

**LOCAL GOVERNMENT (BUILDING AND RATES)  
AMENDMENT BILL 1985**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill are—

- (a) to amend Part XI (Building Regulation) of the Local Government Act 1919 to enable requirements to be made by councils for the provision, installation, operation, maintenance and replacement of essential services in existing and proposed buildings;
- (b) to extend the ordinance making power under that Part so as to enable the classification of existing and proposed buildings and portions of buildings according to the purposes for which they are used or are intended to be used, or otherwise; and
- (c) to validate the making of certain rates declared invalid by the Supreme Court in *Denovan v. Council of the City of Wagga Wagga* and certain other rates which may be invalid as a result of the decision in that case.

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a formal provision that gives effect to the Schedule of amendments to the Principal Act, those amendments relating to the objects specified in paragraphs (a) and (b).

Clause 3 (1) validates the general rates made for 1981 and 1982 and the special rate made for 1982, under the Principal Act, by the Council of the City of Wagga Wagga. The special rate made for 1982 (for the purpose of raising money for the Abattoir Trading Fund) was specifically declared to be invalid in *Denovan's* case.

Clause 3 (2) continues the exemption from liability to pay the special rate made for 1982 of the 162 plaintiffs in *Denovan's* case.

Clause 3 (3) provides, for the avoidance of doubt, that a general rate made for 1981 or 1982, under the Principal Act, by a council and which may be invalid as a consequence of *Denovan's* case is validated.

Schedule 1 (1) amends the heading to Division 4B of Part XI of the Principal Act as a consequence of other amendments to the Division made by Schedule 1.

Schedule 1 (2) (a) inserts a definition of "essential services" for the purposes of the Division.

Schedule 1 (2) (b) extends the definition of "work" for the purposes of the Division so as to include the provision, installation, operation, maintenance and replacement of essential services.

Schedule 1 (3) extends the existing scheme in the Division relating to fire safety of buildings to enable a council to require the owner of a building to carry out work by way of the provision, installation, operation, maintenance and replacement of essential services for the building.

Schedule 1 (4) extends the ordinance making powers for the purposes of Part XI of the Principal Act with respect to the provision of essential services and so as to enable the classification of existing and proposed buildings and portions of buildings, according to the purposes for which they are used or are intended to be used, and otherwise.

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**LOCAL GOVERNMENT (BUILDING AND RATES)  
AMENDMENT BILL 1985**

No. ,1985

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**A BILL FOR**

An Act to amend the Local Government Act 1919 to make provision with respect to the installation, operation and maintenance of certain essential services in buildings and the classification of buildings according to their use; and to validate the making of certain rates.

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*Local Government (Building and Rates) Amendment 1985*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**5 Short title**

1. This Act may be cited as the "Local Government (Building and Rates) Amendment Act 1985".

**Amendment of Act No. 41, 1919**

2. The Local Government Act 1919 is amended in the manner set forth  
10 in Schedule 1.

**Validation of certain rates**

3. (1) The general rates purporting to have been made in 1981 and 1982 under the Local Government Act 1919 by the Council of the City of Wagga Wagga and the special rate purporting to have been made in 1982 under  
15 that Act by that Council are validated and shall be deemed always to have been valid.

(2) Notwithstanding subsection (1), a plaintiff in the proceedings brought against the Council of the City of Wagga Wagga in the Equity Division of the Supreme Court of New South Wales (No. 1660 of 1983) shall not be  
20 liable to pay any part of the special rate referred to in that subsection and any amount paid by such a plaintiff to the Council in respect of the special rate shall be refunded or credited against any other amount liable to be paid at any time by the plaintiff to the Council in respect of rates.

(3) A rate, other than a rate referred to in subsection (1), made in 1981  
25 or 1982 by a council of a united area within the meaning of the Local Government Areas Amalgamation Act 1980 shall not be invalid by reason—

- (a) that the rate was made without reference to any value of ratable land within the united area; or
  - (b) that the rate was made partly by reference to the unimproved capital value of ratable land and partly by reference to the land  
30 value of ratable land within the united area.
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*Local Government (Building and Rates) Amendment 1985*

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SCHEDULE 1

(Sec. 2)

AMENDMENTS TO PART XI OF THE LOCAL GOVERNMENT ACT  
1919

5 (1) Part XI, Division 4B, heading—

Omit “in existing”, insert instead “and essential services in”.

