

**RATES AND CHARGES (REBATES AND DEFERMENTS)  
AMENDMENT BILL 2013**

**EXPLANATORY MEMORANDUM**

This Bill seeks to make amendments to the *Rates and Charges (Rebates and Deferments) Act 1992* to accommodate changes being made to the Water Corporation's billing practices.

The Bill also seeks to remove the requirement for Water Corporation customers to pay the balance of their water service charges in order to retain their rebate.

The Rates and Charges (Rebates and Deferments) Act provides for the administration of the pensioners and seniors rebate scheme and for concessions on certain charges including water service charges.

Currently, the Water Corporation's annual service charges are issued in July for the year in advance. Water use accounts are issued in arrears, with meters read twice a year in the Perth metropolitan area and three times a year outside the metropolitan area.

From 1 July 2013, the Water Corporation will commence a new billing regime that will result in combined service charge and water use accounts being issued approximately every two months.

This will reduce pressure on Water Corporation customers by smoothing the accounts for households and reduce confusion between overlapping water use and service charges.

The Rates and Charges (Rebates and Deferments) Act is currently structured around administrative authorities, such as the Water Corporation, issuing annual bills for the year in advance.

The proposed amendments are necessary to ensure that eligible pensioners and seniors will receive rebates in respect of their Water Corporation charges that reflect Water Corporation's new billing practices. This includes, where a person purchases a house, being able to register and receive a rebate at any time during a rating year rather than having to wait until the commencement of the next rating year.

The Bill also seeks to amend, for Water Corporation customers only, certain requirements that must be met to retain a rebate.

Currently, to retain a rebate an eligible pensioner or senior must pay the balance of their charges or rates by the end of the relevant rating year. The Bill seeks to remove the requirement for Water Corporation customers to have to make this payment to retain their rebate.

This will increase access to the rebates for Water Corporation customers, especially those who are having difficulty in paying their bill, who arguably are those most in need of the rebate.

**Clause 1: Short title**

This clause provides that the short title of this Act is the *Rates and Charges (Rebates and Deferments) Amendment Act 2013*.

**Clause 2: Commencement**

This clause provides the commencement dates for the Act.

Paragraph (a) provides that sections 1 and 2 of this Act come into operation on the day it receives the Royal Assent.

Paragraph (b) provides that, other than section 4(4), the rest of the Act comes into operation on 1 July 2013 if it receives the Royal Assent on or before 1 July 2013, or otherwise on assent day.

Paragraph (c) provides that section 4(4) comes into operation depending on when section 226(3) of the *Water Services Legislation Amendment and Repeal Act 2012* comes into operation. Section 226(3) of the *Water Services Legislation Amendment and Repeal Act* makes amendments to terms used in the *Rates and Charges (Rebates and Deferments) Act* that will affect the proposed definition of 'Water Corporation charge'.

**Clause 3: Act amended**

This clause provides that the amendments in this Act are to the *Rates and Charges (Rebates and Deferments) Act 1992*.

**Clause 4: Section 3 amended**

Section 3 provides the meaning of terms used in the *Rates and Charges (Rebates and Deferments) Act 1992*.

Subclause (1) inserts definitions of the terms 'Water Corporation' and 'Water Corporation charge'.

These terms are necessary in order to distinguish between the Water Corporation and other administrative authorities and also between Water Corporation prescribed charges and other administrative authorities' prescribed charges, such as a local government rate or an emergency services levy.

Subclause (2) amends the definition of 'entitlement' by removing the words 'throughout the charged period'.

This is necessary to accommodate the amendments made to a number of sections in this Bill resulting from the changes in respect to Water Corporation charges.

Subclause (3) makes an amendment to the definition of 'prescribed charge' to ensure consistency with the definition of a 'Water Corporation charge'.

Subclause (4) amends the definition of 'Water Corporation charge'. This subclause will have effect from the date that amendments contained in the *Water Services Legislation Amendment and Repeal Act 2012* section 226(3), are proclaimed.

