Western Australia

Rates and Charges (Rebates and Deferments) Act 1992

Compare between:

[14 Nov 2024, 04-j0-01] and [22 Oct 2026, 04-k0-00]

Western Australia

Rates and Charges (Rebates and Deferments) Act 1992

An Act to permit administrative authorities to allow rebates on, or the deferral of payment of, certain amounts payable by way of rates or charges by pensioners and other eligible persons, to repeal the *Pensioners (Rates Rebates and Deferments) Act 1966* [1] and the *Seniors (Water Service Charges Rebates) Act 1990* [1], to make consequential amendments to the *Local Government Act 1960* [2, 3] and the *Soil and Land Conservation Act 1945* [3], and for related purposes.

Part 1 — Administration

Division 1 — Preliminary

1. Short title

This Act may be cited as the *Rates and Charges (Rebates and Deferments) Act 1992*.

2. Commencement

This Act shall come into operation on such day as is fixed by proclamation.

Division 2 — Interpretation

3. Terms used

(1) In this Act, unless the contrary intention appears —

administrative authority, as regards any prescribed charge, means, subject to subsection (1a), the authority making that charge;

applicant, as regards any land, means a person applying to an administrative authority to have an entitlement to that land registered;

charged period, as regards any prescribed charge, means the year or part of a year for which that charge is to be or was made and has a meaning affected by section 40(2A);

child, in relation to a person, includes an adopted child, stepchild, or an ex-nuptial child of that person, and also includes a child to whom that person stands in loco parentis;

Commonwealth seniors health 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;

de facto partner does not include a person who, on an apparently permanent and voluntary basis, lives separately and apart from their de facto partner;

deferment means a deferment of the payment of amounts of prescribed charges, beyond the date by which payment in full of the amount demanded would otherwise have been required to be made, whether authorised under —

(a) the *Pensioners (Rates Rebates and Deferments) Act 1966*[4]; or

(b) this Act;

dependant, in relation to a person means —

(a) the spouse of that person; or

(ab) a de facto partner of that person; or

(b) a child of that person being a child —

(i) who is less than 18 years of age; or

(ii) who is 18 years of age or more but less than 25 years of age, and who is receiving full-time education at a school, college, or university;

or

(c) any other individual who is normally wholly engaged —

(i) in housekeeping for that person; and

(ii) if there are any other dependants of that person, in caring for those dependants,

at the ordinary place of residence of that person;

eligibility, in relation to a person, is a reference to the income and assets of that person or to other conditions, circumstances or facts which render that person eligible —

(a) to hold —

(i) a seniors' card; or

(ii) a pensioner concession card; or

(iii) a State concession card; or

(iv) a Commonwealth seniors health card;

or

(b) to apply for registration of an entitlement; or

(c) to have an entitlement registered,

as the context requires;

eligible pensioner means a person to whom section 23 or section 24 applies;

eligible person means an eligible pensioner or an eligible senior;

eligible senior means a person to whom section 22 applies;

emergency services levy means the levy determined under Part 6A of the *Fire and Emergency Services Act 1998* and imposed under the *Emergency Services Levy Act 2002*;

entitlement, as regards any land, means the extent to which that land is determined to belong to a person, by the administrative authority under section 7 and in accordance with Division 2 of Part 2, for the purposes of this Act;

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

(a) the 50th 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;

land includes an interest in land;

making, as regards any prescribed charge, includes proposing to make;

pension means test means —

(a) unless paragraph (b) applies —

(i) the ordinary income test; and

(ii) the maintenance income test; and

(iii) the assets test,

which apply to pensions or allowances under Chapter 3 of the *Social Security Act 1991* of the Commonwealth; or

(b) where another test of the income or assets of any person is prescribed under section 25, that other test;

pensioner concession card means —

(a) a currently valid pensioner concession card issued by or on behalf of the Commonwealth Government; and

(b) a card prescribed by the regulations to be a pensioner concession card for the purposes of this Act,

but does not include a pensioner concession card issued by or on behalf of the Commonwealth Government that is, or is of a class that is, excluded from this definition under the regulations;

prescribed charge means —

(a) a charge, by way of rates, made under —

(i) the *Local Government Act 1995*; or

(ii) the *Soil and Land Conservation Act 1945*;

or

(b) a charge for the provision of water supply, sewerage or drainage, not being a charge assessed by reference to the quantity of water or wastewater concerned, made under —

(i) the *Water Services Act 2012*; or

[(ii) deleted]

(iii) the *Health (Miscellaneous Provisions) Act 1911*; or

(iv) the *Local Government Act 1995*;

or

(c) a charge by way of the emergency services levy; or

(da) a charge, by way of a service charge, made under the *Local Government Act 1995* section 6.38 in relation to the provision of underground electricity; or

(d) a charge prescribed by regulations made under this Act;

prescribed means test means a test prescribed under section 25;

procedural manual means the procedural manual issued under section 9(2);

rating year means 1 July to 30 June;

rebate means a rebate calculated under this Act;

rebated amount means the balance, after the rebate is allowed, of a prescribed charge payable by a person who has a registered entitlement;

registered means registered under section 32;

registered person, in relation to any land, means a person whose entitlement as regards the land is registered;

relevant interest, as regards any land, means an interest in that land that under section 29, 29A, 29B or 29C is taken to be relevant for the purposes of this Act;

senior's card department means the department of the Public Service that is administratively responsible for issuing and cancelling senior's cards on behalf of the State;

seniors' card means a card —

(a) which bears that designation; and

(b) is issued to the holder by the senior's card department;

spouse does not include a person who, on an apparently permanent and voluntary basis, lives separately and apart from their spouse;

State concession card means a currently valid card which bears that designation and is issued under section 6 by the CEO as defined in section 3 of the *Children and Community Services Act 2004*;

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

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

year means a rating year.

(1a) The administrative authority for the emergency services levy that is the subject of an assessment notice under section 36J of the *Fire and Emergency Services Act 1998* is the local government that serves the notice.

(2) A reference in this Act to an Act of the Commonwealth is a reference —

(a) if that Act has been amended, to the Act as amended and in force for the time being; and

(b) if that Act has been re-enacted or re-made (with or without renumbering or other modification), to that Act as re-enacted or re-made and in force for the time being; and

(c) if that Act has been re-enacted or re-made (with or without modification) and subsequently amended, to that Act as re-enacted or re-made and subsequently amended and in force for the time being.

[Section 3 amended: No. 25 of 1993 s. 16; No. 73 of 1994 s. 4; No. 73 of 1995 s. 188; No. 14 of 1996 s. 4; No. 57 of 1997 s. 102(1); No. 22 of 1998 s. 14; No. 3 of 2001 s. 5; No. 42 of 2002 s. 31; No. 28 of 2003 s. 166; No. 34 of 2004 Sch. 2 cl. 22; No. 9 of 2005 s. 4; No. 32 of 2006 s. 98; No. 13 of 2007 s. 8; No. 2 of 2012 s. 35; No. 22 of 2012 s. 135; No. 25 of 2012 s. 226(2) and (3); No. 29 of 2012 s. 32; No. 4 of 2013 s. 4; No. 19 of 2016 s. 101.]

Division 3 — Determinations having an interpretive effect

*[**4.** Deleted: No. 28 of 2003 s. 167.]*

5. Eligibility as a senior

For the purposes of this Act the conditions under which a person may hold a seniors' card shall be such as are from time to time determined by the chief executive officer of the senior's card department.

[Section 5 amended: No. 29 of 2012 s. 33.]

6. State concession cards for persons not otherwise eligible

(1) A person who believes that they may have an eligibility under subsection (3) or under section 24(a)(i) but who is not the holder of a pensioner concession card may apply, in writing to the CEO as defined in section 3 of the *Children and Community Services Act 2004*, for the question of their eligibility to be determined and, if eligible, to be issued with a State concession card.

(2) On receipt of an application under subsection (1) and if the CEO determines that —

(a) a test as to the income and assets of that person; and

(b) the conditions, circumstances or other facts relevant to the application otherwise,

confirm the eligibility of the applicant under this Act, or if subsection (3) applies, the CEO shall cause a State concession card, in a form approved by the Minister, to be issued.

(3) The CEO, on receiving relevant documentation issued by, or satisfactory written notification from, the Commonwealth Department of Veterans' Affairs of the pension ~~or~~, allowance or other amount payable to that person, or that the person is entitled to be provided with treatment, shall cause a State concession card to be issued —

(a) to a person, valid for 5 years, if satisfied that —

(i) the person is ~~receiving~~ a ~~pension~~person to ~~which~~whom section 23(2) applies; or

(ii) the person meets the criteria referred to in section 23(4A)(a); or

(iii) the person is receiving the Special Rate Disability Pension referred to in section 23(4A)(b); or

(iiia) the person is a person to whom the Additional Disablement Amount referred to in section 23(4A)(ba) is payable; or

(iv) the person is entitled to be provided with the treatment referred to in section 23(4A)(c),

regardless of the income or assets of that person; and

(b) to any other person, valid for one year, if satisfied that —

(i) the person has an income and assets that do not exceed the limits imposed by the means test; and

(ii) the person is a person ~~who receives a pension or allowance to which section 23(3) applies or is a person~~ eligible by reason of section 24.

[Section 6 amended: No. 25 of 1993 s. 17; No. 73 of 1994 s. 4; No. 57 of 1997 s. 102(2); No. 34 of 2004 Sch. 2 cl. 22; No. 29 of 2012 s. ~~34~~34; No. 18 of 2026 s. 35.]

7. Entitlement of a person as regards land

(1) Subject to —

(a) any review under section 12; and

(b) section 14(2),

the entitlement of an applicant as regards any land for the purposes of this Act, and the extent of that entitlement, shall be determined by the administrative authority in accordance with Division 2 of Part 2.

(2) In relation to a prescribed charge that is not a Water Corporation charge, 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 7 amended: No. 25 of 1993 s. 4; No. 4 of 2013 s. 5.]

Division 4 — Administration

8. Purposes

The purposes of this Act are —

(a) to introduce, in respect of any prescribed charge payable, a method by which —

(i) the rebate, or deferral of payment, allowable by administrative authorities to pensioners; and

(ii) the rebates allowable to seniors; and

(iii) questions of eligibility; and

(iv) the determination of entitlements,

may for the future be rationalised and inequities eliminated; and

(b) to enable the Minister to ensure that the administrative requirements involved in —

(i) the determination and allowance of rebates or deferrals by administrative authorities; and

(ii) reimbursement, or the provision of financial assistance, by the Minister,

are kept to a minimum.

[Section 8 amended: No. 22 of 1998 s. 15.]

9. Ministerial directions and procedural manuals

(1) The Minister may provide advice, make recommendations, or give written directions to administrative authorities as to the implementation of this Act.

(2) The Minister may issue, and amend, a procedural manual for the guidance of administrative authorities as to the implementation of this Act.

(3) All employees, officers and members of an administrative authority must comply with a procedural manual.

(4) The Minister may give written directions to an administrative authority with respect to the performance of its functions under this Act, either generally or as to a particular matter.

