

FAMILY RELIEF BILL 1991

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to ensure that there will be no increase in New South Wales household charges which is greater than the increase in the Consumer Price Index.

The household charges to which the Bill applies are the following:

- passenger fares;
- electricity charges;
- public hospital bed charges;
- TAFE fees;
- local council rates and charges;
- motor vehicle registration and tax;
- driver's licence fees;
- rent for public housing;
- water rates and related charges.

The Bill also prohibits a New South Wales household charge being increased within 12 months of any previous change. It will not prevent a reduction in charges.

The proposed Act will operate for 4 years from 1 January 1992 to 31 December 1995.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on 1 January 1992.

Clause 3 contains definitions. The expression "New South Wales household charge" is defined to mean any of the charges listed above.

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Clause 4 provides that New South Wales household charges are not to be increased at a rate that is greater than the rate of increase in the Consumer Price Index. A local council can be granted an exemption for a particular year.

Clause 5 provides that no New South Wales household charge is to be increased more frequently than once in 12 months.

Clause 6 provides that any increase in a New South Wales household charge beyond the maximum allowed by the proposed Act is invalid, but only to the extent that the maximum is exceeded. An increase that exceeds the CPI increase will operate up to the maximum increase allowed by the proposed Act.

Clause 7 makes it clear that the proposed Act does not prevent a reduction in New South Wales household charges.

Clause 8 requires certain public officials and statutory bodies to exercise their functions in a manner that will ensure that no New South Wales household charge is increased in contravention of the proposed Act and that any contravention is remedied as soon as possible. Officials who contravene the clause are liable to have their remuneration reduced by 10% for one year and will lose office if a further contravention occurs.

Clause 9 requires at least 4 weeks' notice to be given of any increase in a New South Wales household charge on or after the date of assent to the proposed Act. The notice is to be published in the Gazette and is to contain details of the increase and the relevant CPI increase.

Clause 10 makes it clear that the proposed Act will apply to charges that take effect on 1 January 1992.

Clause 11 provides for the calculation of CPI increases over the period since a charge was last changed. Because CPI figures will not necessarily correspond to the period in question, the CPI figures to be used will be the figures most recently published before the beginning and end of the period in question.

Clause 12 makes it clear that a charge is to be considered to have been changed when the change actually takes effect, rather than when the formal decision for the change is made or the change is "gazetted".

Clause 13 deals with the situation where a charge is in fact a new charge but would generally be regarded as a change in an existing charge. Such a new charge will be considered to be a change in the existing charge it replaces. An example is local council rates which are in fact imposed "afresh", rather than by increasing existing rates.

Clause 14 makes it clear that when a charge is imposed at a rate (for example water rates at x cents per kilolitre), the limit on increase is to apply to the rate of the charge rather than the total dollar amount that the rate may result in.

Clause 15 makes it clear that the proposed Act is not intended to apply to an increase in an individual's household charges to the extent that the increase is attributable to increased usage or consumption by the individual. For example, a person whose water consumption increases cannot expect to have the increase in his or her total water bill limited to the CPI increase. This is the practical result of clause 14 which provides that the limitation on increase applies to the *rate* at which a charge is imposed. In the example, the person can expect to see any increase in the *rate* at which excess water usage is charged limited to the CPI increase.

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Clause 16 provides that the proposed Act applies to each of the components of a charge as if each component were a separate charge. For example, an increase in the environmental levy component of water rates will be "tested" separately under the proposed Act. An increase above the CPI increase will not be allowed merely because the total rate bill increase does not exceed the CPI increase.

Clause 17 provides that in the case of charges that are calculated by reference to land value, any general increase in land value is to be taken into account as part of the increase when assessing the maximum permissible increase. The effect of this in relation to council rates for example will be that, if there is a general land value increase above the CPI increase, councils will actually have to reduce the rate at which council rates are levied to compensate for the increase attributable to land value increase.

Clause 18 makes it clear that a body such as the Prices Commission (which fixes and declares maximum prices) is bound by the proposed Act.

Clause 19 requires the Regulation Review Committee to consider all increases in New South Wales household charges and to report to Parliament on any increase that is in contravention of the proposed Act.

Clause 20 extends the meaning of "function" to include power, authority and duty.

Clause 21 makes a consequential amendment to the Regulation Review Act 1987.

Clause 22 provides that the proposed Act will expire at the end of 31 December 1995.

Schedule 1 lists the New South Wales household charges to which the proposed Act applies.