**Clause 5: Section 7 amended**

Section 7 deals with a person's entitlement as regards land. It provides that an administrative authority must determine an applicant's entitlement by referring to sections 27 to 31 of the Rates and Charges (Rebates and Deferments) Act and that a determination has effect throughout the rating year in which a charged period occurs.

This clause amends section 7(2) to preclude Water Corporation charges from its operation because the proposed amendments to section 37(1) provide that, in the case of a Water Corporation charge, where land is sold, cancellation of a registration takes effect from the date the change in circumstances occurred.

**Clause 6: Section 32 amended**

Section 32 sets out the process for an eligible person to register their entitlement as regards the land on which any prescribed charge is payable.

Subclause (1) amends section 32(5) to ensure that the determination of an applicant's entitlement continues to be considered on the facts at the commencement of the rating year for administrative authorities other than the Water Corporation. The date of determination of entitlement in the case of the Water Corporation is changed to the day on which the application is made, being the day on which the application is received by the Water Corporation or by another administrative authority.

Subclause (2) inserts new subsection (6A). This subsection clarifies, as a result of the amendment to section 32(5), that where the Water Corporation registers the entitlement of an applicant, the registration has effect from the day on which the application was made.

Example of the intended operation of section 32:

John and Jane, registered eligible pensioners sell their home in Bayswater and purchase a new home in Maylands on 4 August 2013. They apply for a rebate online via the Water Corporation's website on 5 August 2013.

On receiving the application the Water Corporation will determine their entitlement based on whether they own and occupy the Maylands property on 5 August 2013 (the date the application is made) and if entitlement is satisfied register the Maylands property from 5 August 2013.

As the couple did not own and occupy the Maylands property until 4 August 2013, they will not qualify for a local government rebate until 1 July 2014. However, they will be entitled to retain the local government rebate allowed on the Bayswater property, which they owned and occupied on 1 July 2013.

**Clause 7: Section 33 amended**

Section 33 deals with the effect of registration of an entitlement to land for an eligible pensioner or senior.

Subclause (1) amends section 33(2) to preclude from its operation a Water Corporation charge. Section 33(2) currently provides that where a registered person ceases to be eligible or that person dies, or ceases to be the owner of the land they remain entitled to a rebate or deferment until the commencement of the next charged period.

This clause will not apply with respect to a Water Corporation charge because, as a result of amendments to section 32(5) and section 37(1), an entitlement to a rebate or deferment allowable on these charges is effective from the date an application for registration is made until the date registration is cancelled. Cancellation is effective from the date that a change in the registered person's circumstances occurs, which makes them ineligible. For example, the date they lose their entitlement to a seniors' card.

Subclause (2) amends section 33(3) to preclude from its operation a Water Corporation charge. Currently, section 33(3) provides that where a registered person has arrears in respect of a prescribed charge, a rebate or deferment will not be allowed unless they have entered into a payment arrangement with the administrative authority.

Registered Water Corporation customers who are in arrears will be allowed a rebate or to defer a rebated amount regardless of whether or not they have made a payment arrangement.

**Clause 8: Section 37 amended**

Section 37 deals with the amendment or cancellation of a registration when an administrative authority is notified or becomes aware of a change in the registered person's circumstances.

Subclause (1) amends section 37(1) to determine the date that the Water Corporation can amend or cancel a registration to give effect to a change in a registered person's circumstances.

For a Water Corporation charge, the date of effect is the day on which the change in a person's circumstances actually occurred.

For administrative authorities other than the Water Corporation, the date of effect remains the commencement of the rating year following the determination.

For example, a registered person is allowed a local government rates rebate for the 2013-14 rating year but loses their entitlement to a concession card on 5 September 2013. Their registration is cancelled in September 2013 but they retain the rebate for 2013-14. The rebate will not be allowed from 1 July 2014 onwards.

