

**Reprint  
as at 1 October 2012**



**Local Government Act 2002**

Public Act    2002 No 84  
Date of assent    24 December 2002  
Commencement    see section 2

**Contents**

	Page
1    Title	18
2    Commencement	18
 <b>Part 1</b> <b>Preliminary provisions</b>	
3    Purpose	18
4    Treaty of Waitangi	19
5    Interpretation	19
6    Meaning of council-controlled organisation and council organisation	26
7    Exempted organisations	29
8    Act binds the Crown	30
 <b>Part 2</b> <b>Purpose of local government, and role and powers of local authorities</b>	
9    Outline of Part	31

---

**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Department of Internal Affairs.**

	Subpart 1—Purpose of local government	
10	Purpose of local government	31
	Subpart 2—Role of local authorities and related matters	
11	Role of local authority	31
11A	Core services to be considered in performing role	32
12	Status and powers	32
13	Performance of functions under other enactments	33
14	Principles relating to local authorities	33
	Subpart 3—Co-ordination of responsibilities of local authorities	
15	Triennial agreements	35
16	Significant new activities proposed by regional council	35
17	Transfer of responsibilities	38
	Subpart 4—Minister and Secretary	
18	Responsibilities, powers, and duties of Minister	39
19	Secretary	39
	<b>Part 3</b>	
	<b>Structure and reorganisation of local government</b>	
20	Outline of Part	39
	Subpart 1—Structure of local government	
21	Local authorities	39
22	Minister is territorial authority in certain cases	40
23	Description of local government	40
	Subpart 2—Reorganisation of local authorities	
24	Reorganisation proposals	41
25	Order in Council to give effect to reorganisation schemes	41
26	Power to amend reorganisation schemes	42
27	Application to be called city council or district council	43
	Subpart 3—Local Government Commission	
28	Local Government Commission	43
29	Commission is body corporate with full powers	43
30	Functions and powers of Commission	43
31	Report to Minister on matters relating to local government	44
32	Review of operation of Act and Local Electoral Act 2001	44
33	Membership of Commission	45
34	Commission is Commission of Inquiry	45
35	Evidence before Commission	46

36	Further provisions relating to Commission and its proceedings	46
37	Appeals against decisions of Commission	46
	<b>Part 4</b>	
	<b>Governance and management of local authorities and community boards</b>	
38	Outline of Part	46
	Subpart 1—Local authorities	
	<i>Governance and management</i>	
39	Governance principles	47
40	Local governance statements	47
	<i>Governing bodies and chief executives</i>	
41	Governing bodies	48
42	Chief executive	49
	<i>Other governance matters</i>	
43	Certain members indemnified	50
44	Report by Auditor-General on loss incurred by local authority	51
45	Local authority to respond to Auditor-General	51
46	Members of local authority liable for loss	52
47	Members may be required to pay costs of proceeding in certain cases	53
48	Further provisions of Schedule 7	54
	Subpart 2—Community boards	
49	Establishment of community boards	54
50	Membership of community boards	55
51	Status of community boards	55
52	Role of community boards	55
53	Powers of community boards	56
54	Application of other provisions to community boards	56
	<b>Part 5</b>	
	<b>Council-controlled organisations and council organisations</b>	
55	Outline of Part	56
	<i>Establishment</i>	
56	Consultation required before council-controlled organisation established	57

	<i>Directors</i>	
57	Appointment of directors	57
58	Role of directors of council-controlled organisations	57
59	Principal objective of council-controlled organisation	58
60	Decisions relating to operation of council-controlled organisations	58
61	Certain goods and services to be supplied under purchase contracts	58
62	Prohibition on guarantees, etc	59
63	Restriction on lending to council-controlled trading organisation	59
	<i>Statements of intent</i>	
64	Statements of intent for council-controlled organisations	59
	<i>Monitoring and reporting</i>	
65	Performance monitoring	60
66	Half-yearly report	60
67	Annual report	61
68	Content of reports on operations of council-controlled organisations	61
69	Financial statements and auditor's report	61
70	Auditor-General is auditor of council-controlled organisations	62
71	Protection from disclosure of sensitive information	62
71A	Application of Part to listed companies	62
72	Application of Act to related companies	63
	<i>Transfer of undertakings</i>	
73	Transfer of undertakings to council-controlled organisations	63
	<i>Application of Local Government Official Information and Meetings Act 1987 and Ombudsmen Act 1975 to council-controlled organisations</i>	
74	Official information	63
	<b>Part 6</b>	
	<b>Planning, decision-making, and accountability</b>	
75	Outline of Part	64
	Subpart 1—Planning and decision-making	
	<i>Decision-making</i>	
76	Decision-making	64

