

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

What does this mean for councils and ratepayers?

The *Local Government Legislative Amendment (Rating and Other Matters) Act 2022* received Royal Assent in August 2022. The Act makes changes to the arrangements for unpaid rates and charges, consideration of ratepayers facing financial hardship, service rates and charges and special rates and charges. The Act also introduces a new public benefit criteria for councils to offer rate rebates and concessions.

The *Local Government Legislative Amendment (Rating Reform and Other Matters) Act 2022* will:

- support people who are struggling to pay their rates
- address key recommendations from the Local Government Rating System Review and the Ombudsman's Investigation into how local councils respond to ratepayers in financial hardship
- improve how councils deal with people in financial hardship and incentivise working with ratepayers early and proactively as part of their core business.

The Act will also help to implement a fairer rating system by:

- providing the Minister with the power, in consultation with the Essential Services Commission, to issue guidance on how councils deal with ratepayers experiencing financial hardship
- empowering the Minister, in consultation with the Essential Services Commission, to set a maximum amount of interest that may be levied on unpaid rates and charges (currently set at 10 per cent)

- limiting councils' use of Magistrate's Court orders for recovering unpaid rates in situations where rates or charges have not been paid for two years or more
- formalising payment plans for ratepayers to pay their outstanding rates and charges as an alternative to the four instalments currently prescribed.

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

The maximum interest rate set by the *Penalty Interest Rate Act 1983* of 10 per cent is disproportionate for unpaid local government rates. While councils may levy interest that is lower, this has been inconsistently applied by councils. The Government considers it more appropriate that the maximum interest rate is set by the Minister for Local Government, with Guidelines, to ensure councils reduce the maximum amount for ratepayers experiencing financial hardship. The Essential Services Commission will provide advice to the Minister prior to setting the maximum interest rate.

Limits to use of Magistrate's Court orders

The Act limits councils' use of Magistrate's Court orders for recovering unpaid rates to situations where rates or charges have not been paid for twenty-four months or longer.

Formalising payment plans

The Act will formalise payment plans as an alternative way for ratepayers to pay their outstanding rates and charges. This will allow for more flexible arrangements to be negotiated and agreed upon by councils and ratepayers, especially in circumstances of financial hardship.

Ministerial Guidelines for Unpaid Rates and Charges

The Act provides the Minister with the power to issue Ministerial Guidelines (after consulting with the Essential Services Commission) on how councils deal with ratepayers experiencing financial hardship.

These will:

- define financial hardship
- require early engagement with people who are struggling to pay their rates
- set out how to undertake debt collection appropriately.

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

The previous arrangements for rate rebates and concessions restrict their application to the preservation of buildings and the environment.

The Local Government Rating System Review recommended a new, contemporary public benefit test for councils to offer rate rebates and concessions. This will allow councils to offer rate rebates or concessions for land uses that provide a public benefit to the community. The legislation will specify that the public benefit use must allow for availability to the public either free of charge or for a nominal amount, and may not be used for the distribution of profit to the owner or shareholders.

It will remain up to councils whether they offer rate rebates or concessions to their municipality under the new criteria. The Government encourages councils to think creatively about how they can use the new public benefit test to benefit their own community. Community gardens or public art

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spaces on private land are some such land uses that could be eligible, along with many other possibilities.

The current criteria for rate rebates for the preservation of buildings and the environment will also remain.

What will the changes to council service charges achieve?

Waste service charges were previously limited to 'the collection and disposal of refuse'. The Act will update the description of waste charges to ensure that all the services relevant to modern waste management activities are covered such as collection, transport, processing, storage and treatment of waste and recyclable materials. The definition is aligned with that of the *Circular Economy Act 2021* and the Government's recycling reforms.

Legacy provisions for councils to levy service charges for water and sewage have been repealed as they are no longer used since the water sector was corporatised in the 1990s.

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

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

Special rates and charges schemes are most commonly used to fund the sealing of private or suburban roads, construction of footpaths and drainage infrastructure. The schemes are also used to fund economic development activities for retail districts such as high street trading associations.

For more information visit

<https://www.localgovernment.vic.gov.au/our-programs/council-rates-and-charges>