



Local Government (Rating) Amendment Act 2006

Public Act 2006 No 28
Date of assent 27 June 2006
Commencement see section 2

Contents

	Page
1 Title	3
2 Commencement	3
3 Principal Act amended	3
4 Interpretation	3
5 Rating information database	3
6 Objections to rating information database	3
7 Rates records	3
8 New section 41A inserted	4
41A Amended assessment to give effect to objection to valuation under Rating Valuations Act 1998	4
9 Contents of rates assessment	5
10 New Part 4A inserted	5

Part 4A

Lump sum contributions

117A Interpretation	5
117B Local authority may fund capital project by lump sum contributions	6
117C Requirement to pay lump sum contribution must not be imposed on ratepayers	6
117D Consequences for local authority if capital project funding plan adopted	6
<i>Capital project funding plans</i>	
117E Contents of capital project funding plan	7
<i>Invitations to make lump sum contribution</i>	
117F Invitations to make lump sum contribution	7
117G Contents of invitation	8

	<i>Elections to make lump sum contribution</i>	
117H	Eligible ratepayer may elect to make lump sum contribution	8
117I	Lump sum contribution invoice	9
117J	Consequences for eligible ratepayer (and any future ratepayers) of election to make lump sum contribution	9
	<i>Local authority must record certain matters</i>	
117K	Local authority must record elections and lump sum contributions in rating information database and rates records	10
	<i>Change of ownership of rating unit</i>	
117L	Local authority must notify new ratepayer of liability in respect of rating unit for lump sum contribution	10
	<i>Recalculation of lump sum contributions</i>	
117M	Recalculation of lump sum contributions	11
	<i>Late payment or non-payment of lump sum contribution</i>	
117N	Late payment or non-payment of lump sum contribution	11
11	New Schedule 3A inserted	13
	<i>Transitional provisions</i>	
12	Transitional provision in relation to amended rates assessments for errors in rating information database or rates record	13
13	Transitional provision in relation to long-term council community plans for period beginning on 1 July 2006	13
	<i>Amendments to other enactments</i>	
14	Amendment to Auckland War Memorial Museum Act 1996	14
15	Amendments to Local Government Act 2002 consequential to insertion of new Part 4A in principal Act	14
	Schedule	16
	New Schedule 3A of Local Government (Rating) Act 2002	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government (Rating) Amendment Act 2006.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Local Government (Rating) Act 2002.

4 Interpretation

- (1) Section 5 is amended by inserting the following definitions in their appropriate alphabetical order:

“**capital project** has the meaning set out in section 117A

“**lump sum contribution** has the meaning set out in section 117A”.

- (2) The definition of **rate** in section 5 is amended by adding “; but” and also by adding the following paragraph:
“(c) does not include a lump sum contribution”.

5 Rating information database

Section 27(4) is amended by adding “; and” and also by adding the following paragraph:

“(c) any information required under section 117K(1) that relates to the unit.”

6 Objections to rating information database

Section 29 is amended by adding the following subsections:

- “(4) A person may not object under this section to the correctness or otherwise of any information contained in the database that relates to an objection to the valuation of a rating unit under the Rating Valuations Act 1998.
“(5) Subsection (4) is for the avoidance of doubt.”

7 Rates records

Section 37 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) A local authority must keep and maintain a rates record for each rating unit in its district that clearly shows—
- “(a) the amount of the ratepayer’s liability for rates in respect of that unit; and
 - “(b) any information required under section 117K(2) that relates to the unit.”