77	Requirements in relation to decisions	65
78	Community views in relation to decisions	66
79	Compliance with procedures in relation to decisions	66
80	Identification of inconsistent decisions	67
81	Contributions to decision-making processes by Māori	67
	<i>Consultation</i>	
82	Principles of consultation	68
83	Special consultative procedure	70
83A	Combined or concurrent consultation	71
84	Special consultative procedure in relation to long-term plan	72
85	Use of special consultative procedure in relation to annual plan	73
86	Use of special consultative procedure in relation to making, amending, or revoking bylaws	74
87	Other use of special consultative procedure	75
88	Use of special consultative procedure in relation to change of mode of delivery of significant activity <i>[Repealed]</i>	75
89	Summary of information	75
90	Policy on significance	76
	<i>Community outcomes</i> <i>[Repealed]</i>	
91	Process for identifying community outcomes <i>[Repealed]</i>	76
92	Obligation to report against community outcomes <i>[Repealed]</i>	77
	<i>Planning</i>	
93	Long-term plan	77
94	Audit of long-term plan	79
95	Annual plan	79
96	Effect of resolution adopting long-term plan or annual plan	81
97	Certain decisions to be taken only if provided for in long-term plan	81
	<i>Subpart 2—Reporting</i>	
98	Annual report	82
99	Audit of information in annual report and summary	83
99A	Pre-election report	84
	<i>Subpart 3—Financial management</i>	
100	Balanced budget requirement	84

101	Financial management	85
101A	Financial strategy	86
102	Funding and financial policies	87
103	Revenue and financing policy	88
104	Liability management policy	89
105	Investment policy	89
106	Policy on development contributions or financial contributions	90
107	Policy on partnerships with private sector <i>[Repealed]</i>	91
108	Policy on remission and postponement of rates on Māori freehold land	91
109	Rates remission policy	92
110	Rates postponement policy	93
111	Information to be prepared in accordance with generally accepted accounting practice	93
	Subpart 4—Borrowing and security	
112	Interpretation	94
	<i>Borrowing</i>	
113	Prohibition on borrowing in foreign currency	96
114	Constraints on receiver	96
115	Rates as security	96
116	Register of charges maintained by local authority	97
	<i>Protected transactions</i>	
117	Protected transactions	98
118	Certificate of compliance	98
119	Good faith in relation to protected transactions	99
120	Saving provision in respect of power of court	99
	<i>Miscellaneous provisions</i>	
121	The Crown not liable for debts	99
122	Prospectuses and loan documents to contain statement that the Crown does not guarantee securities or loan	100
	<b>Part 7</b>	
	<b>Specific obligations and restrictions on local authorities and other persons</b>	
123	Outline of Part	100
	Subpart 1—Specific obligations to make assessments of water and sanitary services	
124	Interpretation	101
125	Requirement to assess water and other sanitary services	101

126	Information required in assessment of water services <i>[Repealed]</i>	102
127	Information required in assessment of sanitary services <i>[Repealed]</i>	102
128	Process for making assessments <i>[Repealed]</i>	102
129	Extent of information in assessments <i>[Repealed]</i>	102
	Subpart 2—Obligations and restrictions relating to provision of water services	
130	Obligation to maintain water services	102
	<i>Closure or transfer of small water services</i>	
131	Power to close down or transfer small water services	103
132	Eligibility to vote in referendum	104
133	Responsibility for conduct of referendum	105
134	Criteria for closure of water service	105
135	Criteria for transfer of water service	105
	<i>Contracting out of water services</i>	
136	Contracts relating to provision of water services	106
	<i>Joint local government arrangements and joint arrangements with other entities</i>	
137	Joint local government arrangements and joint arrangements with other entities	106
	Subpart 3—Restrictions on disposal of parks, reserves, and endowment properties	
	<i>Parks and reserves</i>	
138	Restriction on disposal of parks (by sale or otherwise)	108
139	Protection of regional parks	109
139A	Further provision in relation to regional parks	110
	<i>Endowment property</i>	
140	Restrictions on disposal of endowment property	110
141	Conditions applying to sale or exchange of endowment property	111
	Subpart 4—Public libraries	
142	Obligation to provide free membership of libraries	112

	<b>Part 8</b>	
	<b>Regulatory, enforcement, and coercive powers of local authorities</b>	
	Subpart 1—Powers of local authorities to make bylaws	
143	Outline of Part	112
144	Bylaws Act 1910	113
	<i>Powers of territorial authorities to make bylaws</i>	
145	General bylaw-making power for territorial authorities	113
146	Specific bylaw-making powers of territorial authorities	113
147	Power to make bylaws for liquor control purposes	114
148	Special requirements for bylaws relating to trade wastes	115
	<i>Power of regional councils to make bylaws</i>	
149	Power of regional councils to make bylaws	116
	<i>Power of local authorities to prescribe fees</i>	
150	Fees may be prescribed by bylaw	117
	<i>General provisions applying to bylaws made by a local authority</i>	
151	General provisions applying to bylaws made under this Act	118
152	Effect of Building Act 2004 on bylaws	118
	<i>The Crown bound by certain bylaws</i>	
153	The Crown bound by certain bylaws	119
154	Power of exemption	119
	<i>Procedure for making bylaws</i>	
155	Determination whether bylaw made under this Act is appropriate	120
156	Special consultative procedure must be used in making, amending, or revoking bylaw made under this Act	120
157	Public notice of bylaws and availability of copies	121
	<i>Review of bylaws made under this Act or the Local Government Act 1974</i>	
158	Review of bylaws made under this Act or the Local Government Act 1974	121
159	Further reviews of bylaws every 10 years	122
160	Procedure for and nature of review	122
160A	Bylaw not reviewed within specified time frame revoked	123