(5) An administrative authority must comply with a direction given to it under subsection (4).

(6) The text of a direction given to a statutory authority within the meaning of the *Financial Management Act 2006* is to be —

(a) laid before each House of Parliament within 14 sitting days of that House after the direction is given; and

(b) included in the annual report submitted by the accountable authority of the statutory authority under Part 5 of that Act.

[Section 9 inserted: No. 22 of 1998 s. 16; amended: No. 77 of 2006 Sch. 1 cl. 146(1).]

10. Delegation of functions

(1) The Minister may, by instrument in writing signed by the Minister, delegate any of the Minister's powers or functions under this Act to the Commissioner of State Revenue or to an officer assisting the Commissioner to administer the Act.

(2) A delegation may be made generally or as otherwise provided in the instrument of delegation.

(3) The power to delegate conferred by this section shall not be construed as permitting an officer to whom a power is delegated under this section to delegate that power to any other person.

[Section 10 amended: No. 22 of 1998 s. 17.]

11. Minister to have access to information

(1) For parliamentary purposes or for the proper conduct of the Minister's public business under this Act, the Minister is empowered —

(a) to seek, obtain and have any information relevant to this Act in the possession of an administrative authority; and

(b) where the information is in or on a document, to have, and to make and retain copies of, that document.

(2) For the purposes of subsection (1) the Minister may —

(a) request an administrative authority to furnish information to the Minister; and

(b) request an administrative authority to give the Minister access to information; and

(c) for the purposes of paragraph (b), make use of the staff of an administrative authority to obtain the information and furnish it to the Minister.

(3) An administrative authority shall comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —

document includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

information means information specified, or of a description specified, by the Minister that relates to the functions of an administrative authority;

parliamentary purposes means the purpose of —

(a) answering a question asked in a House of Parliament; or

(b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

Division 5 — Review of determinations

12. Determination may be referred for review

(1) Without prejudice to any right under the *Parliamentary Commissioner Act 1971*, a person aggrieved by a determination made by an administrative authority —

(a) as to any eligibility or entitlement of that person under this Act; or

(b) as to a change in conditions, circumstances or facts, under section 21; or

(c) to amend or cancel any registration, under section 37; or

(d) that effect should not be given to a registration, by reason of section 39(1); or

(e) that a rebate or deferment should not have been allowed, under section 39(2),

may request the administrative authority by which the determination was made to furnish in writing a statement setting out further or better particulars of the reasons for the determination and a summary of the findings upon which the determination was based, subject to subsection (2), and the administrative authority shall furnish that statement as soon as is practicable thereafter.

(2) Where a determination referred to in subsection (1) was notified in writing by the administrative authority to the person aggrieved any request for particulars for the purposes of this section must, unless the administrative authority concerned

otherwise agrees, be made within 21 days after receipt of that notification.

(3) Within 21 days after receipt of the statement of particulars requested under subsection (1) the person aggrieved may, by notice in writing specifying the reason why in the opinion of that person the determination should be changed, request the administrative authority which made the determination to review it.

(4) Upon receipt of a notice under subsection (3) the administrative authority, if it does not agree to change the determination in a manner acceptable to the person aggrieved, shall ensure that the circumstances giving rise to the determination are referred as soon as is practicable thereafter to an authorised review officer, being a person appointed by the administrative authority with the approval of the Minister, to be investigated by that officer.

(5) A person may be appointed for the purposes of subsection (4) by more than one administrative authority.

[Section 12 amended: No. 22 of 1998 s. 18.]

13. Investigation by authorised review officer

(1) An authorised review officer shall conduct each investigation in accordance with the procedural manual and any directions which may have been given under this Act with respect to matters of that kind.

(2) An authorised review officer to whom a determination is referred must decide whether to —

(a) affirm the determination; or

(b) vary the determination; or

(c) set aside the determination and substitute a new determination,

and on completion of the investigation shall give written notice of the decision reached to the administrative authority and to the

person aggrieved, and effect shall be given to that decision by the administrative authority subject to section 14(2).

(3) The notice given to the person aggrieved under subsection (2) must include —

(a) a statement that —

(i) sets out the reasons for the decision; and

(ii) sets out the findings of the authorised review officer on material questions of fact; and

(iii) refers to the evidence or other material on which those findings were based;

and

(b) where the administrative authority is an authority to which the *Parliamentary Commissioner Act 1971* applies, a statement to the effect that the decision may still be referred to the Parliamentary Commissioner for Administrative Investigations by way of complaint under that Act.

[Section 13 amended: No. 22 of 1998 s. 19; No. 9 of 2005 s. 5.]

14. Effect of review or complaint

(1) A decision reached by an authorised review officer under this Act shall not be liable to be challenged, appealed against, quashed or called in question by any court.

(2) Where a complaint is made to the Parliamentary Commissioner for Administrative Investigations under the *Parliamentary Commissioner Act 1971* —

(a) the review of a matter under this Act by an authorised review officer shall not be taken to be a review before a tribunal; and

(b) if any recommendation is made under that Act in respect of a matter to which this Act applies, the administrative authority may adopt the recommendation.

(3) Where —

(a) a decision is made by an authorised review officer; or

(b) a recommendation made by the Parliamentary Commissioner for Administrative Investigations is adopted,

as to a determination which was the subject of review under this Act, or of a complaint under the *Parliamentary Commissioner Act 1971*, effect shall be given to the decision so made, or any recommendation so adopted, as though it had been made on the day on which the original determination was made.

15. Compensation for errors

(1) Where, in the opinion of an administrative authority, or where after the review of a matter an authorised review officer or the Parliamentary Commissioner for Administrative Investigations determines that, a person suffered damage, loss or injustice by reason of —

(a) negligent or incorrect advice given by an officer of an administrative authority or on behalf of the Minister; or

(b) a negligent or incorrect act, omission or determination,

purportedly under this Act, the administrative authority —

[(c) deleted]

(d) if it is an accountable authority as defined in the *Financial Management Act 2006*, may by way of request to the Treasurer for an act of grace payment under section 80 of that Act; or

(e) otherwise, may,

make such provision, whether by way of payment, waiver or deferral, as may be appropriate and any such provision may for the purposes of section 17 be treated as though it had been a rebate and may be reimbursed.

(2) Nothing in subsection (1) shall be taken to prejudice the operation of section 25 of the *Parliamentary Commissioner Act 1971*.

[Section 15 amended: No. 14 of 1996 s. 4; No. 77 of 2006 s. 8 and Sch. 1 cl. 146(2); No. 31 of 2008 s. 35.]

Division 6 — Reimbursement

16. Claims by administrative authorities

(1) The procedural manual issued, or directions given, under section 9 may specify requirements —

(a) as to the information to be supplied by an administrative authority about —

(i) rebates allowed on prescribed charges; and

(ii) payments the liability for which is deferred,

to evidence any claim for reimbursement or financial assistance made under this Division; and

(b) as to —

(i) the procedures to be used; and

(ii) the format in which data is to be provided; and

(iii) the relevant periods; and

(iv) the timing; and

(v) other matters,

for the purposes of making such claims.

(2) When a local government allows a rebate to a registered person, the local government may make a claim for reimbursement by the Minister of the amount allowed.

(3) When a local government allows a liability for payment by a registered person who is an eligible pensioner to be deferred, the local government may make a claim for financial assistance from the Minister in accordance with section 17(1a).

(4) When a prescribed licensee allows any rebate to an eligible senior who as such is a registered person, the licensee may make a claim for reimbursement by the Minister of the amount allowed.

(5) In subsection (4) —

prescribed licensee means a licensee under the *Water Services Act 2012* (other than a body established by or under the *Water Corporations Act 1995* section 4 or a local government) who is prescribed for the purposes of subsection (4).

[Section 16 amended: No. 73 of 1995 s. 188; No. 14 of 1996 s. 4; No. 22 of 1998 s. 20; No. 25 of 2012 s. 226(5) and (6).]

17. Payment of claims for reimbursement

(1) If the Minister is satisfied that a claim for reimbursement under section 16(2) or (4) of the amount of a rebate is validly made, the Minister is to reimburse the amount.

(1a) If the Minister is satisfied that a claim or claims made in a financial year by a local government under section 16(3) for financial assistance is or are validly made then, at the end of the financial year, interest calculated in accordance with subsection (2) is to be paid, subject to subsection (1b), to the local government on the aggregate of the amounts allowed by the local government to be deferred in that financial year.

(1b) If an amount —

(a) to be reimbursed to a local government under subsection (1); or

(b) to be paid to a local government under subsection (1a),

relates to the emergency services levy, the Minister is to reimburse or pay the amount to the FES Commissioner as defined in the *Fire and Emergency Services Act 1998* section 3.

(1c) Subsection (1b) does not apply to an amount to be reimbursed or paid to a local government in respect of which there is in

force an ESL agreement entered into under section 36ZJ of the *Fire and Emergency Services Act 1998*.

(2) The rate of interest payable under subsection (1a) shall be determined by the Minister as being —

(a) the long term bond rate, being the weighted average yield on the longest term Commonwealth Bond offered for sale at the most recent Bond Tender; or

(b) where the Minister is of the opinion that the long term bond rate does not reflect adequately fluctuations that have occurred in market interest rates, a rate which is calculated by using —

(i) the bench mark of the average market yield for that year of Commonwealth Bonds with a maturity of approximately 10 years; and

(ii) the simple average of the rates available on or about the middle of each month in the preceding financial year,

but if no such Commonwealth Bonds are available in any year the bench mark to be used shall be determined by reference to the Commonwealth Bonds having the next longest maturity that are available or by such other method as may be prescribed.

[Section 17 amended: No. 73 of 1995 s. 188; No. 22 of 1998 s. 21; No. 42 of 2002 s. 32; No. 9 of 2005 s. 6; No. 22 of 2012 s. 136.]

Division 7 — Transitional provisions

18. Existing registrations

Where a person was under an Act repealed by this Act registered —

(a) as an entitled pensioner, within the meaning of that Act; or

(b) being the holder of a seniors' card, as a person entitled to be so registered in respect of any land,

that registration shall be given continuing effect as though made under section 32 in consequence of a determination as to eligibility and entitlement for the purposes of this Act, subject to section 21.

19. Continued deferment of past rates and charges

Where a person was —

(a) under the *Pensioners (Rates Rebates and Deferments) Act 1966* [4] allowed to defer payment of any rates; or

(b) under section 13 of that Act, allowed to defer or postpone the payment of rates or charges to which that section applied,

payment of the amounts concerned in respect of those rates or charges deferred or postponed shall continue to be allowed to be deferred or postponed upon a similar basis, subject to section 21 and section 47, as though so allowable under this Act.

20. Rebates or deferments previously allowable to continue to have effect on future rates and charges

(1) Where a person, under an Act repealed by this Act —

(a) was entitled, within the meaning of that Act, to a rebate; and

(b) had received such a rebate,

that person shall continue to be entitled to a rebate, upon a similar basis for future prescribed charges of a similar kind, subject to section 21, as though that rebate were allowable under this Act.

