



ANALYSIS

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1973, No. 5

An Act to make provision for the granting of rebates of rates payable in respect of certain residential properties

[13 June 1973]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Rates Rebate Act 1973.

(2) This Act shall be deemed to have come into force on the 1st day of April 1973.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Dependant”, in relation to any ratepayer, means—

(a) A child in respect of whom a family benefit under the Social Security Act 1964 is payable to the

ratepayer or to his or her spouse at the commencement of the rating year in respect of which an application for a rebate under this Act is made (being a child who at the commencement of that year ordinarily resides on the property in respect of which the rates are payable); or

(b) A relative of the ratepayer (other than a child to whom paragraph (a) of this definition applies or the spouse of the ratepayer) by blood, marriage, or adoption who at the commencement of the rating year in respect of which an application for a rebate under this Act is made ordinarily resides on the property in respect of which the rates are payable and who at the commencement of that year receives a social security benefit under Part I of the Social Security Act 1964 (not being a family benefit or a superannuation benefit):

“Income”, in relation to any ratepayer and to any rating year, includes—

(a) All money received by the ratepayer from any source for the use or advantage of the ratepayer:

(b) All money received by the spouse of the ratepayer from any source (being a spouse who is ordinarily resident on the property in respect of which a rebate of rates is applied for under this Act) for the use or advantage of the spouse of the ratepayer:

(c) In the case of a ratepayer who carries on any business as a self-employed person, the assessable income (within the meaning of the Land and Income Tax Act 1954) derived, or deemed by that Act to have been derived, in the rating year by the ratepayer from that business;—

but does not include—

(d) Any capital money received from any source:

(e) Any income of any of the kinds referred to in paragraphs (c) to (g) of the definition of the term “income” in subsection (1) of section 3 of the Social Security Act 1964:

(f) Any family benefit payable under the Social Security Act 1964:

(g) Any benefit payable under Part II of the Social Security Act 1964 (which relates to medical benefits):

“Local authority” means any authority, Council, Board, Trustees, Commissioner, Commission, body, or person or persons empowered to make and levy rates:

“Ratepayer”, in relation to any residential property, means the occupier of the property within the meaning of the Rating Act 1967; and includes any person who, pursuant to the provisions of any will or trust, is entitled to reside on the property subject to any condition under which he is required to pay the rates:

“Rates”, in relation to any residential property, includes all charges (not being charges for electricity or gas) that are deemed to be rates levied or imposed on that property; but does not include—

(a) Any rates the payment of which has been postponed pursuant to Part IV of the Rating Act 1967 (which relates to the postponement of rates on residential properties in industrial or commercial areas):

(b) Any rates the payment of which has been postponed pursuant to section 145 of the Rating Act 1967 (which relates to the postponement of rates on the ground of hardship) or to section 156 of that Act (which relates to the postponement of rates on Maori freehold land):

(c) The amount of any discount under section 70 of the Rating Act 1967, whether or not such a discount has been allowed to the ratepayer:

(d) The amount of any additional charge on unpaid rates imposed under section 71 of the Rating Act 1967:

(e) Any rates for which judgment has been entered in any Court:

“Rates rebate” or “rebate” includes a refund of rates under section 6 of this Act:

“Rating year” means the period of 12 months for which rates are levied by a local authority:

“Residential property” means rateable property that is separately rated and is used as the usual place of residence of the ratepayer at the commencement of the rating year in respect of which an application for a rebate under this Act is made; but does not include any property that is also used for commercial or industrial or business or farming purposes:

“Spouse”, in relation to any ratepayer, means the wife or husband of the ratepayer, being a wife or husband who, at the commencement of the rating year in respect of which an application for a rebate under this Act is made, ordinarily resides on the property in respect of which the rates are payable; and includes a man or woman who at the commencement of that rating year is living with the ratepayer on a domestic basis as the husband or wife of the ratepayer, notwithstanding that they are not legally married:

“Territorial authority” means a Borough Council, County Council, or Town Council; and includes any Commissioner appointed under any Act and having the functions of a territorial authority.

(2) For the purposes of paragraph (c) of the definition of the term “income” in subsection (1) of this section, any income of any person allowed by any provision of the Land and Income Tax Act 1954 to be spread back or forward or allowed to be apportioned to a financial year earlier or later than that in which it was derived shall be included in the income of that person for the financial year in which it was derived.