8 New section 41A inserted

The following section is inserted after section 41:

“41A Amended assessment to give effect to objection to valuation under Rating Valuations Act 1998

- “(1) A local authority must issue an amended rates assessment for a rating unit if—
- “(a) it has issued a rates assessment in respect of the rating unit for a financial year; and
 - “(b) after issuing the assessment, it has—
 - “(i) altered the information in relation to the rating unit in its district valuation roll under section 39 of the Rating Valuations Act 1998 for that year; and
 - “(ii) consequentially altered the information in relation to the rating unit in its rating information database for that year; and
 - “(c) the alteration in the database gives rise to a difference between the amount of rates that was originally assessed and the amount that would have been payable for that year if the information entered in the database had been the information referred to in paragraph (b)(ii).
- “(2) An amended assessment must be issued—
- “(a) no later than 1 month after the alteration concerned was made to the rating information database; or
 - “(b) in the case of a regional council to which section 27(7) applies, no later than 1 month after the regional council receives notification of the alteration from the territorial authority concerned.
- “(3) If the amended assessment is for an amount that is less than the amount originally assessed, the local authority must refund to the person who paid the rates any rates paid in excess of the amount payable on the amended assessment.

- “(4) However, a local authority is not required to make a refund if it does not have the contact details of the person who paid the rates.
- “(5) If the amended assessment is for an amount that is more than the amount originally assessed, the local authority may recover the excess rates payable on the amended assessment.
- “(6) However, a local authority may only recover the amount if the person who paid the original assessment is also the person to whom the amended assessment is issued.”

9 Contents of rates assessment

Section 45 is amended by inserting the following subsection after subsection (1):

- “(1A) If the ratepayer has elected to make a lump sum contribution to a local authority’s capital project, the rates assessment must also identify the targeted rates for the financial year for which, as a result of the election, no liability attaches to the rating unit.”

10 New Part 4A inserted

The following Part is inserted after Part 4:

“Part 4A “Lump sum contributions

“117A Interpretation

In this Part, unless the context otherwise requires,—

“**capital project**—

“(a) means a project or work the expenditure for which is not recognised by generally accepted accounting practice as being operating expenditure; and

“(b) includes a loan in relation to a project or work

“**capital project funding plan** or **funding plan** means a capital project funding plan adopted by a local authority under section 117B(3)

“**election** means an election made by an eligible ratepayer under section 117H(1)

“**eligible ratepayer** means the ratepayer in respect of a rating unit that is identified in a capital project funding plan as being a rating unit that is liable to fund the capital project concerned

“**invitation** means an invitation made by a local authority to its eligible ratepayers under section 117F

“**lump sum contribution** means a payment made by an eligible ratepayer under this Part for the purposes of contributing to a capital project of a local authority.

“117B Local authority may fund capital project by lump sum contributions

- “(1) A local authority may fund, or partially fund, a capital project by lump sum contributions from its ratepayers.
- “(2) Subsection (1) applies if, and only if, the local authority has adopted a capital project funding plan for the capital project.
- “(3) A funding plan must—
- “(a) commence at the start of a financial year; and
 - “(b) contain the matters required under section 117E(1); and
 - “(c) be adopted as part of the local authority’s—
 - “(i) annual plan; or
 - “(ii) long-term council community plan (or as an amendment to its long-term council community plan).
- “(4) In developing a funding plan, a local authority must give equal weight to the financial interests of those ratepayers who may elect to make a lump sum contribution and those who may decide not to do so.
- “(5) This section is subject to section 117C.

“117C Requirement to pay lump sum contribution must not be imposed on ratepayers

No local authority may require a ratepayer to pay a lump sum contribution to a capital project unless—

- “(a) it has invited the ratepayer to do so under section 117F; and
- “(b) the ratepayer has elected to do so under section 117H.

“117D Consequences for local authority if capital project funding plan adopted

- “(1) Once a local authority has adopted a capital project funding plan for a capital project,—
- “(a) it must not fund the project in any way other than in accordance with the funding plan; and

- “(b) the proceeds from any targeted rates collected under the funding plan must not be used for any purpose other than the project.
- “(2) Subsection (1) applies subject to any express provisions to the contrary in the invitation for the project.

“Capital project funding plans

“117E Contents of capital project funding plan

- “(1) A local authority must include the matters set out in Part 1 of Schedule 3A in a capital project funding plan.
- “(2) A local authority may include any other matter in a funding plan—
 - “(a) that it sees fit; and
 - “(b) that is not inconsistent with this Act or any other enactment.