(2) Where a person, under an Act repealed by this Act —

(a) was entitled, within the meaning of that Act, to a rebate; or

(b) was allowed to defer or postpone the payment of any rates or charges,

but had not received any such rebate because the right of that person to seek the rebate was not exercised, that person shall continue to be so entitled to a rebate, upon a similar basis for future prescribed charges of a similar kind, or to defer or postpone the payment of those future prescribed charges, subject to section 21 and section 47, as though that rebate, deferment or postponement were allowable under this Act.

21. Transitional effect of existing registrations, rebates allowable, and continued deferment

(1) Notwithstanding that otherwise under this Act the —

(a) registration; or

(b) eligibility or entitlement,

of the person concerned would not authorise the administrative authority to allow the rebate, deferment, or postponement, effect shall be given to sections 18, 19 and 20 unless the administrative authority determines that the conditions, circumstances or facts upon which the registration was based or the allowing of that rebate, deferment or postponement under the repealed Act was based have so materially changed as to justify amending or cancelling that registration or terminating the rebate, deferment or postponement allowed.

(2) Effect shall not be given to section 18, 19 or 20 where the eligibility of the person concerned is alleged to have been, or to be, based on receiving —

(a) a social security benefit within the meaning of that expression in the *Social Security Act 1991* of the Commonwealth; or

(b) a pension, benefit or allowance of any other kind prescribed, not being a kind referred to in section 23.

Part 2 — Eligibility and entitlement

Division 1 — Eligibility

22. Seniors may apply for registration

If, under section 40, a rebate is to be allowable to seniors on any prescribed charge, a person who holds a seniors' card is, subject to this Act, eligible to apply to the administrative authority to have their entitlement as regards any land registered if that charge is payable on the land.

23. Pensioners etc. eligible to apply for registration

(1) Subject to this Act, a person is eligible to apply to the administrative authority to have their entitlement as regards any land registered if a prescribed charge is payable on that land, on sufficient evidence of eligibility being accepted by the administrative authority under section 26, so long as —

(a) that person is the holder of a pensioner concession card; and

[(b) deleted]

(c) unless the person is permanently blind, the person does not possess income or assets of a value in excess of that permitted by any prescribed means test applicable.

(1a) The regulations may provide that a person of a prescribed class is not eligible to make an application under subsection (1) despite being the holder of a pensioner concession card.

(2) Subject to this Act, a person is eligible to apply to the administrative authority to have their entitlement as regards any land registered if a prescribed charge is payable on that land, on sufficient evidence of eligibility being accepted by the administrative authority under section 26, so long as under the *Veterans' Entitlements Act 1986* of the Commonwealth that person is —

(a) a veteran to whom, by reason of incapacity or blindness, a pension under section 24 or section 25 or a pension to which an extreme disablement adjustment applies under section 22(4) of that Act is payable; or

(b) a veteran to whom or in respect of whom there is payable a pension or an allowance because that veteran has suffered or is suffering from pulmonary tuberculosis; or

(c) a person who may, under section 86(1) of that Act, be provided with treatment under Part V of that Act as a dependant of a deceased veteran,

regardless of the income or assets of that person.

~~(3) Subject to this Act, a person is eligible to apply to the administrative authority to have their entitlement as regards any land registered if a prescribed charge is payable on that land, on sufficient evidence of eligibility being accepted by the administrative authority under section 26, so long as by virtue of the operation of Part II of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* of the Commonwealth, that person is a person to whom is payable a pension as —~~

~~(a) the widow of a member of the Forces; or~~

~~(b) the unmarried mother of a deceased unmarried member of the Forces; or~~

~~(c) the widowed mother of a deceased unmarried member of the Forces.~~

[(3) deleted]

(4A) Subject to this Act, a person is eligible to apply to the administrative authority to have their entitlement in relation to any land registered if a prescribed charge is payable on that land, on sufficient evidence of eligibility being accepted by the administrative authority under section 26, so long as under the

Military Rehabilitation and Compensation Act 2004 (Commonwealth) that person —

(a) meets the criteria listed in section 199(1) of that Act; or

(b) is receiving a Special Rate Disability Pension under Chapter 4 Part 6 of that Act instead of compensation worked out under Chapter 4 Part 4 Division 2 of that Act; or

(ba) is a person to whom an Additional Disablement Amount under Chapter 4 Part 7 Division 3A of that Act is payable; or

(c) under section 284 of that Act, is entitled to be provided with treatment under Chapter 6 Part 3 of that Act,

regardless of the income or assets of that person.

(4) Subject to this Act, a person who is the holder of both a seniors' card and a Commonwealth seniors health card is eligible to apply to the administrative authority to have their entitlement as regards any land registered if a prescribed charge is payable on that land, on sufficient evidence of eligibility being accepted by the administrative authority under section 26.

(5) A person is eligible to apply to the administrative authority to have their entitlement as regards any land registered, if a prescribed charge is payable on that land, on sufficient evidence of eligibility being accepted by the administrative authority under section 26, so long as —

(a) the person is related to a disabled person who occupies the land as his or her ordinary place of residence; and

(b) no owner of the land occupies the land.

(6) For the purposes of subsection (5)(a) —

(a) the following persons are related to a disabled person —

(i) a parent or grandparent of the disabled person;

(ii) a brother or sister of the disabled person;

(iii) a child of the disabled person;

and

(b) an illegitimate person is to be treated as the legitimate child of that person's parents; and

(c) it is irrelevant whether a relationship is of the whole or half-blood, or whether it is a natural relationship or a relationship established by a written law.

(7) In this section —

disabled person means a person who —

(a) receives a disability support pension under the *Social Security Act 1991* (Commonwealth) Part 2.3; or

(b) is under 16 years of age and is cared for by a parent or guardian, within the meaning given in the *Social Security Act 1991* (Commonwealth), who receives a carer payment under Part 2.5 of that Act in respect of that care.

[Section 23 amended: No. 25 of 1993 s. 5 and 18; No. 3 of 2001 s. 6; No. 9 of 2005 s. 7; No. 31 of 2006 s. 32; No. 13 of 2007 s. 9; No. 30 of 2008 s. 22; No. 29 of 2012 s. ~~35~~35; No. 18 of 2026 s. 36.]

24. Other persons prescribed as eligible

Subject to this Act, a person is eligible to apply to the administrative authority to have their entitlement as regards any land registered if a prescribed charge is payable on that land, on production to the administrative authority of proof of the kind prescribed and sufficient evidence of eligibility being accepted by the administrative authority under section 26, so long as —

(a) the person —

(i) possesses an eligibility of a kind prescribed for the purposes of this section; and

(ii) is the holder of a pensioner concession card or a State concession card;

and

(b) unless the person is permanently blind, the person does not possess income or assets of a value in excess of that permitted by any prescribed means test applicable.

[Section 24 amended: No. 25 of 1993 s. 19; No. 9 of 2005 s. 8.]

25. Means tests

Where —

(a) after the coming into operation of this Act, any test relating to income or assets applicable to any pension or allowance under Chapter 3 of the *Social Security Act 1991* of the Commonwealth is, in relation to any such pension or allowance —

(i) changed; or

(ii) no longer to be required;

or

(b) for the purposes of this Act in relation to any pension or allowance, a test as to the income or assets of any person other than —

(i) the tests applicable to that pension or allowance referred to in paragraph (a) of the interpretation of the ***pension means test*** in section 3(1); or

(ii) the fringe benefits ordinary income test together with the fringe benefits assets test under Chapter 3 of the *Social Security Act 1991* of the Commonwealth,

is to have effect,

the Governor may, by regulation, make provision for a prescribed means test.

26. Evidence of eligibility, production of relevant card or authorisation

(1) For the purposes of determining whether or not a person may be eligible, within the meaning of this Act, an administrative authority may accept —

(a) production of a pensioner concession card issued to that person as the holder, as sufficient evidence that the person receives a pension of the type indicated on that card; or

(b) production, if appropriate and required, of relevant evidence that the person has satisfied the fringe benefits ordinary income test and the fringe benefits assets test under Chapter 3 of the *Social Security Act 1991* of the Commonwealth; or

(c) production of a State concession card, issued to that person as the holder, as sufficient evidence that —

(i) under section 6 the eligibility of the person has been confirmed; or

(ii) the person is a person to whom section 23(2), 23(~~3), 23(~~4A) or 24, as the card may indicate, applies; and

(iii) if the card is valid for one year only, the person does not possess income or assets of a value in excess of that permitted by the means test applying for that year;

or

(d) production of a seniors' card, issued to that person as the holder, as sufficient evidence that the conditions referred to in section 5 have been satisfied; or

(e) production of both a seniors' card and a Commonwealth seniors health card, issued to that person as the holder, as sufficient evidence that the person is a person to whom section 23(4) applies; or

(f) evidence of eligibility in a form specified in the procedural manual, as sufficient evidence of the eligibility of a person.

(2) Where an applicant does not otherwise satisfy the administrative authority as to the eligibility of any person under this Act, the administrative authority may require the applicant to furnish a request and authority, in writing and signed by that person, addressed to the Secretary to the Department of the Commonwealth or other relevant person concerned, to furnish information relevant to the determination of the question of the eligibility of that person, and in default may decline to accept that person as being eligible.

[Section 26 amended: No. 25 of 1993 s. 20; No. 3 of 2001 s. 7; No. 9 of 2005 s. 9; No. 29 of 2012 s. ~~36~~36; No. 18 of 2026 s. 37.]

Division 2 — Entitlement

27. Concept of land belonging to a person

(1) If a person holds an estate in fee simple in possession in land, a strata lease as defined in the *Strata Titles Act 1985* 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), (5) and (5a) 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 or de facto partner of that person live together, any entitlement as regards the land which is held by the spouse or

de facto partner 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 or de facto partner.

(5a) Where land is taken under section 30(2) to be wholly occupied as an ordinary place of residence of a person, and that person is not the sole holder of an estate or interest in the land, the administrative authority must —

(a) determine any entitlement, and any rebate allowable, as if that person were the sole holder of an estate or interest in the land; and

(b) apportion the rebate on the basis set out in the procedural manual.

(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 27 inserted: No. 25 of 1993 s. 6; amended: No. 28 of 2003 s. 168; No. 31 of 2006 s. 33; No. 30 of 2018 s. 174.]

28. Proportionate interests

(1) Where land is, for the purposes of this Act, treated as belonging to a number of persons —

(a) the administrative authority shall have regard to, but is not necessarily required to determine any entitlement in accordance with, any relevant determination —

(i) made under the *Valuation of Land Act 1978*; or

(ii) made under the *Strata Titles Act 1985* Part 5 Division 4; or

(iii) made under Part 5 Division 3 of the *Community Titles Act 2018*;

and

(b) the administrative authority shall apportion any prescribed charge, and any rebate allowable, according to —

(i) the extent of the several respective interests, on a basis proportionate to those interests; and

(ii) if the applicant or registered person does not occupy the whole of the land as their ordinary place of residence, the extent to which it is so occupied,

except where section 31(3)(a) or (aa) applies or where in accordance with the procedural manual some other basis is permissible and in the opinion of the administrative authority is more appropriate.