(3) Where the rating year of any local authority commences on any date other than the 1st day of April—

- (a) Every reference in this Act to the commencement of a rating year shall be construed as a reference to the 1st day of April immediately preceding the commencement of that local authority’s rating year:
- (b) Every reference in this Act to the income for a preceding rating year shall be construed as a reference to the income for the period of 12 months ending with the 31st day of March immediately preceding the commencement of that local authority’s rating year.

3. Rates rebate—(1) Any ratepayer who, at the commencement of the rating year in respect of which the application is made, was the occupier of any residential property shall be entitled, on making application therefor in accordance with this Act, to a rebate of so much of the rates payable for that rating year in respect of that property as represents—

- (a) Two-thirds of the amount by which those rates exceed \$50, reduced by

- (b) \$1 for each complete \$8 by which the ratepayer's income for the immediately preceding rating year exceeded \$2,340, that last mentioned amount being increased by \$156 in respect of each person who was a dependant of the ratepayer at the commencement of the rating year in respect of which application is made.

(2) The Governor-General may from time to time, by Order in Council, amend the provisions of subsection (1) of this section by substituting any amount for any amount specified in that subsection.

4. Assessment of income where more than one person occupier—Where the names of 2 or more persons appear in the district valuation roll as the occupiers of any residential property and application for a rebate under this Act is made by one of those occupiers, then, for the purposes of section 3 of this Act, the income for the immediately preceding rating year of such of the other occupiers as were ordinarily resident on the property at the commencement of the rating year in respect of which the application is made shall be added to and be deemed to be income for that preceding rating year of the occupier making the application.

5. Applications to territorial authority for rates rebate—(1) Subject to section 6 of this Act, every application for a rebate of rates shall be made to the territorial authority in whose district the property is situated, whether the rates are payable to that territorial authority or to any other local authority.

(2) The ratepayer in respect of any residential property may in any rating year apply to that territorial authority for a rebate in accordance with section 3 of this Act of the rates due and payable in respect of that property for that rating year.

(3) Every such application shall be made on a form provided for the purpose by the Secretary for Local Government, shall be verified by the statutory declaration of the applicant, and shall be left at the public office of the territorial authority or sent by post addressed to that office.

(4) Where the amount of any water charges payable in respect of the property for the rating year in which the

application is made is not known at the time when the application is made, then, for the purposes of determining the amount of the rebate to which the ratepayer is entitled, the amount of the water charges payable in respect of the property for that rating year shall be deemed to be the same amount as the amount that was payable for the immediately preceding rating year.

(5) Where application is made to a territorial authority under subsection (2) of this section, and the Clerk of the territorial authority or other officer authorised by him for the purpose is satisfied that the application has been properly completed,—

- (a) A rebate of rates shall be granted to the applicant of the amount to which he is entitled on the basis of the information contained in his application; and
- (b) The amount of that rebate shall be deducted from the total amount of the rates due and payable to that territorial authority in respect of the property for the rating year in which the application is made; and
- (c) The amount then remaining shall be deemed to be the amount of the rates payable in respect of the property to the territorial authority for that rating year:

Provided that any additional charge on unpaid rates imposed under section 71 of the Rating Act 1967 shall be calculated as if the rebate had not been granted.

(6) The Clerk of the territorial authority or other authorised officer shall not be under any obligation to verify the accuracy of any statement as to his income or the income of any other person or as to the occupancy of the property made by any ratepayer in his application for a rebate.

6. Applications to Secretary for Local Government for refunds of rates paid—(1) Notwithstanding anything in section 5 of this Act, a ratepayer in respect of any residential property may, instead of claiming from the territorial authority a rates rebate for any year under the said section 5, pay the rates in full and apply under subsection (2) of this section for a refund of the amount that he would have been entitled to receive by way of rebate for that year in respect of those rates in accordance with section 3 of this Act if application for a rebate had been made under section 5 of this Act.

(2) Every application under this section shall—

- (a) Be made on a form provided for the purpose by the Secretary for Local Government; and
- (b) Be verified by the statutory declaration of the applicant; and
- (c) Be accompanied by the receipts for the rates in respect of which the refund is claimed; and
- (d) Be left at the Head Office of the Department of Internal Affairs at Wellington, or sent by post to the Secretary for Local Government addressed to him at that office.

