

TASMANIA

**LOCAL GOVERNMENT AMENDMENT
(SEPARATE RATES) BILL 2002**

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LOCAL GOVERNMENT AMENDMENT (SEPARATE RATES) BILL 2002

*(Brought in by Minister Assisting the Premier on Local
Government, the Honourable James Glennister Cox)*

A BILL FOR

An Act to amend the *Local Government Act 1993*

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:

Short title

1. This Act may be cited as the *Local Government
Amendment (Separate Rates) Act 2002*.

Commencement

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

Principal Act

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

*No. 95 of 1993

Section 100 substituted

4. Section 100 of the Principal Act is repealed and the following section is substituted:

Separate rate

100. (1) A council may, by absolute majority, make a separate rate in respect of land, or a class of land, within a part of its municipal area.

(2) A separate rate may be made –

- (a) in addition to any other rates; and
- (b) in respect of a financial year or part of a financial year; and
- (c) for the purpose of planning, carrying out, making available, maintaining or improving any thing that in the council's opinion is, or is intended to be, of particular benefit to –
 - (i) the affected land; or
 - (ii) the owners or occupiers of that land.

(3) A separate rate must not be made more than one month before the beginning of the financial year in which it commences, but may otherwise be made at any time during a financial year.

(4) At the time of making a general rate, a council may, upon the resolution of an absolute majority, continue a separate rate applying in respect of a financial year for the next financial year.

(5) A separate rate cannot be continued beyond the period notified under section 101(2)(d).

(6) If a separate rate is not continued for a particular financial year, the rate must not be continued in respect of a subsequent financial year.

(7) A separate rate must not be continued for a period of more than 5 financial years unless, in the fifth financial year –

- (a) the council resolves to continue the rate under subsection (4); and
- (b) the rate is reviewed in accordance with section 105A.

(8) A separate rate for a financial year is to be based on the same category of value of land as is applicable to the general rate for that financial year under section 90(3).

Section 101 amended (Intention to make separate rate)

5. Section 101 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “including a separate rate first-mentioned in section 105,” after “rate,”;
- (b) by inserting in subsection (1)(a) “separate” after “of the”;
- (c) by inserting in subsection (1)(b) “separate” after “make the”;
- (d) by omitting from subsection (2)(d) “proposed”;
- (e) by omitting from subsection (2)(e) “affected ratepayers” and substituting “the ratepayers, owners and occupiers of affected land”;

- (f) by inserting in subsection (2)(f) “of affected land” after “ratepayers”;
- (g) by inserting the following subsection after subsection (2):

(3) This section does not apply to the continuation of a separate rate under section 100(4).

Section 102 amended (Submissions)

6. Section 102 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (a):
 - (ab) is to be addressed to the general manager of the council; and
- (b) by omitting from paragraph (b) “21” and substituting “30”.

Section 103 amended (Petitions)

7. Section 103(1) of the Principal Act is amended by omitting “21” and substituting “30”.

Section 104 amended (Consideration by council)

8. Section 104(a) of the Principal Act is amended by omitting “impose” and substituting “make”.

Section 105 substituted

9. Section 105 of the Principal Act is repealed and the following sections are substituted:

Separate rate for same purpose

105. A council must not make a separate rate for the same, or substantially the same, purpose as that of a separate rate that the council has applied at any time in the previous 5 financial years unless it conducts a review of that previous separate rate in accordance with section 105A.

Review of separate rate

105A. (1) A review of a separate rate is to include an assessment of the particular benefit of the rate to –

- (a) the affected land; or
- (b) the owners or occupiers of that land.

(2) Before undertaking a review, the council is to –

- (a) notify the ratepayers of the affected land of its intention to conduct the review; and
- (b) publish notification of that intention in a daily newspaper circulating in its municipal area.

(3) Notification published under subsection (2)(b) is to include an invitation to the ratepayers, owners and occupiers of the affected land to make written submissions in respect of the review within 30 days after publication of the notification.

(4) In deciding, following a review under this section, whether or not to make or continue a separate rate, a council must take into account –

- (a) any submissions made under subsection (3); and
- (b) the outcomes of the review.

Adjustment of separate rate

105B. If a separate rate applies for more than one financial year, the council may adjust the rate in a subsequent financial year to take account of any of the following factors:

- (a) an increase in the Consumer Price Index figure for the previous financial year;
- (b) an adjustment in the assessed annual value, capital value or land value, on which the separate rate is based, made –
 - (i) under this Act; or
 - (ii) as a result of a fresh valuation under the *Valuation of Land Act 2001*;
- (c) any other prescribed matter.

Section 106A inserted

10. After section 106 of the Principal Act, the following section is inserted in Division 5:

Exemptions and variations

106A. (1) A council, by absolute majority, may –

- (a) exempt land or a class of land from a separate rate; or
- (b) vary the amount of a separate rate payable in respect of land or a class of land, having regard to –
 - (i) the use or predominant use of the land or class of land; or
 - (ii) the non-use of the land; or
 - (iii) the locality of the land or class of land; or
 - (iv) any other prescribed factor.

(2) In this section, “**use**” has the same meaning as in section 107.

Validation

11. A separate rate purported to have been made under the *Local Government Act 1993* before the commencement of this Act is taken to have been validly made.