

WESTERN AUSTRALIA

**RATES AND CHARGES (REBATES
AND DEFERMENTS) AMENDMENT
ACT 1993**

(No. 25 of 1993)

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**RATES AND CHARGES (REBATES
AND DEFERMENTS) AMENDMENT
ACT 1993**

No. 25 of 1993

**AN ACT to amend the *Rates and Charges (Rebates and
Deferments) Act 1992*.**

[Assented to 15 December 1993]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Rates and Charges (Rebates and Deferments) Amendment Act 1993*.

Commencement

2. (1) Part 1 and Part 2 shall be deemed to have come into operation on 1 July 1993.

(2) Part 3 shall come into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Rates and Charges (Rebates and Deferments) Act 1992** is referred to as the principal Act.

[* Act No. 31 of 1992.]

PART 2 — RETROSPECTIVE AMENDMENT

Section 7 amended

4. Section 7 of the principal Act is amended —

- (a) by inserting after the section designation “7.” the subsection designation “(1)”; and
- (b) by adding the subsection following —

“

(2) The determination as to the entitlement of a person made in accordance with section 32 (5) shall have effect throughout the rating year in which the charged period occurs.

”

Section 23 amended

5. Section 23 (1) of the principal Act is amended by inserting, after “or” where it appears after paragraph (a), the paragraph following —

“

(aa) that person is 60 years of age or more and receives, under the *Social Security Act 1991* of the Commonwealth —

- (i) a job search allowance;
- (ii) a newstart allowance;
- (iii) a sickness allowance;
- (iv) a special benefit; or

- (v) any other allowance, benefit or concession of a kind prescribed for the purposes of this section,

and has been receiving continuously for the last 12 months a social security pension or a social security benefit under that Act or a service pension under Part III of the *Veterans' Entitlements Act 1986* of the Commonwealth; or

”

Section 27 repealed and a section substituted

6. Section 27 of the principal Act is repealed and the following section is substituted —

“

The concept of land “belonging” to a person

27. (1) If a person holds an estate in fee simple in possession in land or a relevant interest in land, the land shall, for the purposes of this Act, be treated as belonging to that person —

- (a) whether or not that person is an eligible person; and
- (b) whether or not the estate or interest is held by the person solely or is held, together with another person or other persons, as a joint tenancy, a tenancy in common or in some other manner.

(2) Where land belongs to an applicant who —

- (a) occupies the land, or a part of it, as his or her ordinary place of residence; and

(b) is an eligible person,

the extent of the entitlement of the applicant as regards the land shall, subject to this Act, be registered.

(3) Where land is to be treated as belonging to an applicant or registered person, but that person is not the sole holder of the estate or interest or the sole use of the land is not as the ordinary place of residence of that person —

(a) the extent of the entitlement which is to be, or is, registered; and

(b) any apportionment of the rebate —

(i) calculated in such a manner as to reflect the extent of that entitlement, as required by section 40 (4); or

(ii) according to the extent of the use of the land for other purposes, as required by section 28 (2),

shall, subject to subsections (4) and (5) of this section, be determined by the administrative authority in accordance with section 28 and, where it applies, section 31 (3).

(4) Where the whole of any land is occupied by an applicant or registered person as his or her ordinary place of residence together with a person to whom the land does not belong, the fact that the land is also occupied by that other person shall not be taken into account.

(5) For the purpose of determining whether any land belongs to an applicant or a registered person

liable to pay a prescribed charge on the land,
where —

- (a) the land comprises or includes; or
- (b) a relevant interest in the land relates to,

the ordinary place of residence in which both that person and the spouse of that person live together, any entitlement as regards the land which is held by the spouse shall be taken into account as if it were the entitlement of that person, even if entitlements as regards the land have been separately registered under this Act in the respective names of that person and of the spouse.

(6) That any estate or interest in land is held, whether or not together with other persons, by a person who seeks to be allowed a rebate or to defer payment in respect of a prescribed charge does not of itself confer on a person any “entitlement” for the purposes of this Act unless the nature and extent of it has, under this Act, been determined and is registered.

”.

Section 28 amended

7. Section 28 of the principal Act is amended —

- (a) in subsection (1), by inserting, after “except”, the following —

“ where section 31 (3) (a) applies or ”; and

- (b) by inserting, after subsection (3), the following subsections —

“

(4) Where land is, for the purposes of this Act, treated as belonging both to —

- (a) an eligible person; and
- (b) some other person, not being the spouse of that eligible person, who is not an eligible person,

the administrative authority, having in accordance with section 7 determined the nature and extent of the entitlement of the eligible person, shall make the apportionments referred to in subsections (1) and (2) and allow a proportionate rebate of the prescribed charge.

(5) Where, before the coming into operation of Part 2 of the *Rates and Charges (Rebates and Deferments) Amendment Act 1993*, any administrative authority allowed to an eligible person a proportionate rebate, that proportionate rebate shall be taken to have been authorized under this Act.

”.

Section 29 amended

8. Section 29 (1) of the principal Act is amended, in paragraph (d), by deleting “owns” and substituting the following —

“ , at the coming into operation of this Act, owned ”.