(3) The provisions of subsection (4) of section 5 of this Act shall apply with respect to any application for a refund made under this section.

(4) Where application for a refund is made under this section, and the Secretary for Local Government is satisfied that the application has been properly completed, the Secretary for Local Government shall grant the application and pay to the ratepayer, from money appropriated by Parliament, the amount of the refund to which he is entitled.

7. Refund to owner of owner-occupier flat of contribution towards rates—(1) Where the owner of an owner-occupier flat contributes an amount towards the outgoings payable in respect of the property of which the flat forms part, he may apply under subsection (2) of this section for a refund of such part of the amount of that contribution as is made in respect of the rates payable in respect of that property as he would be entitled to receive by way of rebate under section 3 of this Act if—

- (a) The flat was separately rated and he was the ratepayer in respect thereof; and
- (b) So much of the amount of his contribution in any rating year as was made in respect of rates was the amount of the rates payable in respect of the flat for that rating year.

(2) Every application under this section shall—

- (a) Be made on a form provided for the purpose by the Secretary for Local Government; and
- (b) Be verified by the statutory declaration of the applicant; and
- (c) Be accompanied by a certificate in writing signed by the person appearing in the rate records as the

occupier of the rateable property of which the owner-occupier flat forms part and specifying—

(i) The total amount of the rates payable in respect of that rateable property for the rating year; and

(ii) The amount contributed by the applicant in respect of those rates, or, where no part of the annual contribution made by the applicant was specifically made in respect of rates, the amount of that contribution and the total amount of the annual contributions made by all the owners of owner-occupier flats on the property; and

(iii) That the contribution made by the applicant was made pursuant to a written agreement entered into between him and the person appearing in the rate records as the occupier of the rateable property of which the owner-occupier flat forms part before the applicant entered into possession of the flat, or pursuant to a written agreement made by a predecessor in title of the applicant and binding on the applicant; and

(d) Be left at the Head Office of the Department of Internal Affairs at Wellington, or sent by post to the Secretary for Local Government addressed to him at that office.

(3) Where no part of the annual contribution made by an applicant in respect of outgoings on the property of which his owner-occupier flat forms part is specifically made in respect of rates, then, for the purposes of this section the applicant shall be deemed to have contributed in respect of rates an amount that bears to the total amount of rates payable in respect of the property the same proportion as the amount of his contribution bears to the total amount of the contributions of all the owners of owner-occupier flats on the property.

(4) The provisions of subsection (4) of section 5 of this Act shall apply with respect to any application for a refund made under this section.

(5) Where application for a refund is made under this section, and the Secretary for Local Government is satisfied that the application has been properly completed, he shall grant the application and pay to the applicant, from money appropriated by Parliament, the amount of the refund to which he is entitled.

(6) In this section the term “owner-occupier flat” means a residential flat in respect of which the applicant has a right of occupation under a lease or licence held by him by virtue of being a shareholder in a company owning the land on which the building comprising or including the owner-occupier flat is erected or by virtue of being the owner of an estate or interest in the land on which the building comprising or including the owner-occupier flat is erected.

8. Provisions applying where system of rating by instalments in force—(1) Where any rates in respect of which a ratepayer has applied for a rebate pursuant to section 5 of this Act are payable by instalments pursuant to section 66 of the Rating Act 1967 or to Part IIIA of that Act (as inserted by section 20 of the Rating Amendment Act 1970), the following provisions shall apply with respect to any rebate granted pursuant to the said section 5:

- (a) The amount of that rebate shall be apportioned equally, or as nearly equally as is possible, among the instalments of rates to be paid to the territorial authority after the date of the granting of the rebate:
- (b) Where the amount of the rebate exceeds the total amount of all the instalments of rates to be paid to the territorial authority after the date of the granting of the rebate, the territorial authority shall pay the amount of the excess to the ratepayer.

(2) Section 86c of the Rating Act 1967 (as enacted by section 20 of the Rating Amendment Act 1970) shall be read subject to the provisions of this section.

