

State Deficit Levy Act 1992

No. 75 of 1992

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Victoria

No. 75 of 1992

State Deficit Levy Act 1992

[Assented to 24 November 1992]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purpose of this Act is to impose a state deficit levy on all rateable properties in Victoria and provide for the levy to be collected by Councils.

2. *Commencement*

This Act comes into operation on the day on which this Act receives the Royal Assent.

3. *Definitions*

In this Act—

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“**Commissioner**” means the person for the time being holding the office referred to in section 11;

“**council**” has the same meaning as in section 3 (1) of the **Local Government Act 1989**;

“**farm land**” has the same meaning as in section 2 (1) of the **Valuation of Land Act 1960**;

“**levy**” means the amount of \$100;

“**quarterly instalments**”, in relation to the payment of a rate or charge, means payments by 4 instalments on the dates fixed under section 167 of the **Local Government Act 1989**;

“**rateable property**” means rateable land within the meaning of the **Local Government Act 1989** in respect of which a Council has a separate valuation;

“**single farm enterprise**” means 2 or more rateable properties which are—

(a) farm land; and

(b) farmed as a single farm enterprise; and

(c) occupied by the same person or persons—

whether or not the properties are contiguous or are included in the same municipal district;

“**year**” means the period of 12 months ending on 30 September of each year.

4. Construction of Act

This Act shall be read and construed as one with the **Local Government Act 1989**.

PART 2—THE LEVY

5. Council must impose levy

- (1) A Council must impose a levy of \$100 each year on each rateable property (other than rateable property exempted under section 8) situated within its municipal district as at the date of the issue of the notice under sub-section (4).

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- (2) The levy is deemed to have been declared in accordance with Part 8 of the **Local Government Act 1989**.
- (3) Part 7 of the **Local Government Act 1989** does not apply in respect of the levy.
- (4) A Council must send a notice to the person liable to pay the levy—
 - (a) before 31 January 1993; and
 - (b) before 15 December in any subsequent year or such later date as is approved in writing by the Commissioner in respect of a particular Council subject to such conditions as the Commissioner may specify in the approval.
- (5) A notice under sub-section (4) (a) must—
 - (a) state that if the person elects under section 167 of the **Local Government Act 1989** to pay the whole of the rate or charge by way of lump sum or an option other than quarterly instalments, the whole of the levy must be paid on the date fixed under section 167 of the **Local Government Act 1989** for the payment of the whole of a rate or charge under that Act; and
 - (b) state that if the person elects under section 167 of the **Local Government Act 1989** to pay a rate or charge by quarterly instalments, the levy must be paid by instalments of—
 - (i) 50 per cent of the levy on the date fixed under section 167 of the **Local Government Act 1989** for the payment of the second instalment of a rate or charge under that Act; and
 - (ii) 50 per cent of the levy on the date fixed under section 167 of the **Local Government Act 1989** for the payment of the third instalment of a rate or charge under that Act; and
 - (c) contain a statement that a person has a right to a waiver in accordance with section 7 or to apply

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for an exemption under section 8 on the grounds and within the period specified; and

- (d) contain a statement to the effect that the Council is required by this Act to pay to the Commissioner, out of any amounts of levy, rates or charges received or recovered from a person, the amount of the levy payable by that person.
- (6) A notice under sub-section (4) (b) must—
- (a) state that if the person elects under section 167 of the **Local Government Act 1989** to pay the whole of a rate or charge by way of lump sum or an option other than quarterly instalments, the whole of the levy must be paid on the date fixed under section 167 of the **Local Government Act 1989** for the payment of the whole of a rate or charge under that Act; and
 - (b) state that if the person elects under section 167 of the **Local Government Act 1989** to pay a rate or charge by quarterly instalments, the levy must be paid by instalments of—
 - (i) 50 per cent of the levy on the date fixed under section 167 of the **Local Government Act 1989** for the payment of the first instalment of a rate or charge under that Act; and
 - (ii) 25 per cent of the levy on each of the dates fixed under section 167 of the **Local Government Act 1989** for the payment of the second and third instalments of a rate or charge under that Act; and
 - (c) contain a statement that a person has a right to a waiver in accordance with section 7 or to apply for an exemption under section 8 on the grounds and within the period specified; and
 - (d) contain a statement to the effect that the Council is required by this Act to pay to the Commissioner, out of any amounts of levy, rates or charges received or recovered from a person, the amount of the levy payable by that person.