(2) (a) Section 317C (1), definition of “essential services”—

Before the definition of “owner”, insert:

10 “essential services” means materials, equipment, services and  
other items specified or defined in an ordinance to be  
essential services for the purposes of this Division;

(b) Section 317C (1), definition of “work”—

Omit the definition, insert instead:

15 “work” means work in the nature of alterations or otherwise,  
and includes—

(a) in relation to fire safety—

- (i) the provision of means of escape or egress;  
(ii) the installation of automatic sprinklers or  
drenchers; and  
20 (iii) the protection from fire of means of escape  
or egress; and

(b) in relation to essential services—the provision,  
installation, operation, maintenance and  
replacement of essential services.

25 (3) Section 317D (1)—

Omit the subsection, insert instead:

(1) For the purpose of ensuring that adequate provision for fire  
safety is made in or in connection with a building and for the  
purpose of ensuring the provision of essential services and that  
adequate provision is made for the installation, operation,  
30 maintenance and replacement of essential services in or in  
connection with a building, the council may, by notice in writing,  
order the owner to do either or both of the following things,  
namely:

*Local Government (Building and Rates) Amendment 1985*

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SCHEDULE 1—*continued*

AMENDMENTS TO PART XI OF THE LOCAL GOVERNMENT ACT  
1919—*continued*

(a) to carry out, within the period specified in the notice, such work as may be so specified to such standards, if any, or in accordance with such requirements, if any, as may be so specified;

5 (b) to provide, within the period specified in the notice, such fire-fighting equipment as may be so specified.

(4) (a) Section 319 (1) (e)—

Omit the paragraph, insert instead:

(e) for the classification of—

- 10 (i) existing buildings or portions of existing buildings;  
(ii) proposed buildings or portions of proposed buildings; and  
(iii) buildings or portions of buildings as proposed to be altered, added to or rebuilt,

15 according to the purpose or purposes for which they are used or are intended or apparently intended to be used or by reference to other matters, for the making of applications for classification (whether in association with building applications or otherwise) and for the  
20 determination of those applications;

(b) Section 319 (1) (k)—(n)—

Omit section 319 (1) (k), insert instead:

25 (k) for the form of any notice, notification, order, particulars of work, plan, specification, approval, disapproval or objection referred to in section 317D or 317E;

30 (l) for or with respect to requiring, controlling and regulating the provision, installation, operation, maintenance and replacement of materials, equipment, services and other items in existing buildings or portions of existing buildings, proposed buildings or portions of proposed buildings and buildings or portions of buildings as proposed to be altered, added to or rebuilt, being materials, equipment, services and other items —

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SCHEDULE 1—*continued*

AMENDMENTS TO PART XI OF THE LOCAL GOVERNMENT ACT  
1919—*continued*

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- (i) relating to the safety of persons in buildings or portions of buildings;
  - (ii) without limiting the generality of subparagraph (i), relating to fire safety, including materials, equipment, services and other items for reducing the risk of fire and for reducing and controlling the spread of fire; and
  - (iii) without limiting the generality of subparagraph (i), relating to or comprising ventilation, lifts, emergency lighting, emergency power, emergency intercommunication systems and other emergency equipment and services,  
and for enabling or requiring the submission to the council of periodic or other certificates of or reports by persons or bodies in respect of the materials, equipment, services and other items;
  - (m) for the specification or definition of materials, equipment, services and other items referred to in paragraph (l) as essential services;
  - (n) generally for carrying into effect the purposes of the ordinance.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985

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**LOCAL GOVERNMENT (BUILDING AND RATES) AMENDMENT  
ACT 1985 No. 168**

*New South Wales*



ANNO TRICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 168, 1985**

An Act to amend the Local Government Act 1919 to make provision with respect to the installation, operation and maintenance of certain essential services in buildings and the classification of buildings according to their use; and to validate the making of certain rates. [Assented to, 3rd December, 1985.]

*Local Government (Building and Rates) Amendment 1985*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the "Local Government (Building and Rates) Amendment Act 1985".

**Amendment of Act No. 41, 1919**

2. The Local Government Act 1919 is amended in the manner set forth in Schedule 1.

**Validation of certain rates**

3. (1) The general rates purporting to have been made in 1981 and 1982 under the Local Government Act 1919 by the Council of the City of Wagga Wagga and the special rate purporting to have been made in 1982 under that Act by that Council are validated and shall be deemed always to have been valid.

