

SENIORS (WATER SERVICE CHARGES REBATES) ACT 1990

(No. 18 of 1990)

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SENIORS (WATER SERVICE CHARGES REBATES) ACT

No. 18 of 1990

AN ACT to provide for certain persons holding seniors' cards to receive rebates on certain charges relating to water supply, sewerage, and drainage, and for related purposes.

[Assented to 24 July 1990]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Seniors (Water Service Charges Rebates) Act 1990*.

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

Interpretation

3. In this Act, unless the contrary intention appears—

“administrative authority” means an authority that makes a prescribed charge;

“prescribed charge” means a charge, whether by way of a rate or otherwise, made under a prescribed law in relation to the provision of water supply, sewerage, or drainage in respect of land for a period commencing on or after 1 July 1990, except that it does not include a charge assessed by reference to the quantity of water or wastewater concerned;

“prescribed law” means the *Water Authority Act 1984*, the *Land Drainage Act 1925*, the *Water Boards Act 1904*, the *Health Act 1911*, and the *Local Government Act 1960*;

“registered” means registered under section 5;

“seniors’ card” means a current seniors’ card issued by the Bureau for the Aged of the State;

“spouse” includes a *de facto* spouse;

“Water Authority” means the Water Authority of Western Australia established under section 7 of the *Water Authority Act 1984*.

What constitutes ownership

4. (1) For the purposes of this Act a person is taken to own land if and to the extent that—

- (a) that person is the legal owner of the land in fee simple;
- (b) in the case of land vested in the Crown, that person is authorized by the Crown to occupy that land pursuant to a lease, licence, concession, or any other arrangement;
- (c) that person has, under a contract of sale, agreed to purchase an interest in the land by reason of which, if the interest had passed to him, he would be taken to own the land for the purposes of this Act, notwithstanding that the interest has not yet passed to him; or

- (d) that person is entitled to possession of the land for the time being as a beneficiary or a life tenant under a distribution under the terms of a will or upon an intestacy or partial intestacy, or under the terms of a deed of arrangement to vary any such distribution.

(2) In determining for the purposes of this Act the extent to which a person owns land, if the spouse of that person partly owns the land but is not the holder of a seniors' card, the extent of ownership of the land by the spouse shall be included as if it were ownership by that person.

PART 2—REGISTRATION

Registration

5. (1) Subject to subsection (5), a person who—

- (a) is eligible to hold, and holds, a seniors' card; and
- (b) wholly or in part owns land that he occupies as his principal place of residence,

is entitled to be registered in respect of that land and may apply in writing to an administrative authority to be so registered.

(2) The conditions for a person to be eligible to hold a seniors' card are such as are from time to time determined by the Bureau for the Aged of the State.

(3) An administrative authority may require an application under subsection (1) to be accompanied by a written declaration as to such facts relevant to the application as it specifies.

(4) Subject to subsection (5), an administrative authority shall, upon receiving an application for registration made in accordance with this section, cause the applicant to be registered in respect of the land concerned, showing the extent to which the land is owned by that person.

(5) A person shall not be registered—

- (a) in respect of more than one place of residence;
- (b) in respect of land the primary use of which is other than residential; or
- (c) if the person is registered under the *Pensioners (Rates Rebates and Deferments) Act 1966* as an entitled pensioner.

(6) The Minister may, where in the circumstances of a particular case he considers it would be just and reasonable to do so, direct an administrative authority to which an application for registration has been made in accordance with this section to cause the registration of the applicant to be with effect from a day specified in the direction, being before the day on which the application was received by the administrative authority, and the administrative authority shall give effect to the direction.

Change in circumstances of registered person

6. (1) A person registered in respect of land who—

- (a) has ceased to hold a seniors' card;
- (b) has ceased to be eligible to hold a seniors' card;
- (c) has ceased to own the land;
- (d) has ceased to occupy the land as his principal place of residence; or
- (e) has commenced to use or permit the use of the land for a purpose that is not primarily residential,

is no longer entitled to be registered in respect of the land and shall forthwith notify the administrative authority by which he is registered, or each of them where there is more than one, in writing thereof.

(2) Where a person is registered in respect of land and a change occurs in the extent to which the land is owned by that person, he shall forthwith notify the administrative authority by which he is registered, or each of them where there is more than one, in writing of the change.

Amendment or cancellation of registration

7. (1) Where—

- (a) a registered person notifies an administrative authority as required by section 6 (1) or (2); or
- (b) it otherwise appears to an administrative authority by which a person is registered that—
 - (i) the person is not entitled to be so registered; or
 - (ii) the extent to which the person owns the land concerned differs from that shown in his registration,

the administrative authority shall cancel or amend the registration of that person, as the case requires.

(2) An administrative authority by which a person is registered shall, upon receiving an application in writing from that person for cancellation of the registration, cancel the registration with effect from the day on which the application was received.

Offences

8. (1) A person who—

- (a) in a declaration required under section 5 (3), provides information that is false or misleading in any material particular; or
- (b) wilfully omits to notify an administrative authority as required by section 6 (1) or (2),

commits an offence and is liable to a fine not exceeding \$1 000.

(2) Where it appears to an administrative authority by which the person is registered that, as a result of a contravention of this Act that is an offence under subsection (1), a person has become or continued to be registered when not entitled to do so, the person shall be taken for the purposes of section 9, since the contravention, not to have been registered.