“Invitations to make lump sum contribution

“117F Invitations to make lump sum contribution

- “(1) For the purposes of section 117B, a local authority may invite lump sum contributions for a capital project from its ratepayers.
- “(2) An invitation must—
 - “(a) be in writing; and
 - “(b) be delivered to each eligible ratepayer not less than 1 month before the date specified in the invitation as being the final date for the ratepayer to elect to make a lump sum contribution; and
 - “(c) contain the matters required under section 117G(1).
- “(3) A local authority must not include any term in an invitation that would have the effect of—
 - “(a) offering different terms to individual eligible ratepayers, a class of eligible ratepayers, or classes of eligible ratepayers; or
 - “(b) inviting lump sum contributions from its eligible ratepayers on terms that are inconsistent with the funding plan for the capital project concerned.

“117G Contents of invitation

“(1) An invitation must—

- “(a) contain all the terms that would apply to the eligible ratepayer if the ratepayer elected to make a lump sum contribution in respect of the rating unit; and
- “(b) include any other information that the local authority considers necessary to enable the eligible ratepayer to make an informed choice about making a lump sum contribution to the project.

“(2) Without limiting subsection (1), an invitation must include the matters set out in Part 2 of Schedule 3A.

“Elections to make lump sum contribution

“117H Eligible ratepayer may elect to make lump sum contribution

“(1) Having received an invitation, an eligible ratepayer may elect to make a lump sum contribution to the capital project concerned in respect of the rating unit concerned.

“(2) An election must be—

- “(a) in writing; and
- “(b) signed by the ratepayer or an authorised representative of the ratepayer; and
- “(c) returned to the local authority concerned no later than the date specified in the invitation as being the final date for a ratepayer to elect to make a lump sum contribution.

“(3) A rating unit in respect of which the eligible ratepayer does not elect to make a lump sum contribution will be liable for the targeted rates specified in the invitation that relate to the category of rating unit to which the unit belongs and—

- “(a) that apply to a rating unit in respect of which the ratepayer has not elected to make a lump sum contribution; and
- “(b) that apply to a rating unit whether or not the ratepayer in respect of the rating unit has elected to make a lump sum contribution.

“117I Lump sum contribution invoice

- “(1) This section applies to a rating unit in respect of which the eligible ratepayer has elected to make a lump sum contribution to a local authority’s capital project.
- “(2) The local authority must deliver to the ratepayer in respect of the rating unit—
- “(a) an invoice for the full contribution, if the lump sum contribution is to be paid in one amount; or
 - “(b) an invoice for each instalment, if the lump sum contribution is to be paid in instalments.
- “(3) An invoice must be delivered to the ratepayer no later than 1 month before the date on which payment is due (being the date specified in the invitation concerned).
- “(4) An invoice—
- “(a) must be a separate document from any rates invoice delivered to the ratepayer; but
 - “(b) may be delivered at the same time as the rates invoice.

“117J Consequences for eligible ratepayer (and any future ratepayers) of election to make lump sum contribution

- “(1) A rating unit in respect of which the eligible ratepayer has elected to make a lump sum contribution for a capital project is not liable for the targeted rates specified in the invitation concerned as being targeted rates that do not apply to the rating unit.
- “(2) The obligations assumed by an eligible ratepayer who elects to make a lump sum contribution in respect of a rating unit—
- “(a) run with the land; and
 - “(b) are binding on every person who is for the time being the ratepayer responsible for the rating unit.
- “(3) Subsection (2) applies until the date that is the later of—
- “(a) the date that the contribution is paid in full; or
 - “(b) the date that any recalculation of the contribution is made.

