

Hon. Richard Prebble

**AUCKLAND CITY COUNCIL (RATES RELIEF)
EMPOWERING**

[LOCAL]

ANALYSIS

Title	7. Effect of registration
1. Short Title and commencement	8. Payment of increased rates
2. Interpretation	9. Change of occupier
3. Notice to Council by qualified persons	10. Limitation of time for recovery
4. Enquiries by Council	11. Rates and assessments by Auckland Regional Council
5. Power to decline notice and right of appeal	Schedule
6. Registration	

A BILL INTITULED

**An Act to provide relief from rates increases for persons
aged 65 years and over who are liable for payment of
rates within the district of the Auckland City Council**

5 BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Auckland City Council (Rates Relief) Empowering Act 1991.

(2) This Act shall come into force on the 1st day of July 1992.

10 **2. Interpretation**—In this Act, unless the context otherwise requires,—

“Council” means the Auckland City Council:

15 “Increased rates” means the sum derived from subtracting the rates payable in respect of a registered property in the year of registration from any higher amount of rates payable in respect of that property in any year following the year of registration:

“Occupier” has the same meaning as in the Rating Powers Act 1988:

No. 108—1

“Qualified person” means a natural person who is liable, under the Rating Powers Act 1988, as an occupier of land in the Council’s district to pay rates to the Council in respect of land used by that person exclusively for residential purposes and who has attained the age of 65 years; and includes that person’s spouse who may be so liable in respect of the same property, notwithstanding that the spouse may be under that age: 5

“Registered person” means a qualified person whose name is entered in a register under **section 6** of this Act: 10

“Registered property” means a property entered in the register under **section 6** of this Act:

“Year” has the same meaning as “financial year” in the Local Government Act 1974. 15

3. Notice to Council by qualified persons—(1) A qualified person may at any time give notice to the Council in accordance with this section of his or her or their desire to be registered by the Council under this Act, the notice to be in a form determined by the Council. 20

(2) A notice given under **subsection (1)** of this section shall be in writing signed either by the claimant or by some other person acting on his or her behalf.

(3) The notice shall— 25

(a) Give the full name and date of birth of the qualified person; and

(b) Specify the property in respect of which the qualified person desires to be registered; and

(c) Give an address to which the Council may send any correspondence in respect of the notice; and 30

(d) Be sent by post to, or delivered at, the principal administrative office of the Council.

(4) A notice shall not be given under this section by or on behalf of a qualified person in respect of more than one property, but if a property which has been registered ceases to be registered, a notice may be given in respect of another property. 35

4. Enquiries by Council—Upon receipt of a notice given under **section 3** of this Act, the Council shall as soon as practicable make such enquiries, if any, as it considers necessary to verify the contents of the notice. 40

5. Power to decline notice and right of appeal—(1) If, after having made any enquiries under **section 4** of this Act, the Council is not satisfied that—

5 (a) The notice has been given by or on behalf of a qualified person; or

(b) The land specified in a notice is used exclusively for residential purposes; or

(c) The notice otherwise complies with this Act—

10 it shall forthwith advise the person by or on whose behalf the notice has been given that it declines to accept it, giving reasons.

15 (2) A person by or on whose behalf a notice has been given under **section 3** of this Act which the Council has declined to accept may, within 1 month after receipt of the Council's decision, appeal against it by filing in the District Court a notice of appeal setting out with reasonable particularity the grounds of the appeal.

(3) A copy of the notice of appeal shall be served on the Council.

20 (4) Where a notice of appeal under **subsection (2)** of this section has been filed, the Court shall fix a time and place for the hearing of the appeal; and the Registrar of the Court shall inform the appellant and the Council of that time and place.

25 (5) On the hearing of an appeal under this section, the District Court Judge may either confirm the Council's decision or order the Council to accept the notice as valid, and the order shall be final and binding on the parties.

6. Registration—(1) Where it is satisfied that a notice has been given in accordance with **section 3** of this Act and that the
30 notice is valid, the Council shall enter in a register maintained for the purpose details of the name of the qualified person and the property specified under **section 3 (3) (b)** of this Act; and the Council shall advise the qualified person accordingly.