(2) Where although land is used as the ordinary place of residence of an applicant or registered person it is not the sole use of that land, the administrative authority may apportion the prescribed charge, and any rebate allowable, according to —

(a) the extent to which the land is so used as a place of residence; and

(b) any other use,

on a basis proportionate to the respective uses.

(3) Notwithstanding that a person may be both an eligible pensioner and an eligible senior that person, pursuant to section 32(4), must elect under which basis of eligibility the entitlement of that person is to be registered, and where any land is to be treated as belonging —

(a) to an applicant and the spouse or de facto partner of an applicant; or

(b) to a number of persons,

the maximum rebate allowable in respect of a prescribed charge on that land for any charged period shall not exceed 50% regardless of the basis of eligibility of either spouse or de facto partner or of any of those persons or of the manner in which it is apportioned.

(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 or de facto partner 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 authorised under this Act.

[Section 28 amended: No. 25 of 1993 s. 7; No. 3 of 2001 s. 8; No. 28 of 2003 s. 169; No. 9 of 2005 s. 10; No. 30 of 2018 s. 175; No. 32 of 2018 s. 231.]

29. Relevant interests

(1) Where an eligible person —

(a) in the case of land vested in the Crown, is authorised by the Crown to occupy that land under a lease, licence or concession granted by the Crown or any other arrangement; or

(b) occupies land on which the person is and remains liable to pay prescribed charges, if that occupation occurs —

(i) following the death of a person, and during the distribution of the estate of the deceased or under the terms of a deed of arrangement varying that distribution; and

(ii) by reason that the eligible person, under that distribution —

(A) as a beneficiary, has a prospective entitlement to the fee simple in that land; or

(B) is a life tenant, on whom is conferred the right to occupy the land; or

(C) is entitled under the will of the deceased to occupy the land;

or

(c) being by reason of ill-health, frailty or other cause dependant for care on others, occupies that land under the terms of a deed, or of a trust, which was, in the opinion of the administrative authority, entered into to safeguard the interests of that person; or

(d) as a shareholder in a corporation which, at the coming into operation of this Act, owned the land, has conferred upon them by virtue of that shareholding an express entitlement to occupy that land or a specific part of the land, and that shareholding was acquired by that person —

(i) before the coming into operation of this Act; or

(ii) after the coming into operation of this Act, subject to subsection (2), from a previous shareholder;

or

(e) is entitled, by reason of having agreed to purchase the land under a contract of sale notwithstanding that title

has not passed to that person from the vendor, to possession of the land,

that person has an interest in the land which is to be taken to be relevant for the purposes of this Act.

(2) Where an entitlement as regards any land belonging to a person as a shareholder in a corporation was registered by reason of the operation of subsection (1)(d), if that person disposes of the whole of that shareholding to another eligible person who applies for a similar entitlement to be registered that other person may be deemed to have a relevant interest in the land notwithstanding that the shareholding was acquired after the coming into operation of this Act.

[Section 29 amended: No. 25 of 1993 s. 8; No. 22 of 1998 s. 22.]

29A. Relevant interest — resident of retirement village

(1) In this section —

operator, in relation to a retirement village, has the meaning given to that term in the *Retirement Villages Act 1992* section 3(1);

residence contract has the meaning given to that term in the *Retirement Villages Act 1992*;

resident, in relation to a retirement village, has the meaning given to that term in the *Retirement Villages Act 1992*;

retirement village has the meaning given to that term in the *Retirement Villages Act 1992*.

(2) Where an eligible person who occupies land as a resident of a retirement village —

(a) has entered into a prescribed charge arrangement described in subsection (3) in relation to the land or is taken to have entered into such an arrangement under subsection (5); and

(b) is and remains liable to pay the prescribed charge as an amount payable under the prescribed charge arrangement,

that person has an interest in the land which is to be taken to be relevant for the purposes of this Act.

(3) An eligible person enters into a prescribed charge arrangement for the purposes of this section if the person enters into a written contract, agreement, scheme, deed or other written arrangement with the operator of a retirement village to pay, either directly or indirectly, a prescribed charge on land occupied by the person as a resident of the retirement village.

(4) A prescribed charge arrangement may form part of a residence contract.

(5) An eligible person is taken to have entered into a prescribed charge arrangement for the purposes of this section if the eligible person —

(a) was the spouse or de facto partner of a deceased eligible person who had entered into a prescribed charge arrangement; and

(b) was residing with the deceased eligible person at the time of his or her death.

[Section 29A inserted: No. 9 of 2005 s. 11; amended: No. 42 of 2024 s. 58.]

29B. Relevant interest — owner-occupier of caravan or park home

(1) In this section —

caravan has the meaning given to that term in the *Caravan Parks and Camping Grounds Act 1995*;

caravan park has the meaning given to that term in the *Caravan Parks and Camping Grounds Act 1995*;

lessor, in relation to land, has the meaning given in the *Residential Tenancies Act 1987* section 3;

park home has the meaning given to that term in the *Caravan Parks and Camping Grounds Act 1995*;

residential tenancy agreement has the meaning given to that term in the *Residential Tenancies Act 1987*;

site has the meaning given to that term in the *Caravan Parks and Camping Grounds Act 1995*.

(2) Where an eligible person who occupies a site on land in a caravan park —

(a) has entered into a prescribed charge arrangement described in subsection (3) in relation to the land or is taken to have entered into such an arrangement under subsection (4); and

(b) is and remains liable to pay the prescribed charge as an amount payable under the prescribed charge arrangement,

that person has an interest in the land which is to be taken to be relevant for the purposes of this Act.

(3) An eligible person enters into a prescribed charge arrangement for the purposes of this section if the person enters into a written contract, agreement, scheme, deed or other written arrangement with the lessor of land in a caravan park to pay, either directly or indirectly, a prescribed charge on the land occupied by the person as an owner-occupier.

(4) An eligible person is taken to have entered into a prescribed charge arrangement for the purposes of this section if the eligible person —

(a) was the spouse or de facto partner of a deceased eligible person who had entered into a prescribed charge arrangement; and

(b) was residing with the deceased eligible person at the time of his or her death.

(5) An eligible person occupies a site as an owner-occupier for the purposes of this section if —

(a) the eligible person —

(i) is the owner of a caravan or park home situated on the site in a caravan park; and

(ii) has, under the terms of a written residential tenancy agreement and from the date on which an entitlement of that person is registered, an exclusive right to occupy that site for a term of 5 years or longer, or such other term as may be prescribed in place of that term;

or

(b) the eligible person —

(i) is the spouse or de facto partner of an eligible person referred to in paragraph (a), or was the spouse or de facto partner of a deceased person who was an eligible person referred to in paragraph (a) at the time of his or her death; and

(ii) resides with that person, or was residing with that deceased person at the time of his or her death.

[Section 29B inserted: No. 9 of 2005 s. 11; amended: No. 60 of 2011 s. 104.]

29C. Relevant interest — owner-occupier of relocatable home

(1) In this section —

park operator has the meaning given to that term by the *Residential Parks (Long-stay Tenants) Act 2006*;

relocatable home has the meaning given to that term by the *Residential Parks (Long-stay Tenants) Act 2006*;

residential park has the meaning given to that term by the *Residential Parks (Long-stay Tenants) Act 2006*;

site has the meaning given to that term by the *Residential Parks (Long-stay Tenants) Act 2006*;

site-only agreement has the meaning given to that term by the *Residential Parks (Long-stay Tenants) Act 2006*.

(2) Where an eligible person who occupies a site on land in a residential park —

(a) has entered into a prescribed charge arrangement described in subsection (3) in relation to the land or is taken to have entered into such an arrangement under subsection (4); and

(b) is and remains liable to pay the prescribed charge as an amount payable under the prescribed charge arrangement,

that person has an interest in the land which is to be taken to be relevant for the purposes of this Act.

(3) An eligible person enters into a prescribed charge arrangement for the purposes of this section if the person enters into a written contract, agreement, scheme, deed or other written arrangement with a park operator to pay, either directly or indirectly, a prescribed charge on land in a residential park that is a site occupied by the person as an owner-occupier.

(4) An eligible person is taken to have entered into a prescribed charge arrangement for the purposes of this section if the eligible person —

(a) was the spouse or de facto partner of a deceased eligible person who had entered into a prescribed charge arrangement; and

(b) was residing with the deceased eligible person at the time of his or her death.

(5) An eligible person occupies a site as an owner-occupier for the purposes of this section if —

(a) the eligible person —

(i) is the owner of a relocatable home situated on the site in a residential park; and

(ii) has, under the terms of a written site-only agreement and from the date on which an entitlement of that person is registered, an exclusive right to occupy that site for a term of 5 years or longer, or such other term as may be prescribed in place of that term;

or

(b) the eligible person —

(i) is the spouse or de facto partner of an eligible person referred to in paragraph (a), or was the spouse or de facto partner of a deceased person who was an eligible person referred to in paragraph (a) at the time of his or her death; and

(ii) resides with that person or was residing with that deceased person at the time of his or her death.

[Section 29C inserted: No. 32 of 2006 s. 98.]

30. Ordinary place of residence, not in actual occupation

(1) Notwithstanding that the person concerned is not for the time being resident there, land shall be deemed to be the ordinary place of residence of that person if —

(a) the land belongs to that person, and was formerly the ordinary place of residence of that person; and

~~(b) furniture, household goods or personal effects of that person remain in the residence; and~~

[(b) deleted]

(c) the land is —

(i) unoccupied; or

(ii) occupied by any dependant of that person as the ordinary place of residence of that dependant; or

(iii) with the consent of that person occupied by some other person otherwise than on a paying basis;

and

(d) that person has not for the time being any other entitlement registered,

where the residence of that person there ceased by reason of ill-health, frailty or other cause not within the control of that person.

(2) For the purposes of this Act, other than section 23(5)(b), land is to be taken to be wholly occupied as an ordinary place of residence of a person, despite the person not being resident there, if the person —

(a) is eligible under section 23(5) to apply to have their entitlement as regards the land registered; and

(b) is a registered person as regards that land on the basis of eligibility under section 23(5); and

(c) has not for the time being any other entitlement registered as regards that land.

[Section 30 amended: No. 22 of 1998 s. 23; No. 31 of 2006 s. ~~34~~34; No. 18 of 2026 s. 38.]

31. Certain cases of former joint occupation

(1) Subject to this section, where a person (who may or may not have had an entitlement registered in respect of that land) is the sole owner of land and ceases to occupy the land as their ordinary place of residence but leaves there a dependant —

(a) for whom the land had also been, and remains, the ordinary place of residence; and

(b) who —

(i) as occupier, is liable to pay and pays a prescribed charge in respect of the land; and

(ii) is an eligible person,

then the administrative authority may allow the dependant a rebate on that prescribed charge, notwithstanding that the dependant has no entitlement registered.

