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Victorian Current Acts

LOCAL GOVERNMENT ACT 1989 - SECT 163 Special rate and special charge

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Special rate and special charge

(1) A [Council](#) may declare a special rate, a special charge or a combination of both only for the purposes of—

- (a) defraying any [expenses](#); or
- (b) repaying (with interest) any advance made to or debt incurred or loan raised by the [Council](#)—

in relation to the performance of a function or the exercise of a power of the [Council](#), if the [Council](#) considers that the performance of the function or the exercise of the power is or will be of special benefit to the [persons](#) required to pay the special rate or special charge.

S. 163(1A) inserted by No. 27/1997

s. 10.

(1A) A [Council](#) must not make a declaration under subsection (1) unless it has given [public notice](#) of its intention to make the declaration at least 28 days before making the declaration.

S. 163(1B) inserted by No. 27/1997

s. 10.

(1B) In addition to any other requirements specified by this Act, the [public notice](#) must—

- (a) contain an outline of the proposed declaration; and
- (b) set out the date on which it is proposed to make the declaration; and

S. 163(1B)(c) amended by No. 109/2003 s. 80(1).

(c) advise that copies of the proposed declaration are available for inspection at the [Council](#) office for at least 28 days after the publication of the notice.

S. 163(1C) inserted by No. 109/2003 s. 80(2).

(1C) A [Council](#) must send a copy of the [public notice](#) to each [person](#) who will be liable to pay the special rate or special charge within 3 working days of the day on which the [public notice](#) is [published](#).

S. 163(2) substituted by No. 109/2003 s. 81(1).

- (2) Before making a declaration under subsection (1), the [Council](#) must determine—
- (a) the total amount of the special rates and special charges to be levied; and
 - (b) the criteria to be used as the basis for declaring the special rates and special charges.

S. 163(2A) inserted by No. 109/2003 s. 81(1).

(2A) For the purpose of subsection (2)(a) the total amount of the special rates and special charges to be levied must not exceed the amount calculated in accordance with the formula—

$$R \times C = S$$

where—

R is the benefit ratio determined by the **Council** in accordance with subsection (2B);

C is the total cost of the performance of the function or the exercise of the power under subsection (1);

S is the maximum total amount that may be levied from all the **persons** who are liable to pay the special rates or special charges.

S. 163(2B) inserted by No. 109/2003 s. 81(1).

(2B) The benefit ratio is the estimated proportion of the total benefits of the scheme to which the performance of the function or the exercise of the power relates, including special benefits and community benefits, that will accrue as special benefits to all the **persons** who are liable to pay the special rates or special charges.

S. 163(2BA) inserted by No. 67/2008 s. 56.

(2BA) A **Council** must not make a declaration under subsection (1) which has been altered from the proposed declaration specified in the **public notice** if the effect of the alteration is to increase the liability of any **person** to pay the special rate or special charge to be imposed by the proposed declaration unless—

(a) the alteration is made in response to a submission or objection received by the **Council** in response to the proposed declaration; and

(b) the increase in the liability of any **person** to pay the special rate or special charge does not exceed 10%.

S. 163(2C) inserted by No. 109/2003 s. 81(1).

(2C) The Minister may make guidelines for the purposes of subsections (2), (2A) and (2B).

S. 163(2D) inserted by No. 109/2003 s. 81(1).

(2D) Guidelines made under subsection (2C) must be **published** in the Government Gazette.

S. 163(3) amended by No. 109/2003 s. 81(2).

(3) The **Council** must specify in the declaration—

(a) the **wards**, groups, uses or areas for which the special rate or special charge is declared; and

S. 163(3)(ab) inserted by No. 109/2003 s. 81(3).

(ab) a description of the function to be performed or the power to be exercised; and

S. 163(3)(ac) inserted by No. 109/2003 s. 81(3).

(ac) the total cost of the performance of the function or the exercise of the power; and

S. 163(3)(ad) inserted by No. 109/2003 s. 81(3).

(ad) the total amount of the special rates and special charges to be levied; and

(b) the land in relation to which the special rate or special charge is declared; and

(c) the manner in which the special rate or special charge will be assessed and levied; and

(d) details of the period for which the special rate or special charge remains in force.

(4) A **Council** may levy a special rate or special charge by sending a notice to the **person** who is liable to pay it.

(5) The notice must contain—

- (a) the prescribed information; and
- (b) a statement about when the special rate or special charge is payable; and
- (c) details of the period for which the special rate or special charge remains in force.

(6) A **Council** may use the money from a special rate or special charge for any or all of the following—

- (a) any purpose for which the rate or charge was made and the purchase of land and materials required for that purpose (including land acquired before the **Council** declared the rate or charge);
- (b) repayment of money borrowed for anything mentioned in paragraph (a) and of interest on that money;
- (c) maintenance and repair of damage, management, advertising or security; and
- (d) any **expenses** related—
 - (i) to anything mentioned in paragraphs (a) to (c); or
 - (ii) to the declaration or levying of the rate or charge.

(7) If a private street (within the meaning of section 575(1) of the **Local Government Act 1958**) is constructed wholly or partly at the cost of **the owners** or occupiers of any land which abuts or fronts the street, the **Council** may not at any future time recover any further costs in respect of the construction of a component of the private street if that component has been previously constructed to the satisfaction of the **Council** from **the owners** or occupiers of the land under this section by way of a special rate or special charge.

(8) For the purposes of subsection (7) and section 221(6), **construct** and **component** have the same meanings as in section 12 of the **Local Government (Consequential Provisions) Act 1989** .

S. 163(9) inserted by No. 67/2008 s. 56(2).

(9) For the purposes of subsections (1) and (6), "expenses" does not include any **expenses** incurred or anticipated to be incurred which relate to any proceedings or anticipated proceedings before VCAT, including an application for review under section 185 or an application for a declaration under section 185AA.

S. 163A inserted by No. 34/1996 s. 21, substituted by No. 27/1997

s. 11.