9. Refund to territorial authorities of rebates granted—

(1) Where any ratepayer has been granted a rebate of rates pursuant to section 5 of this Act (including any payment made to the ratepayer pursuant to paragraph (b) of subsection (1) of section 8 of this Act), the Secretary for Local Government shall, on application made to him by the territorial authority on a form provided by him for the purpose, and being satisfied that the rebate has been properly granted in accordance with the provisions of the said section 5, refund the amount of the rebate to the territorial authority out of money appropriated by Parliament.

(2) The Secretary for Local Government may from time to time pay to any territorial authority, out of money appropriated by Parliament, such amounts as the Secretary thinks fit

by way of advances in anticipation of refunds to be made to the territorial authority pursuant to subsection (1) of this section.

10. Recovery of overpayments—(1) Where—

- (a) Any ratepayer has been granted a rebate of rates pursuant to section 5 of this Act (including any payment made to the ratepayer pursuant to paragraph (b) of subsection (1) of section 8 of this Act); and
- (b) The Secretary for Local Government has declined to refund to the territorial authority the amount of the rebate granted, or any part thereof, on the ground that the ratepayer was not entitled to a rebate or was granted a rebate in excess of the amount to which he was entitled,—

the amount of the rebate granted, or, as the case may be, the amount of the excess, shall be deemed to be a rate payable to the territorial authority in respect of the property, and shall be payable and recoverable accordingly.

(2) Where in any case to which subsection (1) of this section does not apply—

- (a) A rates rebate has been granted under section 5 or section 6 of this Act; and
- (b) The ratepayer was not entitled to the rebate or was granted a rebate in excess of the amount to which he was entitled,—

the amount of the rebate granted, or, as the case may be, the amount of the excess, may be recovered from the ratepayer as a debt due to the Crown.

11. Information to be supplied and books and documents to be produced—(1) Subject to subsection (2) of this section, it shall be the duty of every person to answer fully and correctly to the best of his knowledge and belief all questions in respect of any application for a rebate under this Act or any other matter arising under this Act put to him by any person authorised for the purpose by the Secretary for Local Government, and to produce for the inspection of any person so authorised such certificates, books, documents, or other information as he may require for the purposes of this Act.

(2) No person who is bound or privileged by the provisions of any enactment, or by any rule or law, to maintain secrecy in relation to, or not to disclose, any matter shall be required

to supply any information or to answer any question put by a person authorised pursuant to subsection (1) of this section in relation to that matter, or produce to any person so authorised any document or paper or thing relating to it, if compliance with that requirement would be any breach of the obligation or privilege of secrecy or non-disclosure.

12. Secrecy—Except for the purposes of this Act or the Public Revenues Act 1953, or of investigating the correctness of any information contained in any application for a rebate under this Act, no officer of a territorial authority or of the Department of Internal Affairs or person authorised pursuant to section 11 of this Act shall disclose to any person any information contained in any application for a rebate made under this Act or disclosed to or obtained by him pursuant to the said section 11.

13. Declarations—(1) In addition to the persons authorised to receive statutory declarations in accordance with section 9 of the Oaths and Declarations Act 1957, any statutory declaration required for the purposes of this Act may be made before any officer of a territorial authority authorised for the purpose by that authority or before any officer of the Post Office authorised for the purpose by the Director-General of the Post Office.

(2) An officer so authorised to take declarations may be an officer authorised by name or as the holder for the time being of any specified office in the service of the territorial authority or, as the case may be, of the Post Office.

14. Offences—(1) Without limiting the provisions of section 111 of the Crimes Act 1961 (which relates to false declarations), every person commits an offence who—

- (a) For the purpose of obtaining any rates rebate under this Act, for himself or for any other person, makes any statement knowing it to be false in any particular, or wilfully misleads or attempts to mislead any person concerned in the administration of this Act or any other person whatsoever; or
- (b) Refuses or fails to comply with any requirement under section 11 of this Act, or refuses or fails to answer any question put to him pursuant to that section, or knowingly gives any false or misleading answer to any such question.

(2) Every person who commits an offence against this Act is liable on summary conviction before a Magistrate to imprisonment for a term not exceeding 3 months or a fine not exceeding \$500.

(3) Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information for an offence against this Act may be laid at any time within 12 months after the facts alleged in the information have been brought to the knowledge of any officer of the Department of Internal Affairs concerned in the administration of this Act.

This Act is administered in the Department of Internal Affairs.