	<i>Transfer of bylaw-making power</i>	
161	Transfer of bylaw-making power	123
	<i>Subpart 2—Enforcement powers</i>	
	<i>Injunctions</i>	
162	Injunctions restraining commission of offences and breaches of bylaws	123
	<i>Removal of works</i>	
163	Removal of works in breach of bylaws	124
	<i>Seizure of property</i>	
164	Seizure of property not on private land	124
165	Seizure of property from private land	125
166	Conditions for exercise of warrant to seize property on private land	126
167	Return of property seized and impounded	126
168	Power to dispose of property seized and impounded	127
	<i>Powers of arrest, search, and seizure in relation to liquor</i>	
169	Powers of arrest, search, and seizure in relation to bylaw prohibiting liquor in public place	127
170	Conditions relating to power of search	129
	<i>Powers of entry</i>	
171	General power of entry	130
172	Power of entry for enforcement purposes	130
173	Power of entry in cases of emergency	131
174	Authority to act	131
	<i>Recovery for damage</i>	
175	Power to recover for damage by wilful or negligent behaviour	132
176	Costs of remedying damage arising from breach of bylaw	132
	<i>Administration of enforcement functions</i>	
177	Appointment of enforcement officer	133
	<i>Powers of enforcement officers</i>	
178	Enforcement officers may require certain information	133
	<i>Administration of enforcement may be contracted out</i>	
179	Contracting out administration of enforcement	134

	<i>Enforcement of regional council bylaws</i>	
180	Enforcement and administration of regional council bylaws	134
	Subpart 3—Powers in relation to private land	
	<i>Construction of works</i>	
181	Construction of works on private land	135
	<i>Powers of entry</i>	
182	Power of entry to check utility services	136
	<i>Powers relating to owners and occupiers of land</i>	
183	Removal of fire hazards	136
184	Rights and obligations if notice given under section 183(1)	137
	<i>Default by owner or occupier</i>	
185	Occupier may act if owner of premises makes default	138
186	Local authority may execute works if owner or occupier defaults	138
	<i>Recovery of costs</i>	
187	Recovery of cost of works by local authority	140
188	Liability for payments in respect of private land	140
	<i>Compulsory acquisition of land</i>	
189	Power to acquire land	140
190	Compensation payable by local authority for land taken or injuriously affected	141
	<i>Nuisance</i>	
191	Local authority not authorised to create nuisance	141
	Subpart 4—Powers in relation to water services and trade wastes	
	<i>Water supply</i>	
192	Wastage of water	141
193	Power to restrict water supply	142
194	Power to stop water services <i>[Repealed]</i>	142
	<i>Discharge of sewage and trade wastes</i>	
195	Discharge of sewage	142
196	Discharge of trade wastes	143
	Subpart 5—Development contributions	
197	Interpretation	143

	<i>Contributions may be required by territorial authorities</i>	
198	Power to require contributions for developments	145
199	Basis on which development contributions may be required	146
	<i>Conditions relevant to requirement for contributions</i>	
200	Limitations applying to requirement for development contribution	146
	<i>Development contributions policy</i>	
201	Contents of development contributions policy	147
202	Contents of schedule to development contributions policy	148
203	Maximum development contributions not to be exceeded	148
	<i>Use of development contributions</i>	
204	Use of development contributions by territorial authority	149
205	Use of development contributions for reserves	149
206	Alternative uses of development contributions for reserves	150
207	Power to use money collected and held under Local Government Act 1974 or Resource Management Act 1991	151
	<i>Powers to recover unpaid development contributions</i>	
208	Powers of territorial authority if development contributions not paid or made	152
	<i>Refund of development contributions</i>	
209	Refund of money and return of land if development does not proceed	152
210	Refund of money or return of land if not applied to specified reserve purposes	153
211	Application of other Acts	153
	<b>Subpart 6—Removal orders</b>	
212	Interpretation	154
	<i>Application of rules of court</i>	
213	Application of District Courts Rules to removal orders	155
214	Scope of rules made under section 213	156
	<i>Application for removal order</i>	
215	Application for removal order	157
	<i>Making of removal orders</i>	
216	Circumstances when court may make removal order	157

