

TASMANIA

LOCAL GOVERNMENT (RATES AND CHARGES REMISSIONS) AMENDMENT BILL 2007

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 4 amended (Municipalities to remit rates and charges)
6. Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, 4H and 4I inserted
 - 4A. False or misleading statements
 - 4B. Power to require repayments
 - 4C. Objections
 - 4D. Objections lodged out of time
 - 4E. Determination of objections
 - 4F. Rights of appeal
 - 4G. Appointment of authorised officers
 - 4H. Authorised investigations
 - 4I. Powers of investigation
7. Section 5 amended (Treasurer to pay municipalities amounts remitted)
8. Section 6 amended (Treasurer may issue directions)
9. Section 6A inserted
 - 6A. Delegations
10. Section 8 inserted
 8. Transitional provisions

**LOCAL GOVERNMENT (RATES AND CHARGES
REMISSIONS) AMENDMENT BILL 2007**

*(Brought in by the Premier, the Honourable Paul Anthony
Lennon)*

A BILL FOR

**An Act to amend the *Local Government (Rates and Charges
Remissions) Act 1991***

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Local Government
(Rates and Charges Remissions) Amendment Act
2007*.

2. Commencement

This Act commences on 1 July 2008.

3. Principal Act

In this Act, the *Local Government (Rates and
Charges Remissions) Act 1991** is referred to as
the Principal Act.

*No. 8 of 1991

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 4

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition before the definition of “charges”:

“authorised officer” means –

- (a) the Commissioner; or
- (b) a person appointed as an authorised officer under section 4G;

- (b) by inserting the following definition after the definition of “charges”:

“Commissioner” means the
Commissioner of State Revenue
appointed under section 7 of the
*Taxation Administration Act
1997*;

- (c) by omitting the definition of “partner”;
- (d) by omitting the definition of “relevant date”;
- (e) by omitting “rebate.” from the definition of “remission” and substituting “rebate;”;
- (f) by inserting the following definition after the definition of “remission”:

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 5

“**spouse**” includes the person with whom a person is, or was at the time of his or her death, in a significant relationship, within the meaning of the *Relationships Act 2003*.

5. Section 4 amended (Municipalities to remit rates and charges)

Section 4 of the Principal Act is amended as follows:

(a) by omitting subsections (1) and (2) and substituting the following subsections:

(1) An eligible pensioner who is liable to pay rates or charges to a municipality (or, if there is more than one such person, one of them) may apply to the municipality before 31 March in a financial year for a 30% remission on those rates or charges for –

(a) the financial year in which the application was made; and

(b) all subsequent financial years.

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 5

- (1A) On receipt of an application, a municipality is to grant the application if on 1 July in the financial year in which the application was made the applicant was –
- (a) an eligible pensioner; and
 - (b) occupying as his or her principal dwelling the property in respect of which the rates or charges are payable.
- (1B) On granting an application, the municipality is to remit 30% of any rates or charges payable to it by the applicant for –
- (a) the financial year in which the application was made; and
 - (b) each subsequent financial year until the applicant is no longer eligible for the remission.
- (1C) For the purpose of subsection (1B)(b), an applicant is no longer eligible for the remission if on 1 July in a subsequent financial year he or she is no longer –
- (a) an eligible pensioner; or

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 5

- (b) occupying as his or her principal dwelling the property in respect of which the rates or charges are payable.
- (1D) If an eligible pensioner makes an application under subsection (1), a municipality is to remit 30% of any rates or charges paid or payable to it by the applicant for the financial year immediately preceding the financial year in which the application was made if on 1 July in that immediately preceding financial year the applicant was –
- (a) an eligible pensioner; and
 - (b) occupying as his or her principal dwelling the property in respect of which the rates or charges were paid or payable.
- (2) The amount remitted by a municipality under this section for rates or charges payable in respect of a property for a financial year must not exceed the prescribed amount relevant to that financial year.

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 5

- (b) by omitting from subsection (3) “subsection (1)(b)(ii)” and substituting “this section”;
- (c) by omitting from subsection (3) “the relevant date” and substituting “1 July in a financial year”;
- (d) by omitting from subsection (3)(b)(i) “or partner”;
- (e) by omitting from subsection (3)(b)(ii) “or partner”;
- (f) by omitting subsection (4) and substituting the following subsection:
 - (4) If –
 - (a) an eligible pensioner who would be entitled to make an application under subsection (1) for a remission of rates or charges payable in respect of a property dies without making that application but leaves a surviving spouse; and
 - (b) the surviving spouse is occupying the property on 1 July in the financial year in which the application could have been made –

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 5

the surviving spouse may make that application.

(g) by omitting from subsection (5) “a person entitled to the remission in accordance with that subsection” and substituting “an eligible pensioner”;

(h) by inserting the following subsections after subsection (5):

(6) On granting an application made in accordance with subsection (4) –

(a) the remission of rates or charges may only be given in respect of the financial year in which the application is made and, if subsection (1D) applies, the financial year immediately preceding that financial year; and

(b) the municipality is to give that remission for that financial year or immediately preceding financial year to the relevant surviving spouse.

(7) If –

(a) an eligible pensioner who has made an application

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 5

under subsection (1) dies in the financial year in which that application was made; and

- (b) had he or she not died in that financial year, the eligible pensioner would have been entitled under this section to a remission of rates or charges payable in respect of a property for that financial year or the immediately preceding financial year, or both; and
- (c) a surviving spouse of the eligible pensioner was occupying the property on 1 July in that financial year –

the municipality is to give any unpaid remission for that financial year and the immediately preceding financial year, if relevant, to the surviving spouse.