35 (2) A qualified person may at any time by notice in writing to the Council withdraw his or her entry on the register, whereupon the other provisions of this Act shall immediately cease to be effective.

40 (3) The provisions of **subsection (2)** of this section shall apply if only 1 of 2 persons so registered withdraws registration; and any rates postponed under this Act shall immediately become payable.

7. Effect of registration—(1) A qualified person shall not be liable to pay any increased rates in respect of a registered property in any year following the year in which it is registered, but the rates for which the qualified person would have been liable but for this section shall, on the noting of the certificate referred to in **subsection (2)** of this section, be a charge on the land in respect of which the rates have been made. 5

(2) Upon presentation of a notice by the principal administrative officer of the Council in form 1 in the Schedule to this Act or to the like effect, the District Land Registrar shall without fee note the same against the title to the property concerned. 10

(3) The provisions of subsections (3) to (6) of section 162 of the Rating Powers Act 1988 shall, with all necessary modifications, apply as if the increased rates were postponed rates under section 158 of that Act. 15

(4) The provisions of section 163 of the Rating Powers Act 1988 shall not apply to rates postponed under this Act, and subsection (5) of section 162 of that Act, in respect of such rates, shall be read as if the words “or have been written off in accordance with section 163 of this Act” were omitted. 20

(5) The Council may, if it considers it appropriate, charge interest against the amount of all increased rates included in a certificate of registration noted in terms of **subsection (2)** of this section, the rate of interest not to exceed the amount payable from time to time by the Council to its bankers on loans to the Council or which would be chargeable if such loans had been made. 25

(6) Where a qualified person is not liable to pay any increased rates in accordance with this Act, the Council shall include in or with the rates assessment issued by it in respect of the property, in addition to the matters specified in section 122 of the Rating Powers Act 1988, a statement showing— 30

- (a) The amount of the increased rates in respect of the period covered by the rates assessment; and 35
- (b) The cumulative amount of increased rates covered by previous rates assessments issued following the year of registration.

8. Payment of increased rates—Where a registered person dies or ceases to be liable for rates in respect of the registered property, the increased rates (together with any interest payable thereon) shall be payable on the death of the registered 40

person or the date when the registered person ceases to be the occupier of the land:

5 Provided that this section shall not apply in the case of 2 spouses registered as occupiers of a registered property until the last of them has died or has ceased to be an occupier.

9. Change of occupier—(1) Whenever a person other than the registered person becomes the occupier of a registered property, the Council shall remove the property from the register.

10 (2) The new occupier shall be liable for all increased rates applicable to the year in which he or she becomes the occupier of the property and which are outstanding at the time when that occurs.

15 **10. Limitation of time for recovery**—Section 142 (2) of the Rating Powers Act 1988 shall apply to increased rates as if they had been rates postponed under that Act.

20 **11. Rates and assessments by Auckland Regional Council**—Nothing in this Act shall apply to rates or assessments made by the Auckland Regional Council under the Auckland Regional Authority Act 1963 or otherwise.

*Auckland City Council (Rates Relief)
Empowering*

SCHEDULE

Section 7 (2)

FORM 1

NOTICE OF LAND CHARGE FOR POSTPONED RATES

TO the District Land Registrar North Auckland Land Registration District

Take notice that the land hereinafter described is subject to a charge on account of portion of the amount of rates from time to time payable to the Auckland City Council by the occupier thereof, which portion has been postponed by the Auckland City Council pursuant to the Auckland City Council (Rating Relief) Empowering Act 1991 and that you are hereby required to register the charge pursuant to **section 7(2)** of that Act.

DESCRIPTION OF LAND AFFECTED BY CHARGE

Name of Registered Proprietor:

Situation:

Area:

Description by reference to section
number, etc., including certificate of
title Vol folio :

Dated at Auckland this day of 1991.

Principal Administrative
Officer [*or other officer*] of the
Auckland City Council