

TASMANIA

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

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

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
4 April 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.

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3. Principal Act

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

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

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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 –

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- (a) that confers, either expressly or by implication, a right on the holder of the licence to exclude, 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

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- (ii) to reduce or manage vegetation so as to reduce the risk of the spread of 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

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*Marine Farming Planning
Act 1995; or*

- (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):

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

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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.

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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.