

# Bulletin

**Tuesday, 29th June 2010**

## NEW LEGISLATION FOR PARTIAL RATE EXEMPTIONS

To date, the *Local Government Act 1993* has not made specific provision for Councils to grant rate exemptions for parts of land or buildings although some have done so.

Most Councils have applied a '*substantial or dominant use test*' so that, if a rate exempt use was the substantial or dominant use, the whole land would be deemed to be exempt. Conversely, if the rate exempt use was not the substantial or dominant use (a proportion above 50% was often used), some Councils have refused any rate relief. Others have refused any exemption unless the whole of the land was used for the exempt purpose.

Following negotiations with Government initiated by us on behalf of a client, the Government has introduced amending legislation to provide that when land belonging to a public charity, a public benevolent institution or a religious body is used or is occupied partly for purposes that are exempt from rating and partly for other purposes, the Council must obtain separate valuations of that part of the land that is subject to rates and only issue rate assessments in respect of that part.

The Bill contains transitional provisions in respect of land owned by a public charity, a public benevolent institution or a religious body and occupied, in part, by it and tenanted, in part, under a lease which does not provide for the tenant to make a contribution towards the rates.



The amendment provides that the tenanted part of the land is deemed to be used for the same purpose as the part occupied by the public charity, public benevolent institution or Church and to obtain the same rate exemption. This transitional provision will only apply during the currency of a lease which was in force at the date that the Bill came into effect.

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LAWYERS

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The bill received the Royal Assent on Tuesday 15 June 2010 and came into effect immediately.

It would be advisable for all rate exempt bodies to review the rateable position of all properties which they own and only partially occupy, and to request Council to apply for a separate valuation for the rateable part and

only levy rates on that part unless the transitional provisions cause that part also to be exempt.

Richard d'Apice, Bill d'Apice and Vera Visevic would be happy to assist with issues you may have about the application of this legislation to the particular circumstances of your properties.



MAKINSON & d'APICE  
— L A W Y E R S —