



Overdue Rates

Owner and Tenant
Responsibilities Explained



gingin.wa.gov.au



What Are Council Rates?

Local Government Rates are a levy based upon property values which pay for facilities and services provided by the Council. Facilities include libraries, recreation halls and their grounds, roads, footpaths, parks and reserves. Services, for which separate charges may be made include refuse collection, building approvals, planning approvals and a wide range of professional assistance.

Who Pays Council Rates?

Rates are the responsibility of the current owner of a property. Ownership can be established by enquiring at Landgate but new owners and those transferring ownership do have a legal responsibility to inform local government when a change in ownership or the address for service of notice occurs.

Collection of Overdue Rates

Where rates are overdue, every effort is made to recover the rates in an efficient manner. Local Court action, by way of Summons and Warrants, is effective in all but a small minority of cases. In some situations the location of the owner is difficult or the Court process is inappropriate. The *Local Government Act 1995* was written with this in mind and other powers were given to local government to allow collection of overdue rate levies.

Collection of Rates From Tenants

Sections 6.60 to 6.61 of the *Local Government Act 1995* allow a local government to issue an order on the tenant of a property on which rates are in arrears. That order requires that any amount due under a lease or rental agreement be paid to the local government rather than the owner or agent. The order remains in force until it is rescinded by the local government. Sections 6.60 to 6.61 of the *Local Government Act 1995* are reproduced on the back of this brochure.

Issue of a Section 6.60 Notice

The following describes the procedure undertaken when the Shire of Gingin takes action under Section 6.60 of the *Local Government Act 1995*.

1. A letter is sent to the owner of the property at the last known place of contact. The letter advises of the rates outstanding and the intention to issue an order on the tenant to pay any rent due under the lease or rental agreement if the account is not settled within 14 days.
2. If payment is not received from the owner, the tenant is issued with an order under Section 6.60 of the *Local Government Act 1995*. This order requires that any rent payable under the term of the lease in respect of the land is paid to the Shire of Gingin and not the owner. Any amount paid by the tenant to the Shire of Gingin may be deducted from the rent payable to the owner.
3. The tenant must continue to pay any rent due in respect of the land until the amount of rate outstanding is settled.
4. The Shire will notify the tenant when the outstanding rates have been satisfied by the rent paid by the tenant or by receipt from the owner and rescind the order made under Section 6.60.

It is an Offence

If, after receiving the notice, the lessee pays the rent other than to the Shire of Gingin while payment of the rates is in arrears, the lessee commits an offence.

Please note that Sections 6.60 to 6.61 of the *Local Government Act 1995* take precedence over the *Tenancies Act* and the tenant cannot be evicted for paying rent to the local government instead of the owner or his agent.





What You Should Do if You Receive a Notice Issued Under Section 6.60 of the *Local Government Act 1995*

If you are an owner:

You should contact the Shire of Gingin without delay.

If you have received a warning letter, your tenant will not yet have been informed about the situation. You still have time to settle the account without your tenant being involved.

If your tenant has contacted you or ceased payment of your rent following the issue of a notice in respect of Section 6.60 of the *Local Government Act 1995* you have two options. You may settle the outstanding account immediately, in which case the order will be rescinded. Alternatively, you may let the Section 6.60 notice proceed, your tenant will be required to pay the rent to the Shire until such time as the account is paid in full.

If you are a tenant:

You should cease making rental payments to the owner or agent and pay any amount which is due in respect of the lease or rental agreement directly to the Shire of Gingin.

You will be notified when the outstanding account has been settled and the order is rescinded.

If you have any queries regarding an order under Section 6.60 of the *Local Government Act 1995*, please contact the Shire of Gingin Rates Department.

It is an offence not to comply with a notice issued under section 6.60 of the *Local Government Act 1995*.

Local Government Act 1995

Sections 6.60 - 6.62

Section 6.60 Local Government Act may require lessee to pay rent

1. In this section - "lease" includes an agreement whether made orally or in writing for the leasing or subleasing of land and includes a licence or arrangement for the use of land; "lessor" and "lessee" means the parties to a lease and their respective successors in title.
2. If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.
3. The local government is to give to the lessor a copy of the notice with an endorsement that the original of it has been given to the lessee.
4. The local government may recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with the notice.
5. Where an amount is paid under this section to the local government -
 - a. the payment discharges the payer from any liability to any person to pay that amount as rent;
 - b. whereas between a lessor and lessee the lessor is liable to pay the rate or service charge, the amount paid may be set off by the lessee against the rent payable to the lessor; and
 - c. if the amount exceeds the rent due, or if there is no rent due, the amount may be set off by the lessee against accruing rent, or the balance recovered from the lessor in a court of competent jurisdiction.
6. To the extent that an agreement purports to preclude a lessee from setting off or recovering payments made to a local government under this section the agreement is of no effect.

Section 6.61 - Requirement to give name of person liable

1. On the request of the local government -
 - a. the occupier of property, or an agent of the owner of property, is required to disclose to the local government the name and address of the owner or of the person receiving or authorised to receive the rent of the property; and
 - b. the person receiving or authorised to receive the rent of the property is required to disclose the name and address of the owner of the property.
2. A person from whom information is requested in accordance with subsection (1) commits an offence if the person -
 - a. fails to give the information requested; or
 - b. gives information that is false or misleading in any material particular.

Section 6.62 - Application of money paid for rates and service charges

Where money paid to a local government in respect of rates or service charges imposed on land, the local government is to apply the money for or towards -

- a. the rates or services charges due on the land in the order in which they become due; and
- b. any outstanding costs of proceedings for the recovery of any such rates or charges.

Contact Us

If you have any queries or require more information please contact the Shire's Rates Department:

T: (08) 9575 5100 (option 2)

E: mail@gingin.wa.gov.au