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- (7) If the notice is not issued within the time specified under sub-section (4), a person is deemed to have paid the instalment of levy by the due date if the person makes the payment within 14 days of the date on which the notice was issued.
- (8) Section 172 of the **Local Government Act 1989** applies in respect of the payment of interest on the amount of any levy which is not paid by the due date, as from the date on which a rate or charge was declared under that Act.

6. Application of Local Government Act 1989

Sections 156, 175, 177, 178, 179 (1), 180, 181 and 227 of the **Local Government Act 1989** apply to and in respect of the levy—

- (a) with such modifications as are necessary; and
- (b) as if any reference in those provisions to a “rate or charge” were a reference to the “levy”.

7. Waiver of levy

- (1) If a person has been granted an application under section 171 (1) or 171 (4) of the **Local Government Act 1989** for a waiver of the whole or part of any rate or charge, the person is entitled to a waiver of the whole or part of the levy in the same proportion.
- (2) The proportion is to be calculated in accordance with the formula $P = A/B$ where—
 - P is the proportion;
 - A is the amount of rates and charges waived;
 - B is the total amount of rates and charges otherwise payable had the waiver not been granted.

8. Exemption in relation to single farm enterprises

- (1) A person may apply to a Council within 21 days of the date of issue of a notice under section 5 for an

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exemption from the payment of a levy on rateable property if—

- (a) the rateable property in respect of which the exemption is claimed is farm land; and
 - (b) the rateable property forms part of a single farm enterprise; and
 - (c) an exemption is not claimed in respect of at least one other rateable property which forms part of the single farm enterprise and which must be the rateable property which has the highest separate valuation.
- (2) The Council may require the applicant—
- (a) to give further particulars; or
 - (b) to verify particulars—
- in relation to the application.
- (3) A Council must grant an application for exemption if it is satisfied as to the matters specified in sub-section (1).
- (4) A person may make only one application in relation to a rateable property in any one year.
- (5) A Council may decide to treat a person who is granted an exemption in relation to a rateable property as having made a continuing application for an exemption in relation to the rateable property, unless the person advises the Council that an exemption is no longer sought.
- (6) A person who—
- (a) gives to a Council any information which is false or misleading in any material particular in respect of an application under this section; or
 - (b) fails to notify a Council of any change in circumstances which is relevant to an application or to an exemption granted under this section—

is guilty of an offence.

Penalty: 10 penalty units.

PART 3—COLLECTION OF LEVY

9. *Council must forward payments*

- (1) Within each prescribed period, a Council—
- (a) must pay to the Commissioner all payments of levy due on the due date and paid to the Council on or before that date; and
 - (b) if a person has failed to pay the full amount of levy that is due on the due date but the Council has received from that person, on or before that date, any amount of rates or charges due in respect of the year to which the levy relates, the Council must pay to the Commissioner a sum equal to the lesser of—
 - (i) the amount of unpaid levy; or
 - (ii) the amount so received from that person.

- (2) If—
- (a) within a prescribed period the Council has not paid to the Commissioner the full amount of levy payable by a person; and
 - (b) after the due date, the Council receives or recovers from that person any amount of levy, rate, charge or interest that is payable in respect of a period beginning on or after 1 October 1992—

the Council must forward to the Commissioner, by the end of the third day after the end of the month in which it receives or recovers the amount, a sum equal to the lesser of—

- (c) the amount of unpaid levy together with interest payable (if any) by that person on that amount in accordance with section 5 (8); or
- (d) the amount so received or recovered from that person—

less any part of that unpaid levy that has been paid to the Commissioner under sub-section (1) (b).