(2) Where land belongs to persons who are or were married or living there together as de facto partners and those persons are divorced, or separate, and cease to live there together, any existing authorisation to defer payment of a prescribed charge shall cease, unless section 45(2) applies, but a rebate may be allowed in respect of any subsequent charged period to either of those persons who —

(a) is an eligible person; and

(b) occupies the land as their ordinary place of residence.

(3) A rebate allowable under subsection (2) in respect of a subsequent charged period shall be apportioned —

(a) where an order —

(i) of a court of summary jurisdiction, made under the *Family Court Act 1997*; or

(ii) of the Family Court of Western Australia; or

(iii) made under the *Family Law Act 1975* of the Commonwealth; or

(iv) made on appeal from a judgment, order or decision made under the *Family Court Act 1997* or the *Family Law Act 1975* of the Commonwealth,

makes provision in relation to a relevant prescribed charge, in a manner not inconsistent with that order; or

(aa) where —

(i) a financial agreement made under section 90B, 90C or 90D of the *Family Law Act 1975* of the Commonwealth; or

(ii) a financial agreement made under section 205ZN, 205ZO or 205ZP of the *Family Court Act 1997*; or

(iii) an agreement made under legislation of another State or a Territory which provides for agreements with respect to financial matters in contemplation of, during or after a de facto relationship,

makes provision in relation to a relevant prescribed charge, in a manner not inconsistent with that agreement; or

(b) otherwise, under section 28 according to the extent to which the land belongs to an eligible person who occupies the land as their ordinary place of residence.

[Section 31 amended: No. 25 of 1993 s. 9; No. 3 of 2001 s. 9; No. 28 of 2003 s. 170; No. 9 of 2005 s. 12.]

Division 3 — The registration process

32. Registration

(1) Where an applicant who is an eligible person wishes an entitlement as regards the land on which any prescribed charge is payable to be registered by the administrative authority the applicant must —

(a) make an application to the administrative authority in a manner specified in the procedural manual; and

(b) furnish as accurately as practicable such information as is required to be given when making the application, or subsequently, by the administrative authority.

(1a) An application under subsection (1) for registration of an entitlement as regards land to a local government, in relation to

a prescribed charge by way of rates, is to be taken to include an application for registration of an entitlement as regards the land to the local government, in relation to the emergency services levy.

(1b) The details of an application made under subsection (1) may be given by the administrative authority to whom the application is made to any other administrative authority to whom the applicant is liable to pay a prescribed charge.

(1c) If the details of an application are given to an administrative authority under subsection (1b), the details are to be taken to be an application under subsection (1) to that administrative authority for registration of an entitlement as regards land.

(2) An administrative authority may require an application under subsection (1) to be accompanied or supported by a written declaration made by the applicant, or by some other person acceptable to the administrative authority for that purpose, as to such facts relevant to the application as the authority may specify.

(3) Subject to subsection (4), an administrative authority upon —

(a) receiving an application for registration made in accordance with this section; and

(b) being satisfied —

(i) that the conditions, circumstances or other facts relevant to the application are such as to make the applicant eligible; and

(ii) as to the entitlement of the applicant,

shall, even if arrears in respect of a prescribed charge in relation to that land remain payable by the applicant, cause the entitlement of the applicant to the land concerned to be registered under this Act specifying the nature of and extent of that entitlement and any apportionment made under section 28 of the liability for the prescribed charge.

(4) An entitlement as regards the land shall not be registered —

(a) for the same person, in respect of more than one place of residence; or

(b) in the name of the same person both as an eligible senior and as an eligible pensioner.

(4a) Subsection (4) does not apply in relation to land registered for a person on the basis of eligibility under section 23(5).

(5) The determination of the entitlement of an applicant shall be made on the facts relevant to the applicant 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.

(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.

(6) An administrative authority shall establish and maintain the register required for the purposes of this Act in accordance with the requirements of the procedural manual.

[Section 32 amended: No. 25 of 1993 s. 10; No. 3 of 2001 s. 10; No. 42 of 2002 s. 33(1); No. 9 of 2005 s. 13; No. 31 of 2006 s. 35; No. 13 of 2007 s. 4; No. 4 of 2013 s. 6.]

32A. Entitlement of surviving spouse or de facto partner

(1) In this section —

deceased partner means the deceased spouse or de facto partner of a surviving partner;

surviving partner means the surviving spouse or de facto partner of a deceased partner;

surviving partner's land means land belonging to or occupied by a surviving partner in the circumstances described in subsection (2)(b) or (4A)(b).

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

(2) 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

(c) the surviving partner was liable for the payment of a prescribed charge in respect of that land —

(i) at the commencement of the charged period (***period 1***) immediately following the charged period in which the prescribed charge was last payable by the deceased partner; or

(ii) at the commencement of each of period 1 and the following charged period (***period 2***);

and

(d) the surviving partner was eligible under this Act to apply to the administrative authority to have an entitlement in respect of that land registered —

(i) at the commencement of period 1; or

(ii) at the commencement of each of period 1 and period 2;

and

(e) upon application by the surviving partner an entitlement in respect of that land is registered —

(i) before the end of period 1; or

(ii) if paragraphs (c)(ii) and (d)(ii) apply, before the end of period 2,

the surviving partner is taken to have had a registered entitlement at the commencement of period 1, or periods 1 and 2, as the case requires, and is to be treated accordingly for the purposes of this Act.

(3) If —

(a) subsection (2)(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 prescribed charge in respect of the surviving partner's land in more than 2 charged periods after the charged period in which the prescribed charge was last payable by the deceased partner (the ***final period***); and

(ii) was eligible under this Act to apply to the administrative authority to have an entitlement in respect of that land registered at the commencement of each of those charged periods;

and

(c) the Minister is satisfied that, because of exceptional circumstances, an entitlement in respect of a surviving partner's land has been registered in a charged period that is more than 2 charged periods after the final period,

the Minister may declare that the surviving partner is taken to have had a registered entitlement in respect of the surviving partner's land at the commencement of each of the charged periods specified in the declaration.

(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

(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) A declaration under subsection (3) or (4C) has effect according to its terms and the surviving partner is to be treated accordingly for the purposes of this Act.

(5) A surviving partner who, under subsection (2) or (3), is taken to have a registered entitlement in respect of the surviving partner's land may pay the rebated amount in relation to the prescribed charge by the date specified in the notice requiring payment of the prescribed charge, or at the end of the charged period to which the notice relates, whichever is the later.

[Section 32A inserted: No. 13 of 2007 s. 5; amended: No. 4 of 2013 s. 7.]

33. Effect of registration

(1) Where as regards any land an entitlement is registered in relation to any kind of prescribed charge on that land on the basis that a person holds an estate in fee simple in possession in land, a strata lease as defined in the *Strata Titles Act 1985* or a relevant interest in land of a kind referred to in section 29, the person whose entitlement it is shall thereby, subject to this Act, be authorised in relation to a charge of that kind —

(a) to pay a rebated amount; or

(b) to defer payment,

for the charged period for which that charge was made and for all subsequent charged periods until the registration is amended or cancelled under section 37.

(1a) Where as regards any land an entitlement is registered in relation to any kind of prescribed charge on that land on the basis that a person holds a relevant interest in land of a kind referred to in section 29A, 29B or 29C, the person whose entitlement it is, subject to this Act, is authorised in relation to a charge of that kind to pay a rebated amount for the charged period for which that charge was made and for all subsequent charged periods until the registration is amended or cancelled under section 37.

(2) Where in relation to any charged period an entitlement to land is registered in respect of a prescribed charge that is not a Water

Corporation charge, 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) or (6) 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 authorised 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, notwithstanding the provisions of the *Local Government Act 1995*, the administrative authority shall comply with the direction.

(6) Despite subsection (3), a registered person in respect of a prescribed charge who is an eligible pensioner may, subject to this Act —

(a) pay a rebated amount in respect of a prescribed charge of that kind; or

(b) defer payment of amounts of a prescribed charge of that kind,

if that person and the administrative authority have agreed on an arrangement for the payment of arrears due from that person in respect of the prescribed charge.

(7) If, in respect of a charged period for which the payment of a rebated amount or a deferment is allowed under subsection (6), the registered person does not pay the arrears due to be paid in that charged period under the arrangement, the administrative authority may by written notice given to the registered person require that person to pay the prescribed charge by the date specified in the notice and the registered person ceases to be entitled to pay the rebated amount or to defer payment of the prescribed charge, as the case may be.

(8) Despite section 6.62 of the *Local Government Act 1995*, if an arrangement for the payment of arrears is agreed on under subsection (6) and an amount is paid in respect of the rebated amount, that amount is to be applied for or towards payment of the rebated amount.

[Section 33 amended: No. 25 of 1993 s. 11; No. 14 of 1996 s. 4; No. 3 of 2001 s. 11; No. 9 of 2005 s. 14; No. 32 of 2006 s. 98; No. 4 of 2013 s. 8; No. 30 of 2018 s. 176.]

*[**34.** Deleted: No. 3 of 2001 s. 12.]*

35. Change in circumstances of registered person

(1) Where the entitlement of a person as regards any land is registered, if —

(a) the person ceases —

(i) to hold a seniors' card; or

(ii) to be an eligible pensioner; or

(iii) to occupy the land as their ordinary place of residence;

or

(b) the interest or the extent of the interest of that person in the land changes in such a manner as to change the relevant entitlement; or

(c) the land no longer belongs to that person,

the registration may need to be reviewed by the administrative authority and the person is required forthwith to notify the administrative authority, in a manner approved by the administrative authority, of the change in circumstances.

(2) Where in respect of any charged period an eligible person would be authorised to have registered, or to apply for the registration of, an entitlement as regards land in more than one place and it is alleged that each is the ordinary place of residence of that person, that person —

(a) may retain, or have, an entitlement registered only for one of those places; and

(b) must elect to which of those places this Act is to apply; and

(c) must relinquish any other entitlement.

(2a) Subsection (2) does not apply in relation to land registered for a person on the basis of eligibility under section 23(5).

(3) Where subsection (2) applies to a place where a person has an entitlement which is required to be relinquished that person shall, in a manner approved by the administrative authority, notify every administrative authority which makes any prescribed charge in respect of that place —

(a) of the change of circumstances, in that the person has relinquished the entitlement and elected that the Act shall no longer apply to that place; and

(b) of any other land in respect to which that person claims an entitlement instead.

(4) If, by reason only of any increase in the assets or income of that person to a value in excess of that permitted by the means test, a person ceases to be an eligible person as regards any land, that person remains a person who may be allowed to retain —

(a) the benefit of any rebate on a prescribed charge, which that person had previously been allowed; and

(b) any right to defer payment of a prescribed charge, until such time as a liability for payment of the full amount under this Act otherwise arises,

but for future charged periods must seek registration again if then eligible.

[Section 35 amended: No. 31 of 2006 s. 36; No. 13 of 2007 s. 6.]

36. Review of registration

An administrative authority shall cause any registration, whether under this Act or any Act repealed by this Act, to be reviewed —

(a) not less than once in each period of 3 consecutive years; and

(b) on receipt of any notification under section 35 which may affect the registration.

