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AMENDMENT TO THE LOCAL GOVERNMENT 1993 - PARTIAL RATE EXEMPTIONS FOR RELIGIOUS BODIES, CHARITIES AND PUBLIC BENEVOLENT INSTITUTIONS

The purpose of this circular is to advise councils that the *Local Government Amendment (General Rate Exemptions) Act 2010* was assented to by the Governor of NSW on 15 June 2010 and commenced on and from that date.

Background

Broadly speaking, religious bodies, public charities and public benevolent institutions are exempt from paying general rates on properties that they own and that they use for charitable purposes.

However, the *Local Government Act 1993* has been silent on how such a property should be treated if part of the property is commercially let to a non-exempt body. Furthermore, the Act has not allowed for a council to partially rate the non-exempt part of such a parcel of land.

Aim of the Amendment Act

The object of the amendment is to enable the separate valuation of parts of a parcel of land owned by a religious body, public benevolent institution or public charity that is used partly in a manner that is exempt from rating and partly in a manner that is not exempt from rating if rates are to be levied on the non-exempt part.

In doing so, the amendment strengthens the exemptions from general rates that apply for religious bodies, public benevolent institutions and public charities and ensures that land owned by a religious body, benevolent institution or charity is afforded a rate exemption to the full extent envisaged under the Local Government Act.

In addition, it ensures a consistent approach between councils and clarifies that those councils that are currently applying a partial rate exemption are complying with the legislation.

Amendments made to the *Local Government Act 1993*

The following amendments have been made to the Local Government Act:

- section 555 (What land is exempt from all rates?) – insertion of sub-sections 555(5) to 555(7).

- section 556 (What land is exempt from all rates, other than water supply special rates and sewerage special rates?) – insertion of sub-sections 556(3) to 556(5).
- Schedule 8 – transitional provisions

Under the amendments, where part of a single parcel of land is subject to a commercial lease, for example where a parcel of land has on it a church and a commercially leased car park, a council may request from the Valuer General separate valuations for each part under section 28A of the *Valuation of Land Act 1916*, and to then apply rates to the car park component.

Where a parcel of land consists of one building that is partially subject to a commercial lease, the amendments provide for the valuation of that building on a stratum basis, thus allowing rates to be charged on those components of the building that are commercially let.

The transitional provisions contained in the Bill ensure that, where the terms of an existing lease agreement between a charitable body and a commercial tenant do not provide for the lessee to pay the rates, no religious body, benevolent institution or charity will be inadvertently and adversely affected. In such cases, the entire parcel of land will remain exempt from rates until the land ceases to be the subject of that lease.



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