*“Local authority must record certain matters***“117K Local authority must record elections and lump sum contributions in rating information database and rates records**

- “(1) A local authority must record the following information in its rating information database for each rating unit in respect of which an eligible ratepayer has elected to make a lump sum contribution:
- “(a) that an election has been made; and
 - “(b) that the rating unit is not liable for the targeted rates specified in the invitation concerned as being targeted rates that do not apply to the rating unit.
- “(2) A local authority must record the following information in its rates records for each rating unit in respect of which an eligible ratepayer has elected to make a lump sum contribution:
- “(a) that an election has been made; and
 - “(b) the terms of the invitation concerned; and
 - “(c) the information relating to due dates and amounts of payment included in any invoice delivered to the ratepayer under section 117I; and
 - “(d) the date and amount of any lump sum contribution payments made in respect of the rating unit.

*“Change of ownership of rating unit***“117L Local authority must notify new ratepayer of liability in respect of rating unit for lump sum contribution**

- “(1) This section applies if—
- “(a) a rating unit is liable for a lump sum contribution; and
 - “(b) the ratepayer in respect of the rating unit changes because the local authority is notified,—
 - “(i) under section 31, of a change in ownership of the rating unit; or
 - “(ii) under section 32, of the surrender or termination of a lease or licence in relation to the rating unit; or
 - “(iii) under section 33, of the transfer or assignment of a lease or licence in relation to the rating unit.
- “(2) A local authority that is notified of a matter described in subsection (1) must notify, in writing, the person who

becomes the ratepayer for the rating unit of all the information referred to in section 117K(2).

- “(3) The local authority must also provide to the person a copy of the terms of the election made by the eligible ratepayer as set out in the invitation concerned.

“Recalculation of lump sum contributions

“117M Recalculation of lump sum contributions

- “(1) A local authority may make 1 recalculation of the lump sum contributions to a capital project.
- “(2) A recalculation must be made in accordance with the factors and methodologies specified in the invitation concerned.
- “(3) A recalculation must not be made until the final cost of the project is known.
- “(4) A local authority must, no later than 1 month after a recalculation,—
- “(a) if the liability from the lump sum contributions decreases, refund the excess to the ratepayer for each rating unit in respect of which a contribution was made; or
 - “(b) if the liability from the lump sum contributions increases, deliver an invoice to the ratepayer for each rating unit in respect of which a contribution was made.
- “(5) Any invoice to which subsection (4)(b) applies must specify a due date for payment that is not less than 1 month after the date on which the invoice is delivered.

“Late payment or non-payment of lump sum contribution

“117N Late payment or non-payment of lump sum contribution

- “(1) This section applies if—
- “(a) an eligible ratepayer has elected to make a lump sum contribution to a capital project in respect of a rating unit; and
 - “(b) the eligible ratepayer (or any other person who is for the time being the ratepayer) in respect of the rating unit does not pay the contribution, or a contribution instalment, by its due date (including any amount due under section 117M(4)(b)).

- “(2) The local authority concerned may either—
- “(a) cancel the election; or
 - “(b) recover the amount owing in a court of competent jurisdiction as a debt due.
- “(3) If the local authority cancels the election it must amend the entries in its rating information database and rates records in relation to the rating unit, for each year that it has recorded information under section 117K, to reflect the fact that the rating unit is liable, for each of those years, for the targeted rate or targeted rates referred to in section 117K(1)(b).
- “(4) The local authority must record any amount paid as a lump sum contribution in respect of the rating unit as a payment of the rates referred to in subsection (3)—
- “(a) for the first year that the rating unit was liable for those rates; and
 - “(b) as being paid at the date that the lump sum contribution was paid.
- “(5) The local authority must record any surplus amount resulting from the operation of subsection (4) as a payment of the rates referred to in subsection (3)—
- “(a) for the next year that the rating unit was liable for those rates; and
 - “(b) as being paid at the date that the lump sum contribution was made.
- “(6) The local authority must continue to apply any surplus amount in the manner set out in subsection (5) until either—
- “(a) no surplus remains; or
 - “(b) no rates remain unpaid.
- “(7) If, after the operation of subsections (5) and (6),—
- “(a) a deficit for any financial year concerned is shown in the rates record, the local authority must treat the amount or amounts as unpaid rates for the purposes of sections 46(2)(i), 57, and 58:
 - “(b) a surplus remains, the local authority must credit the rates record.
- “(8) Subsection (7)(a) is subject (in any particular case) to the local authority applying its rates remission policy under section 85.
- “(9) The local authority must apply any credit under subsection (7)(b) in the following manner and order of priority:

