

TASMANIA

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**LOCAL GOVERNMENT AMENDMENT (RATES)  
BILL 2017**

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**CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Section 16 amended (Municipal areas)
5. Section 86 amended (Interpretation of Part 9)
6. Section 86AA inserted  
86AA. Relevant right to occupation
7. Section 87 amended (Exemption from rates)
8. Section 120 amended (Liability for rates)
9. Section 350B inserted  
350B. Validation of certain rate notices
10. Repeal of Act



**LOCAL GOVERNMENT AMENDMENT (RATES)  
BILL 2017**

*(Brought in by the Minister for Planning and Local  
Government, the Honourable Peter Carl Gutwein)*

**A BILL FOR**

**An Act to amend the *Local Government Act 1993***

Be it enacted by Her 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 Amendment (Rates) Act 2017*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

**3. Principal Act**

In this Act, the *Local Government Act 1993*\* is referred to as the Principal Act.

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\*No. 95 of 1993

*Local Government Amendment (Rates) Act 2017*  
*Act No. of*

s. 4

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**4. Section 16 amended (Municipal areas)**

Section 16(3) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “adjoining it.” and substituting “adjoining it; and”;
- (b) by inserting the following paragraph after paragraph (b):
  - (c) any bridge, jetty, wharf, boat-house, or other structure, that –
    - (i) adjoins the municipal area; or
    - (ii) is situated partly within a municipal area and partly on or over an area of the seabed that is adjacent to the municipal area –

and any area of land, adjoining the bridge, jetty, wharf, boat-house, or other structure, over which has been granted a right to occupation of the seabed, which right is necessary to enable the use of the bridge, jetty, wharf, boat-house, or other structure.

**5. Section 86 amended (Interpretation of Part 9)**

Section 86 of the Principal Act is amended by inserting after the definition of *rating authority* the following definition:

*relevant right to occupation* – see section 86AA;

**6. Section 86AA inserted**

After section 86 of the Principal Act, the following section is inserted in Division 1:

**86AA. Relevant right to occupation**

- (1) For the purposes of this Part, a relevant right to occupation means –
  - (a) a relevant lease; or
  - (b) a private purposes licence.
- (2) For the purposes of this section, a relevant lease is a lease other than a lease, in relation to a seabed, that is granted and in force under Part 4 of the *Marine Farming Planning Act 1995*.
- (3) For the purposes of this section, a private purposes licence, in relation to land, is a licence –
  - (a) that confers, either expressly or by implication, a right on the holder of the licence to exclude,

*Local Government Amendment (Rates) Act 2017*  
*Act No. of*

s. 6

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from the land, a person other than  
the Crown; and

- (b) that is not a licence primarily for  
the benefit of the Crown.
- (4) Without limiting the circumstances in  
which a licence is to be taken to confer a  
right on the holder of the licence to  
exclude, from the land, a person other  
than the Crown for the purposes of  
subsection (3), a licence may be taken to  
confer such a right, despite a term or  
condition of the licence which states that  
it does not confer an exclusive right to  
occupy the land, if, on a proper  
construction of the licence, the term or  
condition is intended only to ensure that  
the Crown may not be excluded from the  
land.
- (5) For the purposes of subsection (3), a  
licence is to be taken to be a licence  
primarily for the benefit of the Crown  
if –
  - (a) it is granted for the primary  
purpose of assisting the Crown –
    - (i) to perform its  
responsibilities to control  
weeds or pests on the land  
or other land; or
    - (ii) to reduce or manage  
vegetation so as to reduce  
the risk of the spread of

*Local Government Amendment (Rates) Act 2017*  
*Act No. of*

s. 7

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- bushfire on the land or other land; or
  - (iii) to beautify an area of land; or
  - (iv) to carry out another responsibility of the Crown that is of a prescribed type; or
- (b) the licence is within a class of licences that is prescribed for the purposes of this paragraph.

**7. Section 87 amended (Exemption from rates)**

Section 87(1) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (b) “is not land to which a relevant right to occupation relates and that is land that” after “that”;
- (b) by inserting the following paragraph after paragraph (b):
  - (ba) land, held or owned by the Crown, that is a seabed –
    - (i) on land to which relates a lease granted and in force under Part 4 of the *Marine Farming Planning Act 1995*; or

*Local Government Amendment (Rates) Act 2017*  
*Act No. of*

s. 8

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- (ii) on land, if no lease (other than a lease referred to in subparagraph (i)), or licence, has been granted by the Crown in relation to the land and is in force; or

**8. Section 120 amended (Liability for rates)**

Section 120 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (1A) and (2A)”;
- (b) by inserting the following subsection after subsection (1):

(1A) Despite subsection (1), but subject to subsection (2C), the holder of a relevant right to occupation in relation to land to which a subparagraph of section 87(1)(b) relates is a ratepayer and is liable for the payment of rates in relation to that land.

- (c) by inserting the following subsections after subsection (2):

(2A) If an occupier of land enters into an agreement under subsection (2) to be the ratepayer



*Local Government Amendment (Rates) Act 2017*  
*Act No. of*

s. 9

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in respect of that land for specified rates, the occupier is a ratepayer in relation to those rates and is liable for the payment of those rates.

(2B) The Crown may enter into a written agreement with the holder of a relevant right to occupation, in relation to land to which a subparagraph of section 87(1)(b) relates, for the Crown to be the ratepayer in respect of that land for specified rates.

(2C) If the Crown enters into an agreement under subsection (2B) for the Crown to be the ratepayer in respect of land for specified rates, then, despite subsection (1A), the Crown is a ratepayer in relation to those rates and is liable for the payment of those rates.

(d) by inserting in subsection (3A) “, or the holder of a relevant right to occupation,” after “that land”;

(e) by inserting in subsection (3A) “or that the Crown has entered into an agreement under subsection (2B), as the case may be” after “subsection (2)”.

*Local Government Amendment (Rates) Act 2017*  
*Act No. of*

s. 9

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**9. Section 350B inserted**

After section 350A of the Principal Act, the following section is inserted in Division 3:

**350B. Validation of certain rate notices**

(1) In this section –

*introduction day* means the day on which a bill entitled the *Local Government Amendment (Rates) Bill 2017* is presented to the House of Assembly;

*rates notice* has the same meaning as it has in Part 9.

(2) A rates notice issued, before the introduction day, in relation to land, is not to be taken to be invalid by reason only that –

(a) all or part of the land was land to which section 87(1)(b), as in force immediately before the introduction day, applied; or

(b) part of the land was not within a municipal area.

(3) Subsection (2) does not apply in relation to a rates notice issued to the Crown.

*Local Government Amendment (Rates) Act 2017*  
*Act No. of*

**s. 10**

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**10. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.