	<i>Objection to making of removal order</i>	
217	Right of objection	158
218	Consideration of objections	158
	<i>Right of appeal</i>	
219	Appeal to High Court final	158
	<i>Compliance with removal order</i>	
220	Compliance with removal order	159
221	Limits to power of entry to enforce compliance	159
	<i>Application of certain other Acts</i>	
222	Provisions of Resource Management Act 1991 and Building Act 2004 continue to apply	161
223	Relationship with Fencing Act 1978	161
	<b>Part 9</b>	
	<b>Offences, penalties, infringement offences, and legal proceedings</b>	
	Subpart 1—Offences	
	<i>Offences relating to water</i>	
224	Offence relating to water wastage	162
225	Offences relating to waterworks	162
226	Liability for cost of damage	163
	<i>Offences relating to water meters</i>	
227	Offences relating to water meters	164
	<i>Offences relating to water races and private drains</i>	
228	Offences relating to water races	164
	<i>Offence relating to obstruction of enforcement officers and others</i>	
229	Obstruction of enforcement officers or agents of local authority	166
	<i>Offences by occupiers or owners</i>	
230	Offences by occupiers	166
231	Offences in relation to notices sent to occupiers or owners	167
	<i>Offences relating to property damage</i>	
232	Damage to local authority works or property	167
	<i>Miscellaneous offences</i>	
233	Offence relating to advertising	168
234	Unauthorised use of coat of arms	168

	<i>Offences committed by members and officers of local authorities</i>	
235	Offences by members of local authorities	168
236	Penalty for acting without warrant	169
	<i>Offences committed by members and officers of Remuneration Authority</i>	
237	Offence by member or officer of Remuneration Authority	169
	<i>Offences against Act</i>	
238	Offence of failing to comply with Act	169
	<i>Offences against bylaws</i>	
239	Offences punishable on summary conviction	170
	<i>Defences</i>	
240	Defence to offences under this Act	170
	<i>Information laid by local authority</i>	
241	Laying of information	171
	Subpart 2—Penalties	
242	Penalties for offences	171
	Subpart 3—Infringement offences	
243	Interpretation	172
244	Proceedings for infringement offences	172
245	Issue of infringement notices	172
246	Entitlement to infringement fees	173
	Subpart 4—Legal proceedings	
	<i>Procedure</i>	
247	Proceedings in District Court	174
	<i>Judges not disqualified</i>	
248	Judges not disqualified for being ratepayers	174
	<i>Representation</i>	
249	Representation of local authority in proceedings	174
	<i>Service</i>	
250	Service of legal proceedings on local authority	175
	<i>Evidence</i>	
251	Evidence of ownership, vesting, or control	175

	<i>Recovery of debts</i>	
252	Recovery of debts	175
	<b>Part 10</b>	
	<b>Powers of Minister to act in relation to local authorities</b>	
253	Outline of Part	176
	<i>Powers if local authority not performing</i>	
254	Minister may appoint review authority	176
255	Minister may appoint Commissioner to perform and exercise powers and duties of local authority or call general election	177
256	Minister may appoint person to act on behalf of local authority, or initiate review	177
257	Election called by Minister	178
	<i>Powers in relation to disaster recovery</i>	
258	Appointment of Commissioner and Deputy Commissioners for Disaster Recovery	179
	<b>Part 11</b>	
	<b>Regulations, other Orders in Council, and rules</b>	
	<i>Regulations</i>	
259	Regulations	179
259A	Levy to fund rules for performance measures	180
259B	Power to refund levy	181
	<i>Other Orders in Council</i>	
260	Amendment of Schedule 2 by Order in Council	181
261	Circumstances when Order in Council may extend time or validate action taken	182
	<i>Rules for performance measures</i>	
261A	Purpose of rules specifying performance measures	182
261B	Secretary must make rules specifying performance measures	183
261C	Status of rules	184
	<i>Incorporation by reference</i>	
261D	Incorporation of documents by reference in rules	184
261E	Proof of material incorporated by reference	185
261F	Effect of change to, or expiry of, material incorporated by reference	185
261G	Consultation on proposal to incorporate material by reference	186

261H	Access to material incorporated by reference	187
------	--	-----

**Part 12**

**Consequential amendments, repeals, revocations,  
transitional provisions, and savings**

*Consequential amendments, repeals, and revocations*

262	Consequential amendments	188
263	Water services	188
264	Amendment to Personal Property Securities Act 1999	188
265	New Schedule added to Receiverships Act 1993	188
266	Repeals	188
267	Repeal of enactments relating to special consultative procedure	188
268	Repeal of Local Government (Prohibition of Liquor in Public Places) Amendment Act 2001	189
269	Repeal of spent local Acts	189
270	Repeal of provisions relating to regional parks of Wellington Regional Council	189
271	Lake Taupo Regulations 1976	189
272	Revocations	189

