinance No. 26 made under the Local Government Act 1919, and in force immediately before the commencement of this Regulation, is taken to have been made under this clause. Any such resolution may be amended or revoked in the same way as any resolution made under this clause.

Details of written off rates and charges to be included in annual report

12. The council's annual report must include the amount of rates and charges written off during the year.

Sale of land to recover overdue rates or charges

13. An advertisement under section 715 (1) of the Act notifying a proposed sale of land for unpaid rates or charges is to contain the following information:

- (a) that the council proposes to sell the land for unpaid rates or charges at public auction;
- (b) the name of the auctioneer and the proposed place, date and time of the auction;
- (c) the persons known to the council to have an interest in the land;
- (d) the amount of rates and charges unpaid for more than 5 years from the date on which they became payable and the amount of any interest accrued;
- (e) the amount of any other rates and charges payable and unpaid and the amount of any interest accrued;
- (f) the total amount due;
- (g) that, if all rates and charges payable (including overdue rates and charges) are not paid to the council or an arrangement satisfactory to the council is not entered into by the rateable person before the time fixed for the sale, the council will proceed with the sale.

Information relating to rates and charges

14. A council must, if required to do so by the Minister, furnish information to the Minister, in the form required, relating to rates and charges levied by the council.

SCHEDULE 1—FORMS

(Cll. 3 (2), 6 (3))

Form 1**APPLICATION FOR CHANGE IN CATEGORY OF LAND
CATEGORISATION FOR RATING PURPOSES**

Name of rateable person (or
person's agent) :

Identification/description of the
land the application relates to :

Current category or
sub-category of the land

Proposed category or
sub-category of the land :

Details of present and recent
uses made of the land (if
known) :

Is the land vacant or, if any
buildings or structures are
erected or situated on the land,
describe these :

Reasons why the proposed
category or sub-category is
more appropriate :

Signature of applicant : Date:

Telephone number for contact
purposes (optional information) :

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SCHEDULE 1—FORMS

EXPLANATORY NOTE

The purpose of this Regulation is to prescribe matters necessary for the purposes of the operation of Chapter 15 of the Local Government Act 1993 which relates to council finances and other provisions of that Act relating to rates and charges. In particular, the Regulation:

- applies to all areas and to county councils (except in relation to ordinary rates) as well as councils (clause 4)
 - provides that land used for a caravan park or manufactured home estate is not to be categorised as residential land for rating purposes (clause 5)
 - specifies matters to be included in an application to change the category of land for rating purposes and prescribes a form of application that may be used (clause 6 and Form 1)
 - specifies matters to be included in rates and charges notices which levy rates and charges (clause 7)
 - specifies the period for issue of quarterly instalment notices (clause 8)
 - specifies matters to be included in a request to a council to accept a transfer of land in payment of outstanding rates and charges (clause 9)
 - specifies additional circumstances in which councils may write off rates and charges (clause 10)
 - sets out procedures for writing off rates and charges (clause 11)
 - requires the amount of rates and charges written off to be included in the council's annual report (clause 12)
 - specifies matters to be included in advertisements notifying that the council is intending to sell land for unpaid rates and charges (clause 13)
 - requires councils to furnish information relating to rates or charges to the Minister if required to do so by the Minister (clause 14)
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