- “(a) pay any arrears owing in respect of the rating unit for 1 or more previous financial years:
 - “(b) pay any arrears owing in respect of the rating unit for the current financial year:
 - “(c) record a credit in the rates record against future rates in respect of the rating unit.
- “(10) If subsection (9)(c) applies,—
- “(a) the ratepayer in respect of the rating unit may apply to the local authority, in writing, for a refund of the credited amount; and
 - “(b) the local authority must, as soon as practicable, make the refund.
- “(11) The local authority must issue an amended rates assessment for each year in respect of which it has amended the rates records under this section.”

11 New Schedule 3A inserted

The Schedule 3A set out in the Schedule of this Act is inserted after Schedule 3.

Transitional provisions

12 Transitional provision in relation to amended rates assessments for errors in rating information database or rates record

The amendments made by sections 6 and 8 of this Act do not apply to any objection under section 29 of the principal Act made before the commencement of this Act.

13 Transitional provision in relation to long-term council community plans for period beginning on 1 July 2006

Any amendments made by this Act that have the effect of requiring an amendment to a long-term council community plan (to ensure that it complies with the requirements of the principal Act, as amended by this Act)—

- (a) do not apply to a long-term council community plan to which section 280 of the Local Government Act 2002 applies, whether it is adopted before or after the commencement of this Act; but
- (b) do apply to any amendment made to a long-term council community plan to which section 280 of the Local

Government Act 2002 applies adopted after the commencement of this Act.

Amendments to other enactments

14 Amendment to Auckland War Memorial Museum Act 1996

Section 24 of the Auckland War Memorial Museum Act 1996 is repealed.

15 Amendments to Local Government Act 2002 consequential to insertion of new Part 4A in principal Act

- (1) Section 5(1) of the Local Government Act 2002 is amended by inserting the following definitions in their appropriate alphabetical order:

“**capital project** has the meaning given to it in section 5 of the Local Government (Rating) Act 2002

“**lump sum contribution** has the meaning given to it in section 5 of the Local Government (Rating) Act 2002”.

- (2) Section 96 of the Local Government Act 2002 is amended by adding the following subsection:

“(5) This section applies subject to Part 4A of the Local Government (Rating) Act 2002.”

- (3) Section 97 of the Local Government Act 2002 is amended by adding the following subsection:

“(3) Nothing in this section applies to a decision of a local authority to fund a capital project by lump sum contributions if the local authority has complied with section 117B(3)(c)(i) of the Local Government (Rating) Act 2002.”

- (4) Section 103(2) of the Local Government Act 2002 is amended by inserting the following paragraph after paragraph (b):

“(ba) lump sum contributions:”.

- (5) Clause 10(1)(d) of Schedule 10 of the Local Government Act 2002 is amended by adding the following subparagraph:

“(v) whether lump sum contributions will be invited in respect of the targeted rate; and”.

- (6) Clause 13(d) of Schedule 10 of the Local Government Act 2002 is amended by adding “; and” and also by adding the following subparagraph:

“(v) whether lump sum contributions will be invited in respect of the targeted rate.”

s 11

Schedule
New Schedule 3A of Local Government (Rating)
Act 2002

ss 117E(1), 117G(2)

Schedule 3A
Lump sum contributions

Part 1

Matters to be included in capital project funding plan

A capital project funding plan must—

- (a) specify the capital project; and
- (b) state its proposed start date; and
- (c) state—
 - (i) its total estimated cost; and
 - (ii) the estimated amount to be funded by—
 - (A) lump sum contributions;
 - (B) targeted rates (including targeted rates in relation to any loan or loans if the funding for the project will be or will include a loan or loans);
 - (C) other revenue of the local authority (if any); and
- (d) if 1 or more targeted rates are to be set to fund the project, state—
 - (i) the categories of rating unit to be liable for each rate; and
 - (ii) the estimated total number of rating units liable for each rate; and
 - (iii) how the liability for each targeted rate is to be calculated; and
 - (iv) the circumstances (if any) under which the categories of rating unit to be liable for each rate will change; and
 - (v) the circumstances (if any) under which the calculation of each targeted rate will change; and
- (e) state—
 - (i) how lump sum contributions will be calculated; and
 - (ii) the proposed timetable for inviting the contributions (including the proposed latest date by which an eligible ratepayer may elect to make a contribution); and
 - (iii) the proposed due date or dates for the contribution payments; and

