

6.60 Local government may require lessee to pay rent.

(1) In this section –

“lease” includes an agreement whether made orally or in writing for the leasing or the subleasing of land and includes a licence or arrangement for the use of land;

“lessor” and “lessee” mean 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 and 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 –
- the payment discharges the payer from any liability to any person to pay that amount as rent;
 - where as 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
 - 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.

6.61 Requirement to give name of person liable

(1) On the request of the Local Government -

- the occupier of property, or an agent of the owner of the 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
- 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-

- fails to give the information requested; or
- gives information that is false or misleading in any material particular.

6.62 APPLICATION OF MONEY PAID FOR RATES AND SERVICE CHARGES

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

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

City of Kalgoorlie-Boulder



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OVERDUE RATES

Owners and Tenants Responsibilities Explained

(Sections 6.60 - 6.61 of the Local Government Act)

What are Council Rates?

Local Authority rates are a levy based upon property values which pay for facilities and services provided by the Council. Facilities include libraries, community centres, infant health centres, 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 the Land titles Office but new owners and those transferring ownership do have a legal responsibility to inform Local Authorities 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 General Procedure Claim and Possession Seize and Sale orders, is effective in all but a minority of cases. In some situations the location of the owner is difficult to ascertain or the Court process is inappropriate. The local government Act was written with this in mind and other powers were given to Local Authorities to allow collection of the overdue rate levies.

Collection of Rates from Tenants

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

The issue of a Section 6.60 Notice

The following describes the procedures undertaken when the City of Kalgoorlie-Boulder takes action under section 6.60 of the local government Act.

1. A letter is sent to the owner of the property at the last known place of contact. This 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 the payment is not received from the owner, the tenant is issued with an order under Section 6.60 of the local government Act. This order requires that any rent payable under the terms of the lease in respect of the land is paid to the City of Kalgoorlie-Boulder and not the owner.
3. The tenant must continue to pay any rent due in respect of the land until the amount of rates outstanding is settled.
4. The City of Kalgoorlie-Boulder 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 the receiving the notice, the lessee pays the rent otherwise than to the City of Kalgoorlie-Boulder while payment of the rates is in arrear, he commits an offence.

Please note that Sections 6.60 and of the local government Act take precedence over the Tenancies Act and the tenant cannot be evicted for paying rent to the Local Authority 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.

If you are an Owner

You should contact the City of Kalgoorlie-Boulder 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, 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 City of Kalgoorlie-Boulder 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 his agent and pay any amount which is due in respect of the lease agreement directly to the City of Kalgoorlie-Boulder.

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, please contact the City of Kalgoorlie-Boulder Rates Section

IT IS AN OFFENCE NOT TO COMPLY WITH A NOTICE ISSUED UNDER SECTION 6.60 OF THE LOCAL GOVERNMENT ACT.