

Western Australia

**Rates and Charges (Rebates and Deferments)  
Amendment Act 2013**

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As at 29 Jun 2013

No. 4 of 2013

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## **Rates and Charges (Rebates and Deferments) Amendment Act 2013**

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Western Australia

## **Rates and Charges (Rebates and Deferments) Amendment Act 2013**

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**No. 4 of 2013**

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

*[Assented to 29 June 2013]*

The Parliament of Western Australia enacts as follows:

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**1. Short title**

This is the *Rates and Charges (Rebates and Deferments) Amendment Act 2013*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent (***assent day***);
- (b) the rest of the Act, other than section 4(3) and (4) —
  - (i) if this Act receives the Royal Assent on or before 1 July 2013 — on 1 July 2013;
  - (ii) otherwise — on assent day;
- (c) section 4(3) —
  - (i) if the *Water Services Legislation Amendment and Repeal Act 2012* section 112 (***section 112***) comes into operation on or before the day on which section 4(1) of this Act comes into operation — immediately after section 4(1) of this Act comes into operation;
  - (ii) otherwise — when section 112 comes into operation;
- (d) section 4(4) —
  - (i) if the *Water Services Legislation Amendment and Repeal Act 2012* section 226(3) (***section 226(3)***) comes into operation on or before the day on which section 4(1) of this Act comes into operation — immediately after section 4(1) of this Act comes into operation;
  - (ii) otherwise — when section 226(3) comes into operation.

**3. Act amended**

This Act amends the *Rates and Charges (Rebates and Deferments) Act 1992*.

**4. Section 3 amended**

- (1) In section 3(1) insert in alphabetical order:

***final payment day*** for a Water Corporation charge, in relation to a person, means —

- (a) the 50<sup>th</sup> day after the date of the notice requiring payment for that charge; or
- (b) a day, determined by the Water Corporation in relation to the person, that is after the day referred to in paragraph (a) but not more than 70 days after that day;

***Water Corporation*** means the Water Corporation established by the *Water Corporation Act 1995* section 4(1);

***Water Corporation charge*** means a charge referred to in paragraph (b)(ii) of the definition of ***prescribed charge***, made by the Water Corporation;

- (2) In section 3(1) in the definition of ***entitlement*** delete “Act throughout the charged period;” and insert:

Act;

- (3) In section 3(1) in the definition of ***Water Corporation*** delete “*Water Corporation Act 1995*” and insert:

*Water Corporations Act 1995*

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- (4) In section 3(1) in the definition of *Water Corporation charge* delete “paragraph (b)(ii)” and insert:

paragraph (b)(i)

**5. Section 7 amended**

In section 7(2) delete “The” and insert:

In relation to a prescribed charge that is not a Water Corporation charge, the

**6. Section 32 amended**

- (1) In section 32(5) delete “as at the commencement of the rating year.” and insert:

as at —

- (a) in the case of a Water Corporation charge —  
the day on which the application is made; or
- (b) in the case of any other prescribed charge —  
the commencement of the rating year.

- (2) After section 32(5) insert:

- (6A) If, in the case of a Water Corporation charge, the Water Corporation registers the entitlement of the applicant, the registration has effect on and from the day on which the application was made.

**7. Section 32A amended**

- (1) In section 32A(1) in the definition of *surviving partner's land* delete “subsection (2)(b).” and insert:

subsection (2)(b) or (4A)(b).

- (2) After section 32A(1) insert:

- (2A) Subsection (2) applies in relation to prescribed charges that are not Water Corporation charges.

- (3) After section 32A(3) insert:

- (4A) Subsection (4B) applies in relation to Water Corporation charges if —

- (a) immediately before the death of a spouse or de facto partner of a surviving partner, the deceased partner had a registered entitlement in respect of land; and
- (b) that land, following the death of the spouse or de facto partner —
  - (i) belongs to the surviving partner as a former joint tenant or tenant in common with the deceased partner; or
  - (ii) belongs to the surviving partner as a beneficiary under the will or intestacy of the deceased partner; or
  - (iii) is occupied by the surviving partner in the circumstances described in section 29(1)(b)(ii);