*Transitional provisions*

273	First triennial agreement	190
274	First local governance statement	190
275	First policy on appointment of directors	190
276	First statement of intent and report and accounts of existing local authority trading enterprises	190
277	First statement of intent of other council-controlled organisations	191
278	First policy on significance	191
279	Long-term council community plan <i>[Repealed]</i>	191
280	Long-term plan for period beginning on 1 July 2006	191
281	Annual plan <i>[Repealed]</i>	191
282	Certain decisions to be taken only if provided for in annual plan or special consultative procedure used <i>[Repealed]</i>	191
283	Annual reports	192
284	First annual plan	192
285	First assessment of water and sanitary services	192
286	Waste management plan	193
287	Special consultative procedure	193
288	Decision-making processes commenced before enactment <i>[Repealed]</i>	193
289	Special orders	193

289A	Special orders on or after 1 July 2003	194
290	Development contributions	194
291	Reorganisation proposals	195
292	Existing charges	196
293	Bylaws	196
294	Standing orders	196
295	Communities and community boards	197
296	Chief executive	197
297	Members of Commission	197
298	Community trusts	198
299	Borrowing from sinking fund	198
300	Cancellation of part of loan in respect of which sinking fund is held	199
301	Consent required for release of sinking fund	199
302	Provisions relating to Public Trust and Board of Trustees of National Provident Fund	200
303	Public Bodies Leases Act 1969	200
304	Sale of land purchased for commercial or industrial purposes	201
305	Local Authorities (Employment Protection) Act 1963	201
306	Local Authorities Loans Act 1956	201
307	Existing proceedings	201
308	Existing causes of action	202
	<i>Savings</i>	
309	Saving	202
310	Saving in respect of bylaws of Transit New Zealand	202
311	Savings in respect of bylaws made in respect of government roads	203
312	Savings and validation in respect of remuneration, allowances, and expenses of elected members	203
313	Saving in respect of Infrastructure Auckland <i>[Repealed]</i>	204
314	Prohibition of vehicles and consumption or possession of intoxicating liquor in public place	205
	<b>Schedule 1</b>	206
	<b>Acts under which responsibilities, powers, and duties are conferred or imposed on Minister of Local Government and Secretary for Local Government</b>	
	<b>Schedule 2</b>	207
	<b>Local authorities</b>	



<b>Schedule 3</b>	215
<b>Reorganisation of local authorities</b>	
<b>Schedule 4</b>	261
<b>Provisions relating to Local Government Commission and its proceedings</b>	
<b>Schedule 5</b>	271
<b>Appeals against decisions of Local Government Commission</b>	
<b>Schedule 6</b>	275
<b>Constitution of communities</b>	
<b>Schedule 7</b>	280
<b>Local authorities and community boards, and their members</b>	
<b>Schedule 8</b>	310
<b>Statements of intent</b>	
<b>Schedule 9</b>	315
<b>Council-controlled organisations and transfer of undertakings</b>	
<b>Schedule 10</b>	318
<b>Long-term plans, annual plans, and annual reports</b>	
<b>Schedule 11</b>	336
<b>Matters relating to rates relief on Māori freehold land</b>	
<b>Schedule 12</b>	338
<b>Conditions of constructing or undertaking works on private land without the owner's consent</b>	
<b>Schedule 13</b>	340
<b>Methodology for calculating development contributions</b>	
<b>Schedule 14</b>	341
<b>Procedure for making removal orders</b>	
<b>Schedule 15</b>	345
<b>Powers of Minister</b>	
<b>Schedule 16</b>	360
<b>Consequential amendments</b>	
<b>Schedule 17</b>	373
<b>New Schedule of Receiverships Act 1993</b>	

<b>Schedule 18</b>	374
<b>Enactments repealed</b>	
<b>Schedule 19</b>	388
<b>Local Acts repealed</b>	
<b>Schedule 20</b>	430
<b>Orders in Council revoked</b>	

---

## **1 Title**

This Act is the Local Government Act 2002.

## **2 Commencement**

- (1) Sections 5, 6, and 7, subparts 1 to 3 of Part 6, subpart 2 of Part 7, sections 138, 267, 268, 271, 275, 276, 278, 279, 281, 282, 284, 287, 288, and 312, and Schedules 10 and 11 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on 1 July 2003.

## **Part 1** **Preliminary provisions**

## **3 Purpose**

The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities; and, to that end, this Act—

- (a) states the purpose of local government; and
- (b) provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and
- (c) promotes the accountability of local authorities to their communities; and
- (d) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

#### **4 Treaty of Waitangi**

In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Māori to contribute to local government decision-making processes, Parts 2 and 6 provide principles and requirements for local authorities that are intended to facilitate participation by Māori in local authority decision-making processes.