37. Amendment or cancellation of registration

(1) An administrative authority —

(a) may, where a registered person notifies an administrative authority as to a change in circumstances as required by section 35; and

(b) shall, if it otherwise appears to an administrative authority by which the entitlement of a person is registered —

(i) that the eligibility of the person has ceased; or

(ii) that the entitlement of that person differs from that determined on the basis of the information disclosed at the time of registration; or

(iii) that the person no longer has the entitlement as regards the land which was registered,

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) An administrative authority, other than the Water Corporation, by which the entitlement of a person is registered shall, upon receiving an application made in a manner approved by the administrative authority from that person for cancellation of the registration, cancel the registration with effect from the day on which the application was received.

(3) On making a determination as to the amendment or cancellation of the registration of the entitlement of a person the administrative authority concerned shall cause that person to be notified in writing of the determination and of the reason why the cancellation or amendment is proposed to be effected.

(4) Subject to section 12 and section 14(2), effect may be given to a determination made under this section.

[Section 37 amended: No. 25 of 1993 s. 12; No. 13 of 2007 s. 7; No. 4 of 2013 s. 9.]

Division 4 — Miscellaneous

38. Offences

(1) A person who —

(a) for the purposes of any application under this Act, knowingly provides information that is false or misleading in any material particular; or

(b) omits to notify an administrative authority of a change of circumstances, as required by section 35; or

(c) for the purpose of trying to obtain a benefit under this Act, purports —

(i) to retain an entitlement, knowing that the entitlement as registered had ceased to exist; or

(ii) to be an eligible person, knowing that the eligibility had ceased,

commits an offence.

Penalty: $1 000.

(2) A prosecution for an offence under subsection (1) must be commenced within 5 years after the date on which the offence was allegedly committed.

[Section 38 amended: No. 22 of 1998 s. 24; No. 84 of 2004 s. 80.]

39. Persons allowed rebate or deferment incorrectly

(1) Where it appears to an administrative authority by which the entitlement of a person is registered that, consequent upon a

contravention of this Act, the entitlement of that person has unlawfully continued to be registered when —

(a) the person was not eligible to have the entitlement registered; or

(b) the entitlement did not exist,

that administrative authority may determine that the entitlement shall be taken for the purposes of this Act not, since the contravention, to have been correctly registered and effect shall not be given to the registration.

(2) Where an administrative authority determines that a rebate or deferment was allowed, purportedly under this Act, on any prescribed charge to a person to whom it should not have been allowed —

(a) the rebate purportedly allowed is of no effect; and

(b) the amount paid shall be taken to have been paid in partial satisfaction of the prescribed charge; and

(c) the amount, or the balance, of the rebate or of the amount deferred —

(i) is payable to the relevant administrative authority on demand; and

(ii) is recoverable by the administrative authority in any court of competent jurisdiction;

and

(d) that person is liable to any penalty in respect of arrears of that prescribed charge that may apply apart from this Act; and

(e) if —

(i) the amount of a rebate purportedly allowed has been reimbursed under section 17, the reimbursement shall be reversed; or

(ii) interest has been allowed under section 17 on deferral of a payment the interest shall be repaid,

whether or not the person concerned has contravened this Act.

(3) Where a rebate was allowed by reference to an apportionment made on a basis different from the entitlement the person concerned in fact should have had, so that the rebate purportedly allowed was more than it should have been —

(a) the rebate purportedly allowed shall be reduced to the correctly apportioned rebate; and

(b) the amount paid shall be taken to have been paid in partial satisfaction of the prescribed charge; and

(c) if the amount of the rebate mistakenly allowed has been reimbursed under section 17, the reimbursement shall be adjusted accordingly.

Part 3 — Rebates

40. Rebates to registered persons

(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.

(1) This section applies to a person who —

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

(b) has —

(i) an entitlement as regards that land which is registered by the administrative authority either at the commencement of or during the charged period; or

(ii) the right, as a dependant occupying the land in circumstances to which section 31(1) applies, to be allowed the benefit of a rebate.

(2A) Despite anything else in this Act, this section does not apply to an eligible senior in respect of a prescribed charge for the provision of underground electricity for any charged period other than the first year or part of the first year for which that charge is to be or was made.

(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

(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.

(3) Where, apart from this Act, an administrative authority allows a discount on a prescribed charge, and any conditions applicable to that discount are met, subsection (2) applies as though the liability for payment of the prescribed charge had been reduced by the discount allowed.

(4) An administrative authority shall, subject to this Act, allow to any person to whom this section applies a rebate on any prescribed charge, that rebate being calculated in such a manner as to reflect the extent of the entitlement which that person has in the land and, in accordance with section 28, apportioned where appropriate.

(5) If a person to whom this section applies is an eligible senior and not an eligible pensioner for the whole or a part of the charged period, the rebate to be allowed shall be determined using the following equation —

$$R = PC \times (\frac{DS}{CY})$$

where —

R is the rebate to be allowed; and

PC is the portion of the prescribed charge calculated under subsection (9) in respect of an eligible senior; and

DS is the number of the days during the charged period that the person is registered as an eligible senior; and

CY is the number of days in the charged period.

(6) If a person to whom this section applies is an eligible pensioner and not an eligible senior for the whole or a part of the charged period, the rebate to be allowed shall be determined using the following equation —

$$R = PC \times (\frac{DP}{CY})$$

where —

R is the rebate to be allowed; and

PC is the portion of the prescribed charge calculated under subsection (9) in respect of an eligible pensioner; and

DP is the number of the days during the charged period that the person is registered as an eligible pensioner; and

CY is the number of days in the charged period.

(7) If a person to whom this section applies is an eligible senior for a part of the charged period and an eligible pensioner for another part of the charged period, the rebate to be allowed shall be determined using the following equation —

$$R = (PCS \times (\frac{DS}{CY})) + (PCP \times (\frac{DP}{CY}))$$

where —

R is the rebate to be allowed; and

PCS is the portion of the prescribed charge calculated under subsection (9) in respect of an eligible senior; and

PCP is the portion of the prescribed charge calculated under subsection (9) in respect of an eligible pensioner; and

DS is the number of the days during the charged period that the person is registered as an eligible senior; and

DP is the number of the days during the charged period that the person is registered as an eligible pensioner; and

CY is the number of days in the charged period.

(8) Where a person who is authorised to pay a rebated amount, pays an amount in excess of the rebated amount in respect of a prescribed charge, then the administrative authority shall refund, or give credit, for the excess amount.

(9) The portion of the prescribed charge to be used in determining the rebate of a person to whom this section applies shall be —

(a) for an eligible senior, on any prescribed charge by way of the emergency services levy or rates or for the provision of water supply, sewerage or drainage — 25% of the prescribed charge concerned, up to such limit as is prescribed;

(b) for an eligible pensioner, on any prescribed charge by way of the emergency services levy or rates or for the provision of water supply, sewerage or drainage or underground electricity — 50% of the prescribed charge concerned, up to such limit as is prescribed;

(c) for an eligible senior, on any prescribed charge for the provision of underground electricity — 25% of the prescribed charge concerned, up to such limit as is prescribed;

(d) on any other prescribed charge —

(i) for an eligible senior — the prescribed percentage of the charge, up to such limit as is prescribed;

(ii) for an eligible pensioner — the prescribed percentage of the charge.

[Section 40 inserted: No. 3 of 2001 s. 13(1); amended: No. 42 of 2002 s. 34; No. 13 of 2007 s. 10; No. 2 of 2012 s. 36; No. 4 of 2013 s. 10; No. 27 of 2015 s. 17.]

41. Effect of payment of rebated amount

(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) If the rebated amount of a prescribed charge that is not a Water Corporation charge is paid by or on behalf of a registered person before the end of the charged period or, if that person has been allowed an extended period under section 40(3A), before the end of that period —

(a) that person shall not be liable to pay any further amount for that prescribed charge; and

(b) the administrative authority —

(i) has no further claim against that person for that prescribed charge; and

(ii) may claim for reimbursement under section 16,

subject to this Act.

(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.

[Section 41 amended: No. 25 of 1993 s. 14; No. 13 of 2007 s. 11; No. 4 of 2013 s. 11.]

42. Charges for periods preceding, or for improvements made or services provided subsequent to, registration

(1) If an administrative authority other than the Water Corporation makes a prescribed charge in respect of any land for a year or part of a year preceding the date of issue of the notice requiring payment of that prescribed charge, a person, subject to subsection (2), may be allowed a rebate on that prescribed charge, if at the commencement of the rating year in which the charged period occurred that person was —

(a) liable to pay that charge; and

(b) an eligible person; and

(c) entitled to apply for the registration of an entitlement as regards that land,

and was so registered subsequently.

(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.

(2) A rebate may be allowed under subsection (1) or (2A) to any person where the rebated amount of the prescribed charge is paid to the administrative authority before the due date, being a date not earlier than 6 months after the date of the notice specified by the administrative authority in the notice requiring payment, but not otherwise.

(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.

(3) Where an entitlement as regards land was registered, and the land was used as a place of residence, at the commencement of a rating year and during that year —

(a) a prescribed charge is made by way of the emergency services levy or rates relating to improvements subsequently effected to the land; or

(b) a prescribed charge is made in respect of additional or other water supply, sewerage or drainage services subsequently provided,

this Act has effect in relation to those prescribed charges arising during a charged period that occurs in that rating year, notwithstanding that the registration previously effected did not relate to a charge of that kind, and the particulars of the registration shall be amended accordingly.

(4) On or after 1 July 2001, where an entitlement as regards land is registered during a rating year and during that year —

(a) a prescribed charge is made by way of the emergency services levy or rates relating to improvements effected to the land during the year; or

(b) a prescribed charge is made in respect of additional or other water supply, sewerage or drainage services provided during the year,

this Act has effect in relation to those prescribed charges arising during a charged period that occurs in that rating year for the

period of the rating year to which both the charges relate and the entitlement as regards the land is registered.

[Section 42 amended: No. 3 of 2001 s. 14; No. 42 of 2002 s. 35; No. 4 of 2013 s. 12.]

Part 4 — Deferment

Division 1 — Where charges may be deferred

43. Circumstances where deferment may be allowed

(1) In relation to any prescribed charge, the administrative authority may, subject to subsections (1a), (1b) and (2), allow payment of a prescribed charge to be deferred where —

(a) the person liable to pay the charge is an eligible pensioner or is registered as an eligible pensioner during a rating year; and

(b) the conditions to which a rebate of that charge is subject have been met; and

(c) the land to which the charge related belongs to one person only, unless subsection (3) or subsection (4) applies,

but the administrative authority under section 47 may decline to allow the payment to be deferred.

(1a) In relation to any land, deferment of the payment of a prescribed charge must not be allowed if the entitlement of the person liable to pay the relevant prescribed charge is as a person who holds a relevant interest of a kind referred to in section 29A, 29B or 29C.