Schedule 3A—*continued*Part 1—*continued*

- (iv) the targeted rate or targeted rates that a rating unit would be liable for, the estimated amount of those rates, and the estimated number of years for which those rates would be required, if a lump sum contribution was not made in respect of the unit; and
- (v) the targeted rate or targeted rates that a rating unit would be liable for even if a lump sum contribution was made in respect of the unit; and
- (f) include any matters that the local authority must be satisfied of before it will proceed with either the project or the invitation of lump sum contributions (including any minimum level of contributions required) from its eligible ratepayers; and
- (g) state—
 - (i) the estimated date—
 - (A) of the completion of the project;
 - (B) on which the total costs of the project will be known; and
 - (ii) whether at the date on which the total costs of the project will be known, the lump sum contributions made to the project will be recalculated; and
 - (iii) if so,—
 - (A) what factors would cause a recalculation (for example, a change in the estimated cost of the project or the number of rating units funding the project); and
 - (B) how the recalculation would be made; and
 - (C) how any refunds or further contributions (as the case may be) would be dealt with; and
- (h) state the proposed date that the funding plan will expire (which must not be a date that is earlier than the date on which the total costs of the project have been paid).

Schedule 3A—*continued*

Part 2

Matters to be included in invitation to make lump
sum contribution

An invitation must—

- (a) specify the capital project that the lump sum contribution will fund or partially fund; and
- (b) specify the targeted rate or targeted rates that the rating unit would be liable for, the estimated amount of those rates, and the estimated number of years for which those rates would be required, if a lump sum contribution was not made in respect of the unit; and
- (c) state the targeted rate or targeted rates that the rating unit would be liable for even if a lump sum contribution was made in respect of the rating unit; and
- (d) state the estimated total amount of the lump sum contribution to be paid and how it will be calculated; and
- (e) state whether the local authority will be recalculating the lump sum contribution once the total costs of the project are known and, if so,—
 - (i) what factors would cause a recalculation (for example, a change in the estimated cost of the project or the number of rating units funding the project); and
 - (ii) how the recalculation would be made; and
 - (iii) how any refunds or further contributions (as the case may be) would be dealt with; and
- (f) summarise the consequences for the ratepayer in relation to making a lump sum contribution—
 - (i) if the rating unit is subdivided:
 - (ii) if the rating unit is sold or the ratepayer otherwise is no longer the ratepayer in respect of the rating unit:
 - (iii) if the number of rating units contributing to the cost of the capital project changed:
 - (iv) if the calculation of any targeted rate applying to the rating unit changed:
 - (v) if the cost of the capital project changed; and
- (g) state the date for payment of a lump sum contribution or, if the payment is to be by instalments, the dates for payment; and

Schedule 3A—*continued***Part 2**—*continued*

- (h) state the consequences for the ratepayer of any late payment of a lump sum contribution; and
- (i) state how and the final date by which the ratepayer must elect to make a lump sum contribution; and
- (j) include any matters that the local authority must be satisfied of before it will proceed with either the project or the invitation of lump sum contributions (including any minimum level of contributions required) from its eligible ratepayers; and
- (k) specify any other terms applying to the making of a lump sum contribution by the ratepayer.

Legislative history

21 June 2006	Divided from Local Government Law Reform Bill (Bill 32–3) as Bill 32–4F
22 June 2006	Third reading
27 June 2006	Royal assent

This Act is administered by the Department of Internal Affairs.