#### **5 Interpretation**

(1) In this Act, unless the context otherwise requires,—

**activity** means a good or service provided by, or on behalf of, a local authority or a council-controlled organisation; and includes—

- (a) the provision of facilities and amenities; and
- (b) the making of grants; and
- (c) the performance of regulatory and other governmental functions

**annual plan** means an annual plan adopted under section 95

**bylaw** means a bylaw made by a local authority under any enactment

**capital project** has the meaning given to it in section 5 of the Local Government (Rating) Act 2002

**Commission** means the Local Government Commission continued under section 28

**committee** includes, in relation to a local authority,—

- (a) a committee comprising all the members of that local authority; and
- (b) a standing committee or special committee appointed by that local authority; and
- (c) a joint committee appointed under clause 30 of Schedule 7; and
- (d) any subcommittee of a committee described in paragraph (a) or paragraph (b) or paragraph (c)

**community** means, subject to subsection (2), a community constituted under Schedule 6

**community board** means a community board established under section 49

**community facilities** has the meaning set out in section 197

**community infrastructure** has the meaning set out in section 197

**community outcomes** means the outcomes that a local authority aims to achieve in order to promote the social, economic, environmental, and cultural well-being of its district or region, in the present and for the future

**council-controlled organisation** has the meaning set out in section 6

**council-controlled trading organisation** has the meaning set out in section 6

**council organisation** has the meaning set out in section 6

**development contribution** has the meaning set out in section 197

**development contribution policy** has the meaning set out in section 197

**district** means the district of a territorial authority

**enforcement officer** means a person appointed by a local authority to exercise the powers of an enforcement officer in relation to offences against, and infringement offences under, this Act, including enforcement of the bylaws of the local authority

**equity security** has the meaning given to it in section 2 of the Securities Act 1978

**financial year** means a period of 12 months ending on 30 June

**generally accepted accounting practice** means—

- (a) financial reporting standards (within the meaning of section 2(1) of the Financial Reporting Act 1993) so far as those standards apply to local authorities and council-controlled organisations; and
- (b) in relation to matters for which no provision is made in financial reporting standards (within the meaning of section 2(1) of the Financial Reporting Act 1993) and that are not subject to any applicable rule of law, accounting policies that—
  - (i) are appropriate to the local authority or council-controlled organisation; and

- (ii) have authoritative support within the accounting profession in New Zealand

**group of activities** means 1 or more related activities provided by, or on behalf of, a local authority or council-controlled organisation

**local authority** means a regional council or territorial authority

**local government organisation** has the meaning set out in section 124

**long-term plan** means a long-term plan adopted under section 93

**lump sum contribution** has the meaning given to it in section 5 of the Local Government (Rating) Act 2002

**mayor** means the mayor of a territorial authority elected under the Local Electoral Act 2001

**member**,—

- (a) in relation to a community board, means a member appointed to that board or elected to that board under the Local Electoral Act 2001:
- (b) in relation to the Commission, means a member of the Local Government Commission:
- (c) in relation to a local authority, means a member of the governing body of the local authority elected under the Local Electoral Act 2001:
- (d) in relation to a regional council, means a member of the governing body of the regional council elected under the Local Electoral Act 2001, including the chairperson:
- (e) in relation to a territorial authority, means a member of the governing body of the territorial authority elected under the Local Electoral Act 2001, including the mayor

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**natural hazard** has the meaning given to it in section 2(1) of the Resource Management Act 1991

**network infrastructure** has the meaning set out in section 197

**operating expenses** and **operating revenues** have the same meaning as under generally accepted accounting practice

**public notice**, in relation to a notice given by a local authority,—

- (a) means a notice published in—
  - (i) 1 or more daily newspapers circulating in the region or district of the local authority; or
  - (ii) 1 or more other newspapers that have at least an equivalent circulation in that region or district to the daily newspapers circulating in that region or district; and
- (b) includes any other public notice that the local authority thinks desirable in the circumstances

**publicly available**, in relation to a document, has the meaning set out in subsection (3)

**region**—

- (a) means the region of a regional council; and
- (b) includes the district of a territorial authority, if the territorial authority is a unitary authority

**regional council** means a regional council named in Part 1 of Schedule 2

**reorganisation proposal** means a proposal initiated under section 24

**reorganisation scheme** means a reorganisation scheme within the meaning of clauses 18, 19, or 46 of Schedule 3

**reserve fund** means money set aside by a local authority for a specific purpose

**Secretary** means the Secretary for Local Government

**significance**, in relation to any issue, proposal, decision, or other matter that concerns or is before a local authority, means the degree of importance of the issue, proposal, decision, or matter, as assessed by the local authority, in terms of its likely impact on, and likely consequences for,—

- (a) the current and future social, economic, environmental, or cultural well-being of the district or region;
- (b) any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter:

- (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so

**significant**, in relation to any issue, proposal, decision, or other matter, means that the issue, proposal, decision, or other matter has a high degree of significance