and

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- (c) following the death of the spouse or de facto partner the surviving partner became liable for the payment of a Water Corporation charge in respect of that land (the *first payment*); and
  - (d) at the time that the surviving partner became liable for the first payment he or she was eligible under this Act to apply to the Water Corporation to have an entitlement in respect of that land registered; and
  - (e) upon application by the surviving partner an entitlement in respect of that land is registered within 2 years of the death of the spouse or de facto partner.
- (4B) The surviving partner is taken to have had a registered entitlement on and from the day on which he or she became liable for the first payment until the earlier of —
  - (a) the day before the day on which the entitlement in respect of that land is registered; or
  - (b) the day before the first day (after he or she became liable for the first payment) on which he or she ceased to be eligible to have the entitlement registered,and is to be treated accordingly for the purposes of this Act.
- (4C) If —
  - (a) subsection (4A)(a) and (b) apply in relation to a deceased partner and the surviving partner; and
  - (b) the surviving partner —
    - (i) was liable for the payment of a Water Corporation charge in respect of the surviving partner's land for more than

2 years after the death of the spouse or de facto partner; and

- (ii) was eligible under this Act to apply to the Water Corporation to have an entitlement in respect of that land registered for more than 2 years after the death of the spouse or de facto partner;

and

- (c) the Minister is satisfied that, because of exceptional circumstances, an entitlement in respect of the surviving partner's land was not registered within the 2 years referred to in subsection (4A)(e),

the Minister may declare that the surviving partner is taken to have had a registered entitlement in respect of the surviving partner's land for the period specified in the declaration.

- (4) In section 32A(4) after "subsection (3)" insert:

or (4C)

- (5) In section 32A(5) delete "who is taken" and insert:

who, under subsection (2) or (3), is taken

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**8. Section 33 amended**

In section 33(2) delete “registered,” and insert:

registered in respect of a prescribed charge that is not a Water Corporation charge,

**9. Section 37 amended**

- (1) In section 37(1) delete “determine, with effect in relation to the succeeding rating year, to amend or cancel the registration, as the case requires.” and insert:

determine to amend or cancel the registration, as the case requires, with effect from —

- (c) in the case of a Water Corporation charge — the day on which the change in the person’s circumstances occurred; or
- (d) in the case of any other prescribed charge — the commencement of the rating year following the determination.

- (2) In section 37(2) delete “An administrative authority” and insert:

An administrative authority, other than the Water Corporation,

**10. Section 40 amended**

- (1) Before section 40(1) insert:

- (1A) A reference in this section to the liability of a person for the payment of a rebated amount of a prescribed charge includes, in respect of a prescribed charge that

is apportioned under section 28, a reference to the liability of a person for the proportion of the prescribed charge that relates to the extent of the entitlement of the person.

(2) Delete section 40(1)(a) and insert:

- (a) is liable for the payment of a prescribed charge on any land used by that person as their ordinary place of residence; and

(3) Delete section 40(2) and (2a) and insert:

(2) The liability of a person to whom this section applies for payment of a prescribed charge may, subject to this Act, be satisfied by the payment of a rebated amount —

- (a) in the case of a Water Corporation charge — by the final payment day or, if that person has been allowed an extended period under subsection (3A), before the end of that period; or
- (b) in the case of any other prescribed charge — before the end of the charged period or, if that person has been allowed an extended period under subsection (3A), before the end of that period.

(3A) If the Minister is satisfied that a person to whom this section applies has, because of exceptional circumstances, failed to pay the rebated amount by —

- (a) in the case of a Water Corporation charge — the final payment day; or

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- (b) in the case of any other prescribed charge —  
the end of the charged period,

the Minister may allow that person an extended period  
within which the payment may be made.

**11. Section 41 amended**

- (1) At the beginning of section 41 insert:

- (1) A reference in this section to a rebated amount in relation to a person includes, in respect of a rebated amount that is apportioned in accordance with section 28, a reference to the proportion of the rebated amount that relates to the extent of the entitlement of the person.

- (2) In section 41:

- (a) delete “Where the rebated amount, or if the amount of the rebate is apportioned under section 28 the relevant proportion to which the particular entitlement related, of a prescribed charge” and insert:

- (2) If the rebated amount of a prescribed charge that is not a Water Corporation charge

- (b) delete “section 40(2a),” and insert:

section 40(3A),

- (3) At the end of section 41 insert:

- (3) If the rebated amount of a Water Corporation charge is paid by or on behalf of a registered person by the final payment day or, if that person has been allowed an

extended period under section 40(3A), before the end of that period then, subject to this Act —

- (a) the person is not liable to pay any further amount for the prescribed charge; and
- (b) the Water Corporation has no further claim against the person for the prescribed charge.