(2) Notwithstanding subsection (1), a plaintiff in the proceedings brought against the Council of the City of Wagga Wagga in the Equity Division of the Supreme Court of New South Wales (No. 1660 of 1983) shall not be liable to pay any part of the special rate referred to in that subsection and any amount paid by such a plaintiff to the Council in respect of the special rate shall be refunded or credited against any other amount liable to be paid at any time by the plaintiff to the Council in respect of rates.

(3) A rate, other than a rate referred to in subsection (1), made in 1981 or 1982 by a council of a united area within the meaning of the Local Government Areas Amalgamation Act 1980 shall not be invalid by reason—

- (a) that the rate was made without reference to any value of ratable land within the united area; or
  - (b) that the rate was made partly by reference to the unimproved capital value of ratable land and partly by reference to the land value of ratable land within the united area.
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*Local Government (Building and Rates) Amendment 1985*

## SCHEDULE 1

(Sec. 2)

AMENDMENTS TO PART XI OF THE LOCAL GOVERNMENT ACT  
1919

## (1) Part XI, Division 4B, heading—

Omit “in existing”, insert instead “and essential services in”.

## (2) (a) Section 317C (1), definition of “essential services”—

Before the definition of “owner”, insert:

“essential services” means materials, equipment, services and other items specified or defined in an ordinance to be essential services for the purposes of this Division;

## (b) Section 317C (1), definition of “work”—

Omit the definition, insert instead:

“work” means work in the nature of alterations or otherwise, and includes—

## (a) in relation to fire safety—

- (i) the provision of means of escape or egress;
- (ii) the installation of automatic sprinklers or drenchers; and
- (iii) the protection from fire of means of escape or egress; and

## (b) in relation to essential services—the provision, installation, operation, maintenance and replacement of essential services.

## (3) Section 317D (1)—

Omit the subsection, insert instead:

(1) For the purpose of ensuring that adequate provision for fire safety is made in or in connection with a building and for the purpose of ensuring the provision of essential services and that adequate provision is made for the installation, operation, maintenance and replacement of essential services in or in connection with a building, the council may, by notice in writing, order the owner to do either or both of the following things, namely:

*Local Government (Building and Rates) Amendment 1985*

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SCHEDULE 1—*continued*

AMENDMENTS TO PART XI OF THE LOCAL GOVERNMENT ACT  
1919—*continued*

- (a) to carry out, within the period specified in the notice, such work as may be so specified to such standards, if any, or in accordance with such requirements, if any, as may be so specified;
- (b) to provide, within the period specified in the notice, such fire-fighting equipment as may be so specified.

(4) (a) Section 319 (1) (e)—

Omit the paragraph, insert instead:

- (e) for the classification of—
  - (i) existing buildings or portions of existing buildings;
  - (ii) proposed buildings or portions of proposed buildings; and
  - (iii) buildings or portions of buildings as proposed to be altered, added to or rebuilt,

according to the purpose or purposes for which they are used or are intended or apparently intended to be used or by reference to other matters, for the making of applications for classification (whether in association with building applications or otherwise) and for the determination of those applications;

(b) Section 319 (1) (k)—(n)—

Omit section 319 (1) (k), insert instead:

- (k) for the form of any notice, notification, order, particulars of work, plan, specification, approval, disapproval or objection referred to in section 317D or 317E;
- (l) for or with respect to requiring, controlling and regulating the provision, installation, operation, maintenance and replacement of materials, equipment, services and other items in existing buildings or portions of existing buildings, proposed buildings or portions of proposed buildings and buildings or portions of buildings as proposed to be altered, added to or rebuilt, being materials, equipment, services and other items —

*Local Government (Building and Rates) Amendment 1985*

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SCHEDULE 1—*continued*

AMENDMENTS TO PART XI OF THE LOCAL GOVERNMENT ACT  
1919—*continued*

- (i) relating to the safety of persons in buildings or portions of buildings;
  - (ii) without limiting the generality of subparagraph (i), relating to fire safety, including materials, equipment, services and other items for reducing the risk of fire and for reducing and controlling the spread of fire; and
  - (iii) without limiting the generality of subparagraph (i), relating to or comprising ventilation, lifts, emergency lighting, emergency power, emergency intercommunication systems and other emergency equipment and services,
- and for enabling or requiring the submission to the council of periodic or other certificates of or reports by persons or bodies in respect of the materials, equipment, services and other items;
- (m) for the specification or definition of materials, equipment, services and other items referred to in paragraph (l) as essential services;
  - (n) generally for carrying into effect the purposes of the ordinance.