(1b) In relation to any land, deferment of the payment of a prescribed charge must not be allowed if the person liable to pay the relevant prescribed charge is registered on the basis of eligibility under section 23(5).

(2) In relation to any land, deferment of the payment of a prescribed charge may only be allowed if —

(a) the entitlement of the person liable to pay the relevant prescribed charge is as the sole owner of the fee simple in possession in that land or as the sole owner of a lot in

a leasehold scheme, as defined in the *Strata Titles Act 1985* section 3(1); or

(b) subsection (3) or subsection (4) applies.

(3) In relation to land which belongs to several persons, being owners as tenants in common of undivided shares in the land, deferment of the payment of a prescribed charge may be allowed where the charge to which the deferral sought relates is based on an assessment made in respect only of the specific part of that land which —

(a) is in the exclusive occupation of; and

(b) is the ordinary place of residence of,

the person liable to pay the charge, but not otherwise.

(4) In relation to a person liable for the payment of a charge whose entitlement is registered together with an entitlement of some other person as regards the same land (whether or not that other entitlement is a registered entitlement), deferment of the payment of a prescribed charge may be allowed if —

(a) the other person is the spouse or de facto partner of the person liable; or

(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,

but not otherwise.

[Section 43 amended: No. 25 of 1993 s. 15; No. 3 of 2001 s. 15; No. 28 of 2003 s. 171; No. 9 of 2005 s. 15; No. 31 of 2006 s. 37; No. 32 of 2006 s. 98; No. 30 of 2018 s. 177.]

44. Deferred payment of rates by eligible pensioner

(1) Where an eligible pensioner who is a registered person does not pay, or does not wholly pay, the rebated amount of any charge by the day determined in accordance with subsection (2A) that person —

(a) remains liable for the payment of the full amount of the charge, without rebate; and

(b) ceases to be authorised to satisfy the liability for the payment of the charge by the payment only of a rebated amount,

but the administrative authority shall not seek to recover the amount, or the balance of the amount owing, from that person, and the liability of that person to pay that amount or that balance may be deferred until such time as it becomes payable in accordance with subsection (2).

(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.

(2) Prescribed charges, liability for the payment of which is deferred under this Act, become payable and may be recovered by the administrative authority if the person liable for the payment —

(a) dies, unless section 45(1) applies; or

(b) ceases to be a person entitled to the land; or

(c) ceases to occupy the land as their ordinary place of residence, unless —

(i) a person to whom section 31(1) applies continues to reside there; or

(ii) residence there by that person ceased by reason of ill-health, frailty or other cause not within the control of that person; or

(iii) residence there by that person ceased upon that person ceasing to live together with a spouse or de facto partner there, but that spouse or de facto partner remains there, and section 45(2) applies;

or

(d) being a person to whom section 19 applies, is notified in writing that under section 21 the administrative authority has determined that the allowing of deferment can no longer be justified,

whichever happens first.

(3) Where the liability for the payment of prescribed charges is deferred as regards any land to which several persons are entitled, being owners as tenants in common of undivided shares in the land, then notwithstanding the provisions of any other Act the liability for the payment of the charges to which the deferral relates attaches only to —

(a) the specific part of that land to which an assessment of the kind referred to in section 43(3) related; and

(b) the charge on that part of the land in so far as it remains unpaid.

[Section 44 amended: No. 28 of 2003 s. 172; No. 13 of 2007 s. 12; No. 4 of 2013 s. 13.]

45. Where charges may remain deferred in favour of a spouse or de facto partner

(1) Where —

(a) prescribed charges, the liability for the payment of which is deferred, would otherwise become payable upon the death of the person liable for the payment; but

(b) the land continues to be the ordinary place of residence of a surviving spouse or de facto partner of that person, whether or not that land had also belonged to the surviving spouse or de facto partner,

the liability for payment arising on the death of that person shall be further deferred until that surviving spouse or de facto partner —

(c) dies; or

(d) ceases to be a person to whom the land, for the purposes of this Act, belongs,

notwithstanding that the spouse or de facto partner may not be an eligible person.

(2) Where —

(a) prescribed charges, the liability for the payment of which is deferred, would otherwise become payable upon the person liable for the payment ceasing to occupy the land as their ordinary place of residence; but

(b) a spouse or de facto partner of that person continues so to occupy the land,

the liability for payment of the charges remaining owing shall be further deferred until —

(c) the person dies; or

(d) the spouse or de facto partner continuing in residence dies or ceases so to occupy the land; or

(e) an order of a court of competent jurisdiction in family matters otherwise provides for the payment,

notwithstanding that the spouse or de facto partner may not be an eligible person.

[Section 45 amended: No. 28 of 2003 s. 173.]

46. Continuing liability for payment of deferred charges to be a charge on the land

(1) Where deferment of the liability for the payment of any prescribed charges has been or is allowed and those charges remain unpaid, those charges in so far as they remain unpaid are by force of this Act a charge on the land ranking equally with any other charge on that land created by an Act, and before any other kind of charge on that land, subject to subsections (2) and (3).

(2) Where deferment of the liability for the payment of any prescribed charges has been or is allowed and those charges remain unpaid, if the land to which the liability relates is land which was or is —

(a) land subject to the provisions of —

(i) the *State Housing Act 1946* [5]; or

(ii) the *Housing Act 1980*;

or

(b) land the subject of a scheme relating to housing —

(i) entered into between the Commonwealth and the State; or

(ii) administered or managed by the Housing Authority,

any amount owing under those Acts or such a scheme to the Housing Authority has priority over any amount owing arising out of the deferment of prescribed charges payable on that land.

(3) Any amount owing to the Defence Homes Corporation under the Commonwealth Act known as the *Defence Service Homes Act 1918* in respect of land subject to that Commonwealth Act has priority over any amount owing arising out of the deferment of prescribed charges payable on that land.

[Section 46 amended: No. 28 of 2006 s. 432.]

Division 2 — Where charges may not be deferred

47. Charges likely not to be recoverable

Where, by reason that the likely net sale value of the land would be insufficient to satisfy the liability, an administrative authority determines that any prescribed charges, or any charges the deferment of which has previously been allowed (whether under this Act or the *Pensioners (Rates Rebates and Deferments) Act 1966* [4]), are payable as regards the land concerned but might not be recoverable, despite being charged on the land, that administrative authority —

(a) may decline to permit deferral in respect of that or any subsequent charged period; but

(b) may allow a rebate,

in respect of the charged period.

Part 5 — General

48. Registration of documents

The Registrar of Titles under the *Transfer of Land Act 1893* and any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property may take cognizance of the provisions of this Act, and is empowered to record and register in the appropriate manner such documents as are necessary to record a charge on land arising under this Act or otherwise to give effect to this Act.

49. Recovery of deferred charges not prevented by *Limitation Act 2005*

Where the payment of any prescribed charges is —

(a) deferred; or

(b) allowed to be continued to be deferred or postponed,

under this Act nothing contained in the *Limitation Act 2005* prevents the administrative authority from recovering any amount which but for this section that authority would by that Act have been prevented from doing.

[Section 49 amended: No. 20 of 2005 s. 23.]

50. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

*[**51.** Omitted under the Reprints Act 1984 s. 7(4)(f).]*

*[**52.** Omitted under the Reprints Act 1984 s. 7(4)(e).]*

53. Transitional provisions

Schedule 1 contains transitional provisions relating to amendments made to this Act.

[Section 53 inserted: No. 31 of 2006 s. 38.]

Schedule 1 — Transitional provisions

[s. 53]

[Heading inserted: No. 31 of 2006 s. 39.]

Division 1 — Provision for *Revenue Laws Amendment Act 2006*

[Heading inserted: No. 31 of 2006 s. 39.]

1. Application of section 40

If an eligible person registers an entitlement in respect of land under section 32 after 30 June 2006 and before 1 October 2006 on the basis that the person is eligible under section 23(5) to apply to have their entitlement as regards the land registered, section 40 applies to the person as if the entitlement had been registered at the commencement of the charged period.

[Clause 1 inserted: No. 31 of 2006 s. 39.]

Division 2 — Provisions for Finance Legislation Amendment (Housing Affordability) Act 2026

[Heading inserted: No. 18 of 2026 s. 39.]

2. Application of amendments to s. 23 relating to Additional Disablement Amount

(1) In this clause —

Additional Disablement Amount means the Additional Disablement Amount under the *Military Rehabilitation and Compensation Act 2004* (Cth) Chapter 4 Part 7 Division 3A;

amending provision means the *Finance Legislation Amendment (Housing Affordability) Act 2026* section 36(2);

commencement day means the day on which the amending provision comes into operation;

eligibility day has the meaning given in subclause (2)(a);

pre-commencement period means the period beginning on 1 July 2026 and ending immediately before commencement day;

pre-registration period has the meaning given in subclause (3)(a).

(2) This clause applies if —

(a) an Additional Disablement Amount is payable to a person on and from a day (the eligibility day) in the pre-commencement period; and

(b) before the end of the period of 3 months beginning on commencement day, the person applies to an administrative authority to register an entitlement as regards land on which a prescribed charge is payable on the basis that an Additional Disablement Amount is payable to the person; and

(c) the administrative authority registers the person's entitlement as regards the land on that basis; and

(d) the person's entitlement as regards the land could have been registered on that basis in the pre-commencement period had the amending provision come into operation on 1 July 2026.

(3) Subject to subclause (5), this Act applies in relation to the person, and the administrative authority must treat the person, as if —

(a) the person's entitlement as regards the land had been registered in the period (the pre-registration period) —

(i) beginning on eligibility day; and

(ii) ending immediately before the registration referred to in subclause (2)(c) took effect;

and

(b) the person had been an eligible pensioner during that period.

(4) Without limiting subclause (3), if, within the pre-registration period, the person has paid to the administrative authority an amount in excess of a rebated amount in respect of a prescribed charge that the person is authorised to pay as a result of that subclause, the administrative authority must refund, or give credit for, the excess amount to the person under section 40(8).

(5) If, as a result of the non-payment of a prescribed charge within the pre-registration period, the person's liability for payment of the charge has been deferred under section 44 (as applied under subclause (3)) —

(a) the Minister must allow the person an extended period under section 40(3A) within which the person may satisfy the

liability for payment of the charge by the payment of a rebated amount; and

(b) despite anything else in this Act, the person is authorised to satisfy their liability to pay the charge by paying the rebated amount by the last day of that period.

[Clause 2 inserted: No. 18 of 2026 s. 39.]