Using the same example, a registered person is allowed a rebate on a Water Corporation charge from 1 July 2013 until 5 September 2013.

Subclause (2) amends section 37(2) to preclude the Water Corporation from its operation. It provides that where an administrative authority other than the Water Corporation receives a cancellation application from a registered person, the authority must cancel the registration with effect from the date the application is received.

Where the Water Corporation receives a cancellation application, section 37(1) will provide that cancellation takes effect from the date on which the change in the person's circumstances actually occurred.

**Clause 9: Section 40 amended**

Section 40 provides for the method of calculation of a rebate allowed to a registered person.

Subclause (1) inserts new subsection (1A) which provides that a reference to the liability to pay a rebated amount of a prescribed charge includes a charge apportioned under section 28.

Section 28 provides for the apportionment of prescribed charges and rebates when there are multiple owners of property and not all of the owners are entitled to a rebate.

Current references to the apportionment of a prescribed charge under section 28 have been deleted from section 40(1)(a) and 40(2).

Subclause (2) amends section 40(1)(a) as a consequence of the insertion of new section 40(1A) and to delete the words 'at the commencement of the charged period' as they are no longer necessary. Liability for payment of a prescribed charge at the commencement of the charged period is implied for administrative authorities other than the Water Corporation by the operation of section 40(1)(b), which requires that a person has an entitlement to land registered at some point during a charged period. For other administrative authorities registration is determined based on the facts at the commencement of the rating year.

Registration in respect of a Water Corporation charge is determined on the date an application is made, not the commencement of the rating year.

Subclause (3) amends section 40(2) to remove the requirement to pay a Water Corporation charge by the end of a charged period or extended period.

For any other prescribed charge, liability continues to be satisfied by payment of the rebated amount before the end of the charged period or the end of any extended period allowed under section 40(3A).

Subclause (4) renumbers current subsection (2a) such that it is now subsection (3A). Currently there is a subsection (2A) and a subsection (2a).

**Clause 10: Section 41 amended**

This section provides for the effect of payment of the rebated amount of a charge by an eligible pensioner or senior. Amendments to this provision are necessary to accommodate the removal of the requirement for Water Corporation customers to pay a rebated amount before the end of the charged period to retain their rebate.

Subclause (1) inserts new subsection (1) which provides that a reference to liability to pay a rebated amount of a prescribed charge includes a charge apportioned under section 28.

Section 28 provides for the apportionment of prescribed charges and rebates when there are multiple owners of property and not all of the owners are entitled to a rebate.

Subclause (2) amends section 41 to exclude from its operation a Water Corporation charge. This accommodates the removal of the requirement for Water Corporation customers to pay a rebated amount before the end of the charged period to retain their rebate.

Subclause (3) inserts new subsection (3) which provides that if a rebated amount of a Water Corporation charge is paid, the registered person is no longer liable to pay any further amount and the Water Corporation has no further claim against the person for the charge.

**Clause 11: Section 42 amended**

Section 42 provides for circumstances where an administrative authority issues interim or adjusted rates notices. Interim rates are charged for a number of reasons. For example, where a sewer main has been extended so that a property can now be connected.

Subclause (1) amends section 42(1) such that it does not apply to rates charged by the Water Corporation.

The provisions that deal with the interim or adjusted rates issued by the Water Corporation are in subclause (2).

Subclause (2) deletes section 42(2a) and inserts new subsections (3A) to (3E).

Subsection (3A) provides that a rebate is allowable on a Water Corporation charge relating to a year or part of a year before the interim rates notice is issued, providing the person registers their entitlement as regards to the land, after the date of issue of the interim rates notice but before the end of the charged period.

A rebate is allowable for the period the person is both liable to pay the charge and entitled to apply to register their residence under the Rates and Charges (Rebates and Deferments) Act.