**12. Section 42 amended**

- (1) In section 42(1) after “authority” insert:

other than the Water Corporation

- (2) After section 42(1) insert:

(2A) If —

- (a) the Water Corporation makes a prescribed charge in respect of a period (the ***relevant period***), some of which precedes the date of issue of the notice requiring payment of the prescribed charge; and
- (b) the relevant period is longer than the standard charged period for a charge of that kind; and
- (c) an entitlement, of the person liable for the charge, as regards the land is registered after the date of issue of the notice and before the final payment day,

the person may, subject to subsection (2), be allowed a rebate on the prescribed charge, for any part of the relevant period during which the person was both liable to pay the charge and entitled to apply for the registration of an entitlement as regards the land.

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- (3) In section 42(2) after “subsection (1)” insert:

or (2A)

- (4) Delete section 42(2a) and insert:

- (3A) If a rebate is allowed under this section, the administrative authority must, when necessary, refund, or give credit for, the amount of the rebate.

**13. Section 44 amended**

- (1) In section 44(1) delete “before the end of a period prescribed under subsection (1a)” and insert:

by the day determined in accordance with subsection (2A)

- (2) Delete section 44(1a) and insert:

- (2A) For the purposes of subsection (1) the day is —

- (a) if paragraphs (b) or (c) do not apply —

- (i) if the charge is a Water Corporation charge — the final payment day; or
- (ii) if the charge is not a Water Corporation charge — the last day of the charged period;

or

- (b) if the person has been allowed an extended period under section 40(3A) — the last day of that period; or

- (c) if a period has been specified under section 42(2) — the last day of that period.

**14. Schedule 1 Division 2 inserted**

- (1) If this Act receives the Royal Assent on or before 1 July 2013, subsection (2) does not have effect.
- (2) At the end of Schedule 1 insert:

**Division 2 — Provision for *Rates and Charges (Rebates and Deferments) Amendment Act 2013***

**2. If the Amendment Act commences after 1 July 2013**

- (1) In this clause —  
*Amendment Act* means the *Rates and Charges (Rebates and Deferments) Amendment Act 2013*;  
*commencement day* means the day on which the Amendment Act section 3 comes into operation;  
*interim period* means the period commencing on 1 July 2013 and ending immediately before commencement day.
- (2) Subject to subclauses (4) to (6), the Water Corporation is to give effect to this Act as if the Amendment Act had come into operation on 1 July 2013.
- (3) Without limiting subclause (2), the Water Corporation may —
  - (a) treat an application for registration made on or after commencement day, but not after 31 December 2013, as if made on a day that is before commencement day, but not before 1 July 2013; and
  - (b) in relation to an application referred to in paragraph (a), treat the entitlement of the applicant as regards land as having been registered on a day

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that is before commencement day, but not before 1 July 2013, if the entitlement could have been registered on that day had the Amendment Act come into operation on 1 July 2013; and

- (c) if a person's circumstances change on or after 1 July 2013 and before commencement day, give effect to any amendment or cancellation of the registration of the entitlement of the person as regards land as if the amendment or cancellation had occurred on the day on which the change in circumstances occurred.
- (4) If a person to whom section 40(1) applies receives a notice, during the interim period, requiring payment of a Water Corporation charge (whether or not the final payment day occurs during the interim period), the person may satisfy his or her liability for payment of the charge by the payment of a rebated amount by the later of —
- (a) the end of the rating year commencing on 1 July 2013; or
  - (b) if the person has been allowed an extended period under section 40(3A) — the end of that period; or
  - (c) if section 42(2) applies — the day under that subsection.
- (5) If the person referred to in subclause (4) is an eligible pensioner, section 44, as in force immediately before commencement day, applies in relation to the person's liability for payment of the charge.
- (6) For the purposes of subclause (4)(b), section 40(3A) applies as if the reference to the final payment day were a reference to the end of the rating year commencing on 1 July 2013.
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