Notes

This is a compilation of the *Rates and Charges (Rebates and Deferments) Act 1992* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Rates and Charges (Rebates and Deferments) Act 1992	31 of 1992	19 Jun 1992	s. 1 and 2: 19 Jun 1992; Act other than s. 1 and 2: 1 Jul 1992 (see s. 2 and *Gazette* 26 Jun 1992 p. 2643)
Rates and Charges (Rebates and Deferments) Amendment Act 1993	25 of 1993	15 Dec 1993	Pt. 1 and 2: 1 Jul 1993 (see s. 2(1)); Pt. 3: 1 Jan 1994 (see s. 2(2) and *Gazette* 31 Dec 1993 p. 6862)
Statutes (Repeals and Minor Amendments) Act 1994 s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995 s. 188	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and *Gazette* 29 Dec 1995 p. 6291)
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Statutes (Repeals and Minor Amendments) Act 1997 s. 102	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Revenue Laws Amendment (Assessment) Act 1998 Pt. 4 [6]	22 of 1998	30 Jun 1998	1 Jul 1998 (see s. 2(1))

Reprint of the *Rates and Charges (Rebates and Deferments) Act 1992* as at 19 May 2000 (includes amendments listed above)

Short title	Number and year	Assent	Commencement
Revenue Laws Amendment (Assessment) Act 2001 Pt. 3 [7, 8]	3 of 2001	26 Jun 2001	1 Jul 2001 (see s. 2(2))
Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Act 2002 Pt. 4 [9]	42 of 2002	11 Dec 2002	1 Jan 2003 (see s. 2 and *Gazette* 30 Dec 2002 p. 6635)
Acts Amendment (Equality of Status) Act 2003 Pt. 50	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and *Gazette* 30 Jun 2003 p. 2579)
Children and Community Services Act 2004 Sch. 2 cl. 22	34 of 2004	20 Oct 2004	1 Mar 2006 (see s. 2 and *Gazette* 14 Feb 2006 p. 695)
Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7129 (correction: *Gazette* 7 Jan 2005 p. 53))
Rates and Charges (Rebates and Deferments) Amendment Act 2005 [10]	9 of 2005	7 Jul 2005	s. 4(2), 11, 14(1) and (2) and 15: 1 Jul 2005 (see s. 2(3)); Act other than s. 4(2), 11, 14(1) and (2) and 15: 7 Jul 2005 (see s. 2(1))
Limitation Legislation Amendment and Repeal Act 2005 Pt. 10	20 of 2005	15 Nov 2005	15 Nov 2005 (see s. 2(1))
Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 17 Div. 8	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and *Gazette* 27 Jun 2006 p. 2347)
Revenue Laws Amendment Act 2006 Pt. 5	31 of 2006	4 Jul 2006	1 Jul 2006 (see s. 2(5))
Residential Parks (Long-stay Tenants) Act 2006 s. 98	32 of 2006	4 Jul 2006	3 Aug 2007 (see s. 2 and *Gazette* 1 Aug 2007 p. 3835)
Reprint 2: The *Rates and Charges (Rebates and Deferments) Act 1992* as at 22 Sep 2006 (includes amendments listed above except those in the *Residential Parks (Long-stay Tenants) Act 2006*)			
Financial Legislation Amendment and Repeal	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)

Short title	Number and year	Assent	Commencement
Act 2006 s. 8 and Sch. 1 cl. 146			
Revenue Laws Amendment (Assessment) Act 2007 Pt. 2	13 of 2007	29 Jun 2007	Pt. 2 Div. 1 and 2: 30 Jun 2007 (see s. 2(b)); Pt. 2 Div. 3: 1 Jul 2007 (see s. 2(c)(i))
Revenue Laws Amendment Act 2008 Pt. 6	30 of 2008	27 Jun 2008	1 Jul 2008 (see s. 2(1)(c)(i))
Revenue Laws Amendment Act (No. 2) 2008 s. 35	31 of 2008	27 Jun 2008	28 Jun 2008 (see s. 2(b))
Reprint 3: The *Rates and Charges (Rebates and Deferments) Act 1992* as at 7 Nov 2008 (includes amendments listed above)			
Residential Tenancies Amendment Act 2011 Pt. 5 Div. 4	60 of 2011	14 Dec 2011	1 Jul 2013 (see s. 2(b) and *Gazette* 3 May 2013 p. 1735)
Local Government Amendment Act 2012 Pt. 3	2 of 2012	4 Apr 2012	1 Jul 2012 (see s. 2(b) and *Gazette* 20 Apr 2012 p. 1695)
Fire and Emergency Services Legislation Amendment Act 2012 Pt. 7 Div. 12	22 of 2012	29 Aug 2012	1 Nov 2012 (see s. 2(b) and *Gazette* 31 Oct 2012 p. 5255)
Water Services Legislation Amendment and Repeal Act 2012 s. 226 (other than 226(4)) [12]	25 of 2012	3 Sep 2012	s. 226(2), (5) and (6): 18 Nov 2013 (see s. 2(b) and *Gazette* 14 Nov 2013 p. 5028); s. 226(3): 1 Jul 2014 (see s. 2(b) and *Gazette* 14 Nov 2013 p. 5028)
Revenue Laws Amendment Act 2012 Pt. 6	29 of 2012	3 Sep 2012	4 Sep 2012 (see s. 2(e))

Rates and Charges (Rebates and Deferments) Amendment Act 2013 [11]	4 of 2013	29 Jun 2013	s. 1 and 2: 29 Jun 2013 (see s. 2(a));
			Act other than s. 1, 2, 4(3) and (4) and 14: 1 Jul 2013 (see s. 2(b)(i));
			s. 4(3): 18 Nov 2013 (see s. 2(c)(ii) and *Gazette* 14 Nov 2013 p. 5028);
			s.4(4): 1 Jul 2014 (see s. 2(d)(ii) and *Gazette* 14 Nov 2013 p. 5028)

Short title	Number and year	Assent	Commencement
Reprint 4: The *Rates and Charges (Rebates and Deferments) Act 1992* as at 4 Oct 2013 (includes amendments listed above except those in the *Water Services Legislation Amendment and Repeal Act 2012* s. 226(2), (3), (5) and (6) and the *Rates and Charges (Rebates and Deferments) Amendment Act 2013* s. 4(3) and (4))			
Revenue Laws Amendment Act 2015 Pt. 3	27 of 2015	2 Oct 2015	3 Oct 2015 (see s. 2(b))
Public Health (Consequential Provisions) Act 2016 s. 101	19 of 2016	25 Jul 2016	24 Jan 2017 (see s. 2(1)(c) and Gazette 10 Jan 2017 p. 165)
Strata Titles Amendment Act 2018 Pt. 3 Div. 16	30 of 2018	19 Nov 2018	1 May 2020 (see s. 2(b) and SL 2020/39 cl. 2)
Community Titles Act 2018 Pt. 14 Div. 16	32 of 2018	19 Nov 2018	30 Jun 2021 (see s. 2(b) and SL 2021/69 cl. 2)
Retirement Villages Amendment Act 2024 Pt. 4	42 of 2024	13 Nov 2024	14 Nov 2024 (see s. 2(b))
Finance Legislation Amendment (Housing Affordability) Act 2026 Pt. 4	18 of 2026	21 Oct 2026	22 Oct 2026 (see s. 2(b))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
Public Health (Consequential Provisions) Act 2016 Pt. 5 Div. 19	19 of 2016	25 Jul 2016	To be proclaimed (see s. 2(1)(c))

Other notes

[1] The provision in this Act repealing that Act has been omitted under the *Reprints Act 1984* s. 7(4)(f).

[2] The short title of the *Local Government Act 1960* was amended to the *Local Government (Miscellaneous Provisions) Act 1960* by the *Local Government Act 1995* Sch. 9.2 cl. 2.

[3] The provision in this Act amending that Act has been omitted under the *Reprints Act 1984* s. 7(4)(e).

[4] The *Pensioners (Rates Rebates and Deferments) Act 1966* was repealed by s. 51(1) of this Act.

[5] The *State Housing Act 1946* was repealed by the *Housing Act 1980*.

[6] The *Revenue Laws Amendment (Assessment) Act 1998* s. 25 reads as follows:

> **25. Savings — procedural manuals**
>
> A procedural manual issued under section 9 of the *Rates and Charges (Rebates and Deferments) Act 1992* as in force before the commencement of this Part has effect on and after the commencement of this Part as if it had been issued under section 9 of the *Rates and Charges (Rebates and Deferments) Act 1992* as amended by section 16 of this Act.

[7] The *Revenue Laws Amendment (Assessment) Act 2001* s. 13(2) reads as follows:

> (2) Regulations —
>
> (a) that are made under the *Rates and Charges (Rebates and Deferments) Act 1992* as amended by this section; and
>
> (b) that are made within 6 months after this section receives the Royal Assent,
>
> may come into operation at a time specified in those regulations that is not earlier than 1 July 2001 and may relate to a rebate that an eligible senior is to be allowed on a prescribed charge referred to in section 40(9) of that Act (as inserted by this section).

[8] The *Revenue Laws Amendment (Assessment) Act 2001* s. 16 reads as follows:

> **16. Transitional**
>
> (1) If before 1 July 2001 a person is eligible to be registered and is registered under section 32 of the *Rates and Charges (Rebates and Deferments) Act 1992* on or after 1 July 2001 and on or before 30 September 2001, section 40 of that Act (as inserted by section 13) applies to that person as if the entitlement had been registered at the commencement of the charged period.
>
> (2) If a person becomes eligible to be registered and is registered on or after 1 July 2001 and on or before 30 September 2001, section 40 (as inserted by section 13) applies to that person as if the person were registered on the day the person became eligible to be registered.

9 The *Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Act 2002* s. 33(2)-(4) read as follows:

> (2) The operation of section 32(1a) of the *Rates and Charges (Rebates and Deferments) Act 1992*, as inserted by subsection (1), extends to an application for registration of an entitlement as regards land to a local government, in relation to a prescribed charge by way of rates, made before the commencement of this section if the application has not yet been determined on that commencement.
>
> (3) If the registration by a local government of an entitlement as regards land, in relation to a prescribed charge by way of rates, has effect on the commencement of this section, that registration is taken to include the registration by the local government of an entitlement as regards the land, in relation to the emergency services levy.
>
> (4) Words and expressions used in subsections (2) and (3) have the same meanings as they have in the *Rates and Charges (Rebates and Deferments) Act 1992*.

10 The *Rates and Charges (Rebates and Deferments) Amendment Act 2005* s. 16 reads as follows:

> **16. Transitional**
>
> If an eligible person who holds a relevant interest in land of a kind referred to in section 29A or 29B of the *Rates and Charges (Rebates and Deferments) Act 1992* registers an entitlement in respect of land under section 32 of that Act after 30 June 2005 and before 1 October 2005, section 40 of that Act applies to that person as if the entitlement had been registered at the commencement of the charged period.

11 The *Rates and Charges (Rebates and Deferments) Amendment Act 2013* s. 14(2) does not have effect because this Act received the Royal Assent before 1 Jul 2013 (see s. 14(1)).

12 The *Water Services Legislation Amendment and Repeal Act 2012* s. 226(4) was repealed by the *Statutes (Repeals and Minor Amendments) Act 2025* s. 3(i).

© State of Western Australia 2024.
This work is licensed under a Creative Commons Attribution 4.0 International Licence (CC BY 4.0).
To view relevant information and for a link to a copy of the licence, visit www.legislation.wa.gov.au.
Attribute work as: © State of Western Australia 2024.
By Authority: GEOFF O. LAWN, Government Printer