FIRST PRINT

FAMILY RELIEF BILL 1991

NEW SOUTH WALES



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SCHEDULE 1—NEW SOUTH WALES HOUSEHOLD CHARGES

FAMILY RELIEF BILL 1991

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to make provision for preventing increases in New South Wales household charges at a rate greater than the rate of increase in the Consumer Price Index; and for related purposes.

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The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Family Relief Act 1991.

Commencement

2. This Act commences on 1 January 1992.

Definitions

3. In this Act:

“CPI” means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician under the Census and Statistics Act 1905 of the Commonwealth or such other index as the Australian Statistician may publish and declare to be in place of that index;

“impose” includes make, fix and levy;

“New South Wales household charge” means a charge or other expense described in Schedule 1.

Maximum rate of increase in household charges

4. (1) On and after 1 January 1992, no New South Wales household charge is to be increased by more than the increase in the CPI during the period since the charge was last changed (whether the change was an increase or a decrease).

- (2) The Minister may, by order published in the Gazette, exempt a specified local council from the operation of this section for a particular year.

Minimum 12 months between increases

5. No New South Wales household charge is to be increased within 12 months after the charge was last changed (whether that change was an increase or a decrease).

Increase invalid above permitted maximum

6. Any increase in a New South Wales household charge in contravention of this Act is invalid, but only to the extent that the increase is greater than the maximum increase that would not be a contravention of this Act.

Reduction in charges

7. Nothing in this Act prevents a reduction in any New South Wales household charge.

Public officials liable for failure to prevent increase above permitted maximum

8. (1) Public officials and statutory bodies who have functions in respect of the imposition of New South Wales household charges (including any function of giving advice or making a recommendation) must exercise their functions in a manner which ensures that:

- (a) those charges are not increased in contravention of this Act; and
- (b) any contravention of this Act is remedied as soon as possible.

(2) A person who contravenes this section has his or her remuneration (or remuneration package) in respect of the office in which those functions are exercised reduced by 10% by force of this section and that reduction is to apply for 12 months.

(3) A person who contravenes this section on more than one occasion vacates the office concerned and is not entitled to any compensation in respect of that vacation of office or to be reappointed to that office. This subsection does not apply to a person as a member of a local or county council.

(4) If a statutory body contravenes this section, each public official who is a member of the body is to be considered to have contravened this section unless the member made every reasonable effort to prevent the contravention.

(5) Details of any remedial action taken by a public official or statutory body in respect of a contravention of this Act are to be included in any annual report of the activities of the official or body.

(6) In this section:

“**public official**” means a person who holds any of the following offices:

- chief executive officer under the Public Sector Management Act 1988;
- any statutory office to which a person is appointed by the Governor or a Minister;
- a member of a local or county council.

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Increase requires 4 weeks notice in the Gazette

9. (1) On and after the date of assent to this Act, notice of any increase in a New South Wales household charge must be published in the Gazette and no increase takes effect until at least 4 weeks after the notice of increase is published.

(2) Notice of the increase published in the Gazette must include details of the following:

- the amount of the charge as increased
- the amount of the increase
- the percentage rate of increase
- the percentage rate of increase in the CPI since the charge was last changed.

Act applies to increases on 1 January 1992

10. To remove doubt, it is declared that this Act applies to an increase in a New South Wales household charge that takes effect on 1 January 1992.

Calculation of rate of increase in CPI

11. (1) For the purposes of this Act, the rate of increase in the CPI during the period since a charge was last changed is to be calculated by determining the percentage rate of increase in the CPI index number during that period.

(2) Because such a period may not correspond to the periods for which CPI index numbers are published and because CPI index numbers are not published immediately after an index period ends, the calculation of the rate of increase during a period is to be made on the basis of the following assumptions:

- the CPI index number at the beginning of the period is that index number for a quarter published by the Australian Statistician most recently before the beginning of that period;
- the CPI index number at the end of the period is the index number for a quarter published by the Australian Statistician most recently before the end of that period.

Time when "change" takes effect

12. The time at which a New South Wales household charge is "changed" is the time when the change takes effect, rather than (for example) the time when the decision for the change is made.

Charges that replace previous charges

13. (1) This section applies to a New South Wales household charge that (strictly speaking) is a new charge and that does not operate to change an existing charge.

(2) If such a new charge is of the same nature as some existing charge and would generally be regarded as changing that existing charge, this Act applies to the new charge as if it did change the existing charge.

(3) An example of this is rates imposed under Part 7 of the Local Government Act 1919 which are imposed afresh as distinct from being a change in the rates imposed previously, but which for the purposes of this Act are to be regarded as a change in the rates previously imposed.

