

Local Government Legislation Amendment (Rating and Other Matters) Act 2022

Local Government Briefing

October 2022

Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Timelines

First Reading – Legislative Assembly

- First reading passed - 7 June 2022

Second Reading – Legislative Assembly

- Second reading passed - 8 June 2022

Second Reading – Legislative Council

- August 2022

Royal Assent on 9 August 2022, Part 2 of the Act (pertaining to Rating Legislation) will come into operation no later than 20 June 2023 unless proclaimed by the Minister for an earlier date.

Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Purpose of Rating Changes

What is the purpose of the changes to the rating system?

The Act addresses some supported recommendations from the 2020 Local Government Rating System Review and the Ombudsman’s Investigation into how local councils respond to ratepayers in financial hardship.

Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Financial Hardship

What does the Act do regarding the payment of rates and charges?

The Act provides the Minister with power to issue Ministerial Guidance regarding financial hardship, which may include:

- a definition of financial hardship in regards to rates and charges;
- The application of financial hardship policies; and
- The waiving of any interest on unpaid rates and charges.

The Act also:

- formalises payment plans as an alternative way for ratepayers to pay their outstanding rates and charges.
- requires the Minister to set the interest rate that may be levied on unpaid rates and charges (replacing legislation setting the interest rate under the *Penalty Interest Rates Act 1983*);
- limits use of Magistrate’s Court orders to situations where rates or charges have not been paid for twenty-four months or longer

Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Interest on Unpaid Rates

Why is the Government changing the maximum interest rate on unpaid rates and charges?

- The current interest rate set by the *Penalty Interest Rate Act 1983* of 10 per cent is disproportionate for unpaid rates and charges
- While councils may waive interest in part or full, this power is inconsistently applied.
- The Government considers it more appropriate that the interest rate is set by the Minister, with Guidelines to reduce the amount for ratepayers experiencing financial hardship.
- The Essential Services Commission will provide advice to the Minister prior to setting the interest rate.

Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Rebates and Concessions

What is the intention of the new public benefit criteria for rate rebates and concessions?

- The Local Government Rating System Review recommended a new, contemporary public benefit test for councils, allowing councils to offer rate rebates or concessions for land uses that provide a public benefit to the community.
- This use of public benefit rebates or concessions must allow for availability to the public either free of charge or for a nominal amount, and may not be used for the distribution of profit to the owner or shareholders.
- Councils may continue to choose whether they offer rate rebates or concessions to their municipality under the new criteria.
- The Government encourages councils to think creatively about how they can use the new public benefit test to advantage their own community. Community gardens or public art spaces on private land are some such land uses that could be eligible, along with many other possibilities.

Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Service Rates and Charges

What will the changes to council service charges achieve?

- The Act updates the description of waste charges to ensure that services relevant to modern waste management activities are covered such as collection, transport, processing, storage and treatment of waste and recyclable materials.
- The definition is aligned with that of the *Circular Economy Act 2021* and the Government's recycling reforms.
- Legacy provisions for councils to levy service charges for water and sewage will be repealed as they are no longer used since the water sector was corporatised in the 1990s.

Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Special Rates and Charges

What are the changes to council Special Rates and Charges schemes?

- The Act will ensure the timely levying of council special rates and charges, to minimise delays between declaring special rates and charges schemes and the Acting of ratepayers.
- If a council has not levied the affected ratepayers within 12 months of declaring such a scheme, then the scheme itself will lapse, prompting councils to commence the works related to the scheme as soon as practicable.

Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Further Reforms

The Government supported 36 of the 56 recommendations of the Local Government Rating System Review – why are many of the supported reforms not in this Act?

- The supported reforms to the local government rating system will be implemented in two phases, this Act forms part of the first phase of reforms.
- The second phase over 2023 and 2024 includes longer term reforms to the governance and administration of the local government rating system.
 - (consideration of a) Valuation Averaging Mechanism
 - Consideration of rating by title
 - Administration reforms including NoA digitisation
 - Revised edition of the Best Practice Revenue and Rating Guide