**special consultative procedure** means the procedure set out in section 83

**strategic asset**, in relation to the assets held by a local authority, means an asset or group of assets that the local authority needs to retain if the local authority is to maintain the local authority's capacity to achieve or promote any outcome that the local authority determines to be important to the current or future well-being of the community; and includes—

- (a) any asset or group of assets listed in accordance with section 90(2) by the local authority; and
- (b) any land or building owned by the local authority and required to maintain the local authority's capacity to provide affordable housing as part of its social policy; and
- (c) any equity securities held by the local authority in—
  - (i) a port company within the meaning of the Port Companies Act 1988;
  - (ii) an airport company within the meaning of the Airport Authorities Act 1966

**territorial authority** means a city council or a district council named in Part 2 of Schedule 2

**unitary authority** means a territorial authority that has the responsibilities, duties, and powers of a regional council conferred on it under—

- (a) the provisions of any Act; or
- (b) an Order in Council giving effect to a reorganisation scheme

**wastewater** has the meaning given to wastewater services in section 124

**water race** means the land occupied by a water channel (other than a main river)—

- (a) constructed—
  - (i) by or under the authority of a local authority;

- (ii) in, upon, or through land for the supply of water; and
- (b) to be used—
  - (i) solely or principally for farming purposes; or
  - (ii) in the case of an existing water race, for any other purpose for which water from that water race may be used at the commencement of this section; and
- (c) includes—
  - (i) a branch of a water race taken or made through land for the purpose of supplying water as referred to in paragraph (b); and
  - (ii) an alteration, extension, or widening of a water race or branch water race, whether done by the local authority or by any person with the approval of the local authority; and
  - (iii) a flood or other bank, or a dam, sluice, flume, bridge, gauge, meter, reservoir, or other waterworks relating to, or forming part of, a water race; and
  - (iv) buildings and machinery, pipes, and other materials on the land and within the limits of a water race or relating to, or used in connection with, a water race

**waterworks**, in relation to the provision of water supply, includes—

- (a) rivers, streams, lakes, waters, and underground waters, and rights relating to these; and
- (b) land, watershed, catchment, and water collection areas; and
- (c) if vested in a local government organisation, or acquired, constructed, or operated by, or under the control of, a local government organisation,—
  - (i) reservoirs, dams, bores, tanks, and pipes; and
  - (ii) buildings, machinery, and appliances

**working day** means a day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and



- (b) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
  - (c) if 1 January falls on a Friday, the following Monday; and
  - (d) if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday.
- (2) The meaning given to the term **community** by subsection (1) does not apply in relation to—
  - (a) section 3; or
  - (b) the definition of the term long-term plan; or
  - (c) any of the provisions of Parts 2 and 6; or
  - (d) any of the provisions of Schedules 10 and 11; or
  - (e) any other provisions of this Act in respect of which the context otherwise requires.
- (3) If a local authority or a council-controlled organisation is required under this Act to make a document publicly available, it must take reasonable steps to—
  - (a) ensure that the document or a copy of the document is accessible to the general public; and
  - (b) publicise both the fact that the document is available and the manner in which copies of the document may be obtained.

Section 5(1) **bylaw**: inserted, on 28 June 2006, by section 4(1) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 5(1) **capital project**: inserted, on 28 June 2006, by section 15(1) of the Local Government (Rating) Amendment Act 2006 (2006 No 28).

Section 5(1) **community facilities**: substituted, on 28 June 2006, by section 4(2) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 5(1) **community outcomes**: substituted, on 27 November 2010, by section 4(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 5(1) **equity security**: inserted, on 27 November 2010, by section 4(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 5(1) **generally accepted accounting practice** paragraph (a): amended, on 1 July 2011, by section 12 of the Financial Reporting Amendment Act 2011 (2011 No 22).

Section 5(1) **generally accepted accounting practice** paragraph (b): amended, on 1 July 2011, by section 12 of the Financial Reporting Amendment Act 2011 (2011 No 22).

Section 5(1) **long-term council community plan**: repealed, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 5(1) **long-term plan**: inserted, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 5(1) **lump sum contribution**: inserted, on 28 June 2006, by section 15(1) of the Local Government (Rating) Amendment Act 2006 (2006 No 28).