- (8) If –
 - (a) an eligible pensioner who has made an application under subsection (1) dies

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 5

in a financial year
subsequent to the
financial year in which
the application was made;
and

- (b) had he or she not died in
that subsequent financial
year, the eligible
pensioner would have
been entitled under this
section to a remission of
rates or charges payable
in respect of a property
for that subsequent
financial year; and
- (c) a surviving spouse of the
eligible pensioner was
occupying the property on
1 July in that subsequent
financial year –

the municipality is to give any
unpaid remission for that
subsequent financial year to that
surviving spouse.

- (9) A person given a remission on
rates or charges under this section
for a financial year must notify a
municipality in writing before the
end of that financial year if he or
she ceases to –

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 6

(a) be an eligible pensioner;
or

(b) occupy as his or her principal dwelling the property in respect of which the remission on rates or charges was given.

Penalty: In the case of an offence under subsection (9), a fine not exceeding 2 penalty units.

6. Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, 4H and 4I inserted

After section 4 of the Principal Act, the following sections are inserted:

4A. False or misleading statements

A person must not, in giving any information under this Act –

(a) make a statement knowing it to be false or misleading; or

(b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 2 penalty units.

4B. Power to require repayments

The Commissioner, by written notice, may require a person given a remission on rates or charges under section 4 to repay to the Commissioner the amount remitted under that section if the Commissioner is satisfied that the person was not entitled to that remission.

4C. Objections

- (1) A person may object to a decision of the Commissioner under section 4B.
- (2) An objection is to –
 - (a) be in writing; and
 - (b) be lodged with the Commissioner within 60 days after the objector receives a written notice under section 4B or as otherwise allowed by the Commissioner under section 4D.

4D. Objections lodged out of time

- (1) A person may apply to the Commissioner for permission to lodge an objection after the 60-day period referred to in section 4C(2)(b).
- (2) An application is to –

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 6

- (a) be in writing; and
 - (b) set out in detail the reasons for the failure to lodge the application within that 60-day period.
- (3) On receipt of an application the Commissioner may –
- (a) permit the person to lodge an objection after the 60-day period referred to in section 4C(2)(b) if he or she is satisfied that because of the detailed reasons set out in the application the person was unable to lodge an objection within that period; or
 - (b) refuse to permit the person to lodge an objection after the 60-day period referred to in section 4C(2)(b) if he or she is not satisfied that because of the detailed reasons set out in the application the person was unable to lodge an objection within that period.
- (4) The Commissioner is to notify a person in writing of his or her decision under subsection (3)(b) as soon as practicable after the decision is made.

- (5) The decision of the Commissioner made under subsection (3)(b) is final and is not subject to judicial or other review.

4E. Determination of objections

- (1) The Commissioner is to determine an objection lodged with the Commissioner under section 4C(2)(b) and may –
- (a) allow the objection in whole or part; or
 - (b) disallow the objection.
- (2) The Commissioner is to give written notice to the objector of his or her determination under subsection (1)(a) or (b).
- (3) If the Commissioner disallows an objection or allows it only in part, the written notice of the determination is to state the grounds for disallowing the objection or for allowing the objection in part only.

4F. Rights of appeal

- (1) An objector who is dissatisfied with the Commissioner's determination of an objection may apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination.

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 6

- (2) An application for a review must be made within 60 days after the objector receives a written notice under section 4E(2).

4G. Appointment of authorised officers

The Commissioner may appoint a person who is a State Service employee as an authorised officer for the purposes of sections 4H and 4I.

4H. Authorised investigations

An authorised officer may conduct an investigation to determine –

- (a) whether or not an application under section 4 for a remission on rates or charges has been properly made; or
- (b) whether or not a person given a remission on rates or charges in accordance with section 4 was eligible for the remission; or
- (c) any other matter reasonably related to the administration and enforcement of this Act.

4I. Powers of investigation

- (1) For the purpose of an investigation conducted under section 4H, an authorised officer may require a person –

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 7

- (a) to provide the authorised officer with written information that he or she considers relevant to the investigation; or
 - (b) to attend at a specified time and place before the authorised officer –
 - (i) to answer questions he or she considers relevant to the investigation; and
 - (ii) to produce any document that he or she considers relevant to the investigation.
- (2) An authorised officer may require information given, or to be given, under subsection (1)(a) to be verified on oath or by statutory declaration.

7. Section 5 amended (Treasurer to pay municipalities amounts remitted)

Section 5(1) of the Principal Act is amended by omitting “section 4(1),” and substituting “section 4,”.

*Local Government (Rates and Charges Remissions) Amendment
Act 2007
Act No. of*

s. 8

8. Section 6 amended (Treasurer may issue directions)

Section 6 of the Principal Act is amended by omitting “section 4(1) or (4),” and substituting “section 4,”.

9. Section 6A inserted

After section 6 of the Principal Act, the following section is inserted:

6A. Delegations

The Commissioner may delegate any of his or her functions or powers under this Act other than this power of delegation.

10. Section 8 inserted

After section 7 of the Principal Act, the following section is inserted:

8. Transitional provisions

This Act applies to a person who has been given a remission on rates or charges for the financial year ending 30 June 2008 as if that person had made an application under section 4(1) and that application had been granted.