Charges imposed according to rate of consumption etc.

14. If a New South Wales household charge is imposed at a particular rate, this Act applies to the rate at which the charge is imposed.

Increases due to increased usage or consumption

15. This Act does not apply to prevent an increase in a New South Wales household charge payable by any particular person to the extent that the increase is attributable to increased consumption or usage by that person of the goods or services to which the charge relates.

Charges with different components

16. If a New South Wales household charge is comprised of 2 or more components, this Act applies to each component of the charge as if each component were a separate charge.

Notional increases due to increases in land value

17. (1) This section applies for the purpose of determining the permissible level of increase in a New South Wales household charge that is imposed by reference to land value (and applies in addition to the other provisions of this Act).

(2) If land value has increased as a result of a general valuation since the charge was last changed, the charge is to be regarded as having been increased (independently of any actual increase) in proportion to the increase in land value attributable to the general valuation increase.

(3) The notional increase made by subsection (2) is intended to result in a corresponding reduction in the level of actual increase.

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(4) This section will require a decrease in the charge if the notional increase under subsection (2) is greater than the permissible level of increase.

Act binds bodies that review charges

18. Any body established by or under an Act that has functions that include the fixing, declaring, reviewing or the making of recommendations as to the level of a New South Wales household charge must exercise its functions in a manner that is consistent with the requirements of this Act as to the maximum level of increase in such a charge.

Regulation Review Committee to review increases

19. (1) The Regulation Review Committee for the time being constituted under the Regulation Review Act 1987 has the function of considering all increases in New South Wales household charges.

(2) The Committee is to consider each increase within 4 weeks after notice of the increase is published in the Gazette.

(3) The Committee is to make a report to each House of Parliament on any increase in contravention of this Act.

Extended meaning of "function"

20. In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Amendment of Regulation Review Act 1987 No. 165

21. The Regulation Review Act 1987 is amended:

- (a) by omitting from section 9 (1) (b) (viii) the word "and";
- (b) by inserting at the end of section 9 (1) the following word and paragraph:
 - ; and
 - (d) to consider and report on any increase in a New South Wales household charge, in accordance with section 19 of the Family Relief Act 1991.

Act expires 31 December 1995

22. This Act expires at the end of 31 December 1995.

**SCHEDULE 1—NEW SOUTH WALES HOUSEHOLD
CHARGES**

(Sec. 3)

Fares

1. Charges for passenger services provided by the State Rail Authority or the State Transit Authority, whether imposed under the Transport Administration Act 1988 or the Passenger Transport Act 1990.

Electricity charges

2. A charge imposed by a local council, county council or Sydney Electricity for electricity supplied to a dwelling or residential flat building (including any standing, fixed or minimum charge and any charge for electricity not calculated directly by reference to the quantity of electricity actually supplied).

Public hospital bed charges

3. Fees imposed under section 30 (8) of the Public Hospitals Act 1929 concerning public hospital bed charges.

TAFE fees

4. A fee or charge imposed under section 7 (1) (h) of the Technical and Further Education Commission Act 1990.

Council rates

5. Rates, charges and fees imposed under Part 7 of the Local Government Act 1919 in respect of land referred to in section 118 (4) (a) of that Act (residential land).

Motor vehicle charges

6. (1) A tax in respect of motor vehicles used substantially for private purposes imposed under the Motor Vehicles Taxation Act 1988.

**SCHEDULE 1—NEW SOUTH WALES HOUSEHOLD
CHARGES—*continued***

(2) A fee for registration or renewal of registration of a motor vehicle imposed under the Traffic Act 1909 in respect of a vehicle of a kind referred to in item 6 (a) of Schedule A to the Motor Traffic Regulations 1935.

Driver's licence fee

7. A fee for a driver's licence imposed under the Traffic Act 1909 (including a rider's licence, learner's licence, provisional licence, restricted licence and probationary licence).

Public housing rent

8. Rent payable in respect of a dwelling to the Department of Housing or the New South Wales Land and Housing Corporation, other than rent paid by tenants subject to market rent arrangements.

Water rates etc.

9. Rates, fees and charges imposed under any of the following provisions in respect of land to the extent that it is used or capable of being used for residential purposes:

- section 8A of the Fish River Water Supply Administration Act 1945;
 - section 30 of the Hunter Water Board Act 1988;
 - Part 14 of the Local Government Act 1919;
 - section 8A of the South-west Tablelands Water Supply Administration Act 1941;
 - section 30 of the Water Supply Authorities Act 1987;
 - section 30 of the Water Board Act 1987.
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