

Circular Details	20-18 / 19 May 2020 / A703512
Previous Circular	<i>If applicable</i>
Who should read this	Councillors / General Managers / All council staff
Contact	Policy Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Important changes for all councils made by the COVID-19 Legislative Amendment (Emergency Measures-Miscellaneous) Act No.2

What's new or changing

- The *Local Government Act 1993* has been amended to make a number of changes to support councils and ratepayers during the COVID-19 pandemic as part of the *COVID-19 Legislative Amendment (Emergency Measures-Miscellaneous) Act No.2*. These changes:
 - enable a council that does not apply the full percentage increase of the rate peg (or any applicable Special Variation) this year or in any future year to set rates in any one or more of the next 10 years to return it to the original rating trajectory; and
 - prevent councils from commencing legal action to recover rates and charges for six months unless the following specific matters have been considered:
 - whether the payment of the rate or charge could be made in instalments or by way of some other financial arrangement,
 - whether the person should be referred to a financial counsellor,
 - whether mediation or alternative dispute resolution should be attempted first; and
 - whether interest on the unpaid amount should be deferred or waived.
- Amendments have also been made to the *Annual Holidays Act 1944* to clarify that annual leave continues to accrue while an employee is stood down and to allow councils and their employees to agree to:
 - the council making a payment to an employee in lieu of annual leave where that employee will still have a balance of at least four weeks of leave remaining; and/or
 - an employee taking annual leave at double or half pay.

What this will mean for your council

- Councils should immediately review their planned approach to adopting the rate peg this year, if necessary, and consider any consequent impacts on its Operational Plan and revenue planning for 2020-21.
- Councils should also review debtors owing unpaid rates and charges and ensure any further action is compliant with the new requirements.
- Councils should then consider any consequential impacts on their Delivery Program, Resourcing Strategy and Long-term Financial Plan.
- Councils may also wish to review delegations, policies and procedures around rates and charges and debt recovery to ensure they remain compliant, including any arrangements with external service providers.

Key points

- The Government understands that the COVID-19 pandemic is placing significant pressure on councils as well as families and businesses in NSW.
- That is why the Local Government Act has been amended to help councils and the communities they serve to remain sustainable during the current crisis and as steps towards economic recovery begin.
- Section 511(1) has been amended to enable any council that does not apply the full percentage increase of the rate peg (or any applicable Special Variation) in a certain year to set rates in a subsequent year to return it to the original rating trajectory for that subsequent year.
 - This enables councils to not increase rates to the full capped amount during difficult times, while allowing them to catch-up the value of those rates in future years when economic circumstances improve.
 - This amendment came into effect on commencement of the amending Act and is a continuing amendment.
- A second amendment to the Local Government Act prevents councils from taking legal action to recover unpaid rates and charges unless specific matters have been considered, for six months.
 - This is to ensure that ratepayers facing financial difficulties are provided support and opportunities to pay their bills and defer the potential for formal debt recovery.
 - This amendment applies until 26 September 2020.
- The *Annual Holidays Act 1944* has been amended to provide greater flexibility in how annual leave is managed and to allow councils to reduce their excess annual leave liability by agreement with their employees.

Where to go for further information

- A copy of the amendments may be viewed at the NSW Legislation website at www.legislation.nsw.gov.au/#/browse/bills/current/C
- Councils may wish to review a *Frequently Asked Questions* document on these changes, which may be viewed at <https://www.olg.nsw.gov.au/programs-and-initiatives/olq-assists-councils-to-manage-covid-19/information-and-resources/>
- Further questions about changes to the *Local Government Act* should be raised with Council's OLG Engagement Manager in the first instance.
- Questions about changes to the *Annual Holidays Act* should be raised with NSW Industrial Relations by calling 131 628 or using the contact form at www.industrialrelations.nsw.gov.au/about-us/contact-us/workplace-enquiry/ or by seeking guidance from Local Government NSW.



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