Example of the intended operation of new section 42(3A):

A pensioner owns and occupies a retirement unit prior to 1 July 2013. The retirement village is subsequently approved for rebates under section 29A of the Rates and Charges (Rebates and Deferments) Act. Separate water rate notices are issued to residents on 16 August 2013 for charges, effective from 1 July 2013. Charges are due and payable by 4 September 2013. The pensioner applies for a rebate on 28 August 2013 and due to the amendment to section 42(2a) is registered effective from 1 July 2013 and eligible for the rebate.

Subsection (3B) provides that where a rebate is allowed under subsection (3A), liability for the payment of a prescribed charge may be satisfied by paying the rebated amount or be deferred.

Subsection (3C) provides that where rebates are allowed under subsection (3A) for periods before the introduction of the Water Corporation's billing reforms on 1 July 2013, the provisions in force immediately prior to 1 July 2013 apply.

This ensures that the amendments contemplated by this Bill do not apply to charges issued in respect of periods prior to 1 July 2013.

Subsection (3D) provides that where subsection (3C) applies, a person has at least six months after the date the interim rates notice was issued to pay the rebated amount on a charge relating to a period before 1 July 2013.

This is consistent with the minimum period currently allowed under section 42(2) for interim rates issued by all administrative authorities.

Subsection (3E) provides that if a rebate has been allowed under this section the administrative authority must refund or give credit for the amount of the rebate when necessary.

For example, where a person paid the full amount of the interim rates notice then registered, their account would be in credit after the rebate had been applied.

**Clause 12: Section 44 amended**

Section 44 provides for the deferment of rates by an eligible pensioner. This clause amends section 44 to give effect to the changes relating to the deferment of Water Corporation charges.

Subclause (1) amends section 44(1) to preclude Water Corporation charges and to ensure that the full amount or lesser balance, not the rebated amount of a prescribed charge, continues to be deferred where a registered pensioner does not pay or only part pays the rebated amount by the due date.

Subclause (2) amends section 44(1a) to update references to other sections amended by this Bill.

Subclause (3) inserts new subsections (2A) and (2B) to provide for the deferment of the rebated amount of Water Corporation charges.

New subsection (2A) provides that the rebated amount of a Water Corporation charge may be deferred where an eligible pensioner does not pay all or only pays part of the rebated amount on or before the payment day. Previously, if the rebated amount was not paid by the end of the charged period the pensioner would lose the rebate and remain liable for the full amount of the rates outstanding, which would then be deferred.

'Payment day' is defined in new subsection (2B) to be the day determined by the Water Corporation for payment of the rebated amount or if it is payable in portions, payment of the last portion of the rebated amount. This provides for the more frequent billing of customers by Water Corporation.

**Clause 13: Schedule 1 Division 2 inserted**

This clause inserts transitional provisions relating to the treatment of applications and the amendment or cancellation of existing registrations between 1 July 2013 and the date the *Rates and Charges (Rebates and Deferments) Amendment Act 2013* ('Amendment Act') comes into operation.

Subclause (1) provides self explanatory definitions for 'Amendment Act' and 'commencement day'.

Subclause (2) provides that this clause only has effect if the Amendment Act comes into operation after 1 July 2013.

Subclause (3) provides that the Water Corporation is to apply the Amendment Act as though it came into operation on 1 July 2013.

Subclause (4) provides for how the Water Corporation is to treat, after commencement day, applications for registration, amendments and cancellations made between 1 July 2013 and commencement day.

Paragraph (a) provides that the Water Corporation may treat an application for registration made between commencement day and 31 December 2013 as if it was made on a day between 1 July 2013 and commencement day.

Paragraph (b) provides that the Water Corporation may treat an application under paragraph (a) as having been registered on a day between 1 July 2013 and commencement day if the applicant could have been registered had the Amendment Act come into operation on 1 July 2013.

Paragraph (c) provides that if a person's circumstances change between 1 July 2013 and the day the Amendment Act comes into operation, the Water Corporation may amend or cancel the registration as if the amendment or cancellation had occurred on the day on which the change in circumstances occurred.