Section 31 amended

9. Section 31 (3) of the principal Act is amended, in paragraph (b), by inserting, after “otherwise,”, the following —

“ under section 28 ”.

Section 32 amended

10. Section 32 (3) of the principal Act is amended by inserting, after “shall”, the following —

“
, even if arrears in respect of a prescribed charge in
relation to that land remain payable by the applicant,
”.

Section 33 amended

11. Section 33 of the principal Act is amended —

(a) by inserting after the section designation “33.” the subsection designation “(1)”; and

(b) by adding the subsections following —

“
(2) Where in relation to any charged
period an entitlement to land is registered,
effect shall be given by the administrative
authority to any rebate or deferment
allowable for that charged period as though
the entitlement remained that of the

registered person, notwithstanding that during the charged period —

- (a) the registered person dies, or ceases to be an eligible person; or
- (b) the land ceases to belong to the registered person,

but effect shall not be given to the rebate or deferment in relation to any subsequent charged period.

(3) Where arrears are due from a registered person in respect of a prescribed charge neither payment of a rebated amount nor deferment in respect of a prescribed charge of that kind shall be allowed by an administrative authority, notwithstanding that an entitlement is registered by that person relating to the land, unless subsection (4) applies.

(4) Where, before the coming into operation of Part 2 of the *Rates and Charges (Rebates and Deferments) Amendment Act 1993*, any arrangement for the payment of arrears in respect of a prescribed charge was entered into by an administrative authority with a registered person, that arrangement shall be taken to have been authorized under this Act and effect shall be given to the arrangement according to its terms.

(5) Where, in relation to any arrears payable in respect of a prescribed charge by an eligible person, a direction is given

to the administrative authority under section 9 to —

- (a) apply any payment; or
- (b) impose any requirement for penalty interest,

in accordance with the requirements of the procedural manual issued under that section, notwithstanding the provisions of the *Local Government Act 1960*, the administrative authority shall comply with the direction.

”.

Section 37 amended

12. Section 37 of the principal Act is amended, in subsection (1), by inserting, after “determine”, the following —

“ , with effect in relation to the succeeding rating year, ”.

Section 40 amended

13. Section 40 of the principal Act is amended —

(a) in subsection (1) —

- (i) in paragraph (a), by inserting after “prescribed charge” the following —

“ , or in respect of a prescribed charge which is apportioned in accordance with section 28,

”;

and

- (ii) by deleting “of that person to pay that charge” and substituting the following —

“
for payment of that charge, or the proportion that relates to the extent of the entitlement of the eligible person,
”;

and

- (b) in subsection (4) —

- (i) by deleting “and apportioned”;

- (ii) by inserting, before “the entitlement” the following —

“ the extent of ”; and

- (iii) by deleting “concerned.” and substituting the following —

“
and, in accordance with section 28, apportioned where appropriate.
”.

Section 41 amended

14. Section 41 of the principal Act is amended —

- (a) by deleting “a registered person pays”;

- (b) by inserting, after “rebated amount”, the following —

“
, or if the amount of the rebate is apportioned under section 28 the relevant proportion to which the particular entitlement related,
”;

and

- (c) by inserting, after “prescribed charge” where it first appears, the following —

“

is paid by or on behalf of a registered person

”.

Section 43 amended

15. Section 43 (4) of the principal Act is amended by deleting paragraph (b) and substituting the paragraph following —

“

(b) that other person —

- (i) occupies the land as his or her ordinary place of residence; and
- (ii) is also eligible to defer, and agrees to the deferral of, the payment of the charge,

”.

PART 3 — PROSPECTIVE AMENDMENT

Section 3 amended

16. Section 3 of the principal Act is amended —

(a) by deleting the definitions of —

(i) “Commonwealth concession card”; and

(ii) “pensioner health benefits card”;

(b) in the definition of “eligibility”, by deleting subparagraph (a) (ii) and substituting the subparagraph following —

“ (ii) a pensioner concession card; or ”; and

(c) by inserting, in the appropriate alphabetical position, the definition following —

“

“**pensioner concession card**” means a currently valid card, known by that name, issued on behalf of the Commonwealth to the holder or, where a card of another kind is prescribed specifically for the purpose of this definition, that other card;

”.

Section 6 amended

17. Section 6 (1) of the principal Act is amended by deleting “Commonwealth concession card and pensioner health benefits card” and substituting the following —

“ pensioner concession card ”.

Section 23 amended

18. Section 23 (1) of the principal Act is amended by deleting “Commonwealth concession card and pensioner health benefits card” and substituting the following —

“ pensioner concession card ”.

Section 24 amended

19. Section 24 (a) (ii) of the principal Act is amended by deleting “Commonwealth concession card and pensioner health benefits card” and substituting the following —

“ pensioner concession card ”.

Section 26 amended

20. Section 26 (1) of the principal Act is amended —

(a) in paragraph (a), by deleting “Commonwealth concession card,” and substituting the following —

“ pensioner concession card ”; and

(b) in paragraph (b), by deleting “of a pensioner health benefit card, issued to that person as the holder, as sufficient” and substituting the following —

“ , if appropriate and required, of relevant ”.