- (3) In this section—
- “due date”**, in relation to a payment of levy, means the day fixed for that payment by the notice under section 5 (5) or (6);

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“prescribed period” means—

- (a) in the case of a payment of levy to which 5 (5) relates (other than payment of a second instalment of levy), the period of 28 days after the due date;
- (b) in the case of a payment of a second instalment of levy to which section 5 (5) relates, the period of 14 days after the due date;
- (c) in the case of a payment of levy to which section 5 (6) relates (other than a payment of a third instalment of levy) the period of 28 days after the due date;
- (d) in the case of a payment of a third instalment to which section 5 (6) relates the period of 14 days after the due date.

10. Default by Council

- (1) If a Council fails to comply with section 5, 7, 8, 9 or 14, the Commissioner may by notice served on the Council impose a charge on the Council of an amount determined by the Commissioner being an amount not exceeding the amount calculated by multiplying the number of rateable properties situated in the municipal district of the Council by \$100 less any amount already forwarded by the Council in relation to the current year.
- (2) The Council must pay the amount of the charge in accordance with the terms and conditions specified in the notice.
- (3) Interest at the maximum rate fixed by the Governor in Council under section 172 (2A) of the **Local Government Act 1989** is payable on the amount of any charge which is not paid by the due date, as from the due date until the amount of the charge is paid or recovered.
- (4) Any interest may be recovered in the same way as the charge may be recovered.
- (5) If an amount of the charge remains unpaid after it is due and payable, the Commissioner may recover the

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amount of the charge and interest in the Magistrates' Court or by suing for debt.

- (6) If the Treasurer is satisfied that a Council has not taken steps to comply with this section, the Treasurer may, in writing given to the Council, direct that a specified amount, being the whole or any part of any sum payable to the Council from the Consolidated Fund, or in the nature of fees, fines or penalties payable to, or held on behalf of, the Council but not exceeding the amount of levy and interest due and payable by the Council to the Commissioner in accordance with this Act—
- (a) not be paid to the Council until the Treasurer is satisfied that the Council has taken steps to comply with this section; or
 - (b) be set off against that amount of levy and interest due and payable by the Council in accordance with this Act.

PART 4—GENERAL

11. *Office of Commissioner, State Deficit Levy*

- (1) For the purposes of this Act there is to be an office of Commissioner, State Deficit Levy.
- (2) The Commissioner may by instrument of delegation delegate to any person any power, duty or function of the Commissioner other than this power of delegation.

12. *Enforcement provisions*

- (1) The Commissioner may recover an amount of levy due by a person in respect of which a Council has not forwarded a payment under section 9 (1) (b) or 9 (2).
- (2) Sections 177, 180, 181, 224, 232, 233, 234, 235, 238, 241 and 242 of the **Local Government Act 1989** apply with such modifications as are necessary for the purposes of the administration of this Act.

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13. Evidentiary provision

The production of a notice issued or purporting to be issued under this Act in any legal proceedings is evidence of the facts stated in the notice in the absence of evidence to the contrary.

14. Council records and information

- (1) Without derogating from section 237 of the **Local Government Act 1989**, the Commissioner may for the purposes of this Act—
 - (a) require a Council to provide information that the Commissioner considers necessary; and
 - (b) authorise a person to inspect Council records and take any copies of such records.
- (2) Any person who refuses to permit the inspection of records authorised to be inspected under sub-section (1) (b) is guilty of an offence.

Penalty: 50 penalty units.

15. Funds

- (1) The Commissioner must pay any money received by the Commissioner under this Act into the Consolidated Fund.
- (2) Any money received by a Council under this Act must be paid into an appropriate account kept under the **Local Government Act 1989**.

16. Regulations

The Governor in Council may make regulations for or with respect to any matter which is required or permitted or necessary to be prescribed for carrying out or giving effect to this Act.

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Notes

NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 6 November 1992

Legislative Council: 17 November 1992

2. The long title for the Bill for this Act was "A Bill to provide the imposition and collection of a State Deficit Levy and for other purposes."
3. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984**.)