PART 3—REBATE

Entitlement to rebate

9. (1) Where the land in respect of which a prescribed charge is payable is owned, wholly or in part, by a person who was, immediately before the commencement of the period for which the charge is made, registered in respect of the land by the administrative authority making the charge, the liability to pay the charge may, subject to section 13 (2), be satisfied by paying a rebated amount calculated in accordance with section 10 (1) if that amount is paid before the end of the period for which the charge is made.

(2) Subsection (1) does not apply in respect of a person where any amount is outstanding in respect of a charge, whether or not it is a prescribed charge, that is payable by that person to the same administrative authority for a period that has already ended.

Amount of rebate

10. (1) The rebated amount in respect of a prescribed charge is calculated by deducting from the amount of the charge that, but for this Act, would be payable the amount of the rebate provided for in this section.

(2) Subject to subsection (3), the amount of the rebate is 25% of the prescribed charge concerned, except that the rebate shall not exceed such amount as is prescribed by regulations.

(3) Where a registered person owns the land in respect of which he is registered jointly with another person or other persons, then unless each of the joint owners is either—

- (a) a person who is registered in respect of the land by the administrative authority concerned; or

(b) a person who—

(i) is the spouse of a person so registered; and

(ii) is ineligible for registration by reason only of not holding a seniors' card,

the amount of the rebate under this Act is reduced to an amount that bears to the rebate that would be payable if a person so registered were the sole owner the same ratio as the aggregate extent of the ownership of the land by persons so registered, expressed as a fraction, bears to one.

(4) Where a person owns land as a joint tenant with at least one other person, the extent of his ownership of the land is to be taken, for the purposes of subsection (3), to be such fraction as results from dividing one by the number of joint tenants, but nothing in this subsection limits the application of section 4 (2).

Reimbursement to local bodies

11. (1) Where the liability to pay a charge made by—

(a) a municipality constituted under the *Local Government Act 1960*; or

(b) a water board constituted under the *Water Boards Act 1904*,

is satisfied under this Act by paying a rebated amount, the amount of the rebate allowed under this Act may be claimed by the municipality or water board from, and shall be reimbursed by, the Water Authority.

(2) The Treasurer shall reimburse the Water Authority for amounts that the Water Authority reimburses under subsection (1).

(3) Amounts required by this section to be reimbursed by the Water Authority shall be paid from the Water Authority of Western Australia Account maintained pursuant to section 39 of the *Water*

Authority Act 1984 and amounts reimbursed by the Treasurer to the Water Authority under subsection (2) shall be paid to that account, and the provisions of that Act relating to that account are modified accordingly.

Rebate incorrectly given

12. (1) Where an administrative authority has accepted a rebated amount paid in purported satisfaction of a charge under section 9 but, by reason of section 8 (2), the charge was not capable of being satisfied by paying the rebated amount—

- (a) the rebate purportedly given under this Act by the administrative authority is of no effect;
- (b) the amount paid shall be taken to have been in partial satisfaction of the charge; and
- (c) if the amount of the rebate purportedly given has been reimbursed under section 11 the reimbursement shall be reversed.

(2) Where an administrative authority has accepted a rebated amount paid in purported satisfaction of a charge under section 9 but, by reason of the rebate having been reduced under section 10 (3) on the basis of a greater extent of ownership than the person concerned in fact had, the rebate purportedly given was more than the rebate provided for by section 10—

- (a) the rebate purportedly given is reduced to the rebate provided for by section 10;
- (b) the amount paid shall be taken to have been in partial satisfaction of the charge; and
- (c) if the amount of the rebate purportedly given has been reimbursed under section 11 the reimbursement shall be adjusted accordingly.

PART 4—MISCELLANEOUS

Pensioners (Rates Rebates and Deferments) Act 1966

13. (1) Notwithstanding section 11 of the *Pensioners (Rates Rebates and Deferments) Act 1966*, a person who is registered under this Act shall not be registered under that Act as an entitled pensioner.

(2) A rebate under this Act does not apply in respect of a charge if a rebate has been allowed under the *Pensioners (Rates Rebates and Deferments) Act 1966* in respect of the charge, and a rebate shall not be allowed under that Act in respect of a charge if a rebate has been allowed under this Act in respect of the charge.

Regulations

14. The Governor may make regulations prescribing the maximum amount of the rebate under this Act in respect of a prescribed charge.

Transitional

15. (1) Where a person—

- (a) was, on 30 June 1990, entitled to be registered in respect of land; and
- (b) before 31 December 1990, applies to be registered,

the registration shall be made with effect from 30 June 1990 notwithstanding that the application is not made or received until after 30 June 1990 and notwithstanding that this Act may not have commenced until after 30 June 1990.

(2) A person may be registered under this section notwithstanding that at the time of applying the applicant may no longer be entitled to be registered except under this section, but where the applicant is

no longer entitled to be registered except under this section the registration shall only be for the period commencing on 30 June 1990 and ending at the time when the person ceased to be entitled under section 5 to be registered.

(3) If this Act does not commence until after 30 June 1990, a person who, on that day, would have been entitled to be registered in respect of land if this Act had been then in force shall be regarded for the purposes of subsection (1) as, on that day, having been entitled to be so registered.
