



LOCAL GOVERNMENT (RATES AND CHARGES REMISSIONS) AMENDMENT

No. 79 of 1979

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AN ACT to amend the Local Government (Rates and Charges Remissions) Act 1977 to make further provision with respect to the eligibility of certain pensioners to have their rates and charges remitted and for certain other purposes.

[Royal Assent 14 December 1979]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the Local Government (Rates and Charges Remissions) Amendment Act 1979. Short title.

Commence-  
ment.

**2**—(1) This section and sections 1 and 4 shall commence on the date of assent to this Act.

(2) Sections 3 and 5 shall be deemed to have commenced on 30th November 1977.

(3) Section 6 shall commence on 1st July 1980.

Principal Act.

**3**—In this Act, the *Local Government (Rates and Charges Remissions) Act 1977\** is referred to as the Principal Act.

Amendment of  
section 6 of  
Principal Act  
(Compulsory  
remissions  
in certain  
cases).

**4**—Section 6 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1A) (a) “ 1978; and ” and substituting “ 1978; ”;

(b) by omitting paragraph (b) of subsection (1A) and substituting the following paragraphs:—

(b) 31st December, in relation to the immediately following financial year; and

(c) 31st March, in relation to any other financial year.

Amendment of  
section 8 of  
Principal Act  
(Financial  
assistance to  
municipalities  
in respect of  
remissions  
pursuant to  
section 6).

**5**—Section 8 of the Principal Act is amended by omitting subsection (3).

Amendment of  
Schedule to  
Principal Act.

**6**—(1) Part II of the Schedule to the Principal Act is amended as follows:—

(a) by omitting from paragraph (c) of clause 2 “ paragraph 1 ” and substituting “ clause 2 ”;

(b) by omitting from that clause “ paragraph 1 ”, where second occurring, and substituting “ clause 1 ”.

(2) Part IV of the Schedule to the Principal Act is amended as follows:—

(a) by inserting before clause 1 the following clause:—

1—In this Part—

“ incapacitated soldier ” means a male or female member of the Forces or returned soldier within the meaning of Part III of the

\* No. 100 of 1977. Subsequently amended by No. 11 of 1978.

*Repatriation Act* 1920 of the Commonwealth who is permanently unemployable within the meaning of that expression under that Part;

“ service pension ” means a service pension under the *Repatriation Act* 1920 of the Commonwealth.

- (b) by renumbering clause 1 (second occurring) and the succeeding clauses as clauses 2 to 7 respectively;
- (c) by omitting from clause 3 (as renumbered) “ A person who is in receipt of a service pension under the *Repatriation Act* 1920 of the Commonwealth ” and substituting “ A person, other than an incapacitated soldier, who is in receipt of a service pension and ”;
- (d) by omitting clause 5 (as renumbered) and substituting the following clause:—

5—(1) An incapacitated soldier in receipt of a disability pension—

(a) who has no spouse, if the soldier—

(i) has no income except the disability pension and a service pension;  
or

(ii) not being eligible to receive a service pension, has no income except—

(a) the disability pension;  
and

(b) other income (if any) not exceeding the amount of the service pension that the soldier could receive if he or she were a special pensioner within the meaning of paragraph (a) (i);  
or

(b) who has a spouse, if—

(i) neither of them has any income except the disability pension and a service pension; or

(ii) neither of them being eligible to receive a service pension, the soldier has no income except—

(a) the disability pension;  
and

(b) other income (if any) that, combined with his or her spouse's income (if any), other than a disability pension to which the spouse is entitled, does not exceed the total of the service pensions that they could both receive if the soldier were a special pensioner within the meaning of paragraph (b) (i).

(2) Where a municipality—

(a) wishes to exercise its powers under section 5 (1) in respect of prescribed charges; or

(b) is required, pursuant to section 6 (1), to exercise its powers under sections 4 (1) and 5 (1) in respect of rates and prescribed charges,

payable by an incapacitated soldier in respect of a financial year, the municipality shall, for the purpose of determining whether or not the soldier is a special pensioner within the meaning of—

(c) subclause (1) (a), disregard the soldier's income (not being pension income) if the municipality is satisfied that, at the time of making the determination, that income will not exceed \$104 in that financial year;  
or

- (d) subclause (1) (b), disregard the soldier's income and the income of the soldier's spouse (not being pension income in either case) if the municipality is satisfied that, at the time of making the determination, each of those incomes will not exceed \$52 in that financial year,

notwithstanding that, apart from this subclause, the relevant income would be required to be taken into account for the purpose of making that determination.

(3) Where an incapacitated soldier is living apart from his or her spouse in pursuance of a written separation agreement or of an order or other determination of a court, the soldier shall, for the purpose of determining whether or not he or she is a special pensioner within the meaning of subclause (1), be regarded as not having a spouse.

- (4) In this clause—

“disability pension” means a pension under the *Repatriation Act* 1920 of the Commonwealth that is payable at the special rate of pension specified in Schedule 2 to that Act;

“income”, in relation to a person who is an incapacitated soldier or the spouse of an incapacitated soldier, means any income earned, derived, or received by that person for his or her own use or benefit by any means from any source within or outside this State, but does not include—

(a) an allowance payable under the *Repatriation Act* 1920 of the Commonwealth; or

(b) any sum payable by way of child endowment under Part VI of the *Social Services Act* 1947 of the Commonwealth;

“pension income” means income from a service pension or disability pension or from both those pensions;

“ spouse ”, in relation to a male incapacitated soldier, includes a woman who has lived with a male incapacitated soldier who is a special pensioner within the meaning of sub-clause (1) as his wife on a permanent and genuine domestic basis, although not legally married to him, for not less than 3 years immediately preceding the date of the making by him of an application under section 5 (1) or 6 (1).

- (e) by omitting from clause 6 (b) (as renumbered) “ under that Act ”; and
- (f) by omitting from clause 7 (as renumbered) “ paragraph 2 of this Part ” and substituting “ clause 3 ”.