Section 5(1) **natural hazard**: inserted, on 27 November 2010, by section 4(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 5(1) **network assets of Watercare Services Limited**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(1) **reserve fund**: inserted, on 27 November 2010, by section 4(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 5(1) **waterworks**: substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(2)(b): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## 6 **Meaning of council-controlled organisation and council organisation**

(1) In this Act, unless the context otherwise requires,—

**council-controlled organisation** means a council organisation that is—

- (a) a company—
  - (i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—
    - (A) held by 1 or more local authorities; or
    - (B) controlled, directly or indirectly, by 1 or more local authorities; or
  - (ii) in which 1 or more local authorities have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or
- (b) an entity in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—
  - (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the entity; or

- (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the entity

**council-controlled trading organisation** means a council-controlled organisation that operates a trading undertaking for the purpose of making a profit

**council organisation** means—

- (a) a company—
    - (i) in which equity securities carrying voting rights at a meeting of the shareholders of the company are—
      - (A) held by 1 or more local authorities; or
      - (B) controlled, directly or indirectly, by 1 or more local authorities; or
    - (ii) in which 1 or more local authorities have the right, directly or indirectly, to appoint 1 or more of the directors (however described) of the company; or
  - (b) an entity in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—
    - (i) control, directly or indirectly, of 1 or more of the votes at any meeting of the members or controlling body of the entity; or
    - (ii) the right, directly or indirectly, to appoint 1 or more of the trustees, directors, or managers (however described) of the entity.
- (2) For the purposes of subsection (1), **entity** means any partnership, trust, arrangement for the sharing of profits, union of interest, co-operation, joint venture, or other similar arrangement; but does not include a company, or a committee or joint committee of a local authority.
- (3) If a council organisation is not a company, references in this Act, in relation to the council organisation, to—
- (a) equity securities include any form of voting rights in that organisation; and
  - (b) the directors and the board include trustees, managers, or office holders (however described in that organisation); and

- (c) shareholders include any partners, joint venture partners, members, or other persons holding equity securities in relation to that organisation; and
  - (d) the constitution include any rules or other documents constituting that organisation or governing its activities; and
  - (e) subsidiaries include any entity that would be a council-controlled organisation if the references to “local authority” or “local authorities” in subsection (1) read “council-controlled organisation” or “council-controlled organisations”.
- (4) The following entities are not council-controlled organisations:
- (a) a body corporate that carries on an electricity business (whether or not that business is its principal or only business) or a trust that is constituted for purposes which include owning or controlling, directly or indirectly, all or part of an electricity company that carries on that business; or
  - (b) an energy company within the meaning of the Energy Companies Act 1992; or
  - (c) a port company or subsidiary of a port company within the meaning of the Port Companies Act 1988; or
  - (ca) a company in which a port company (within the meaning of the Port Companies Act 1988) holds or controls 50% of the shares; or
  - (d) *[Repealed]*
  - (e) New Zealand Local Government Association Incorporated; or
  - (f) New Zealand Local Government Insurance Corporation Limited and its subsidiaries; or
  - (g) *[Repealed]*
  - (h) a company or other organisation (as defined in subsection (2)) of which the New Zealand Local Government Association Incorporated has control directly or indirectly by whatever means; or
  - (i) an organisation exempted under section 7.

- (5) In this section, terms not defined in this Act, but defined in the Companies Act 1993, have the same meaning as in that Act.

Compare: 1974 No 66 s 594B

Section 6(1) **council-controlled organisation** paragraph (b): amended, on 7 July 2004, by section 3(1) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(1) **council-controlled organisation** paragraph (b)(i): amended, on 7 July 2004, by section 3(1) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(1) **council-controlled organisation** paragraph (b)(ii): amended, on 7 July 2004, by section 3(1) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(1) **council organisation** paragraph (a)(ii): amended, on 7 July 2004, by section 3(2) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(1) **council organisation** paragraph (b): amended, on 7 July 2004, by section 3(3) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(1) **council organisation** paragraph (b)(i): amended, on 7 July 2004, by section 3(3) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(1) **council organisation** paragraph (b)(ii): amended, on 7 July 2004, by section 3(3) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(2): amended, on 7 July 2004, by section 3(4) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(4)(a): substituted, on 1 November 2010, by section 166 of the Electricity Industry Act 2010 (2010 No 116).

Section 6(4)(ca): inserted, on 7 July 2004, by section 3(5) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 6(4)(d): repealed, on 1 July 2004, by section 48(1)(b) of the Local Government (Auckland) Amendment Act 2004 (2004 No 57).

Section 6(4)(g): repealed, on 1 July 2012, by section 113(2) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## 7 Exempted organisations

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, exempt an organisation for the purposes of section 6(4)(i).
- (2) The Minister may make a recommendation only if—
- (a) the organisation is subject to monitoring and reporting requirements under an enactment; and
  - (b) in the Minister's opinion, the organisation's accountability under that enactment is of a similar nature and

effect to that required of a council-controlled organisation under this Act.

- (3) A local authority may, after having taken account of the matters specified in subsection (5), exempt a small organisation that is not a council-controlled trading organisation, for the purposes of section 6(4)(i).
- (4) An exemption must be granted by resolution of the local authority.
- (5) The matters are—
  - (a) the nature and scope of the activities provided by the organisation; and
  - (b) the costs and benefits, if an exemption is granted, to the local authority, the council-controlled organisation, and the community.
- (6) A local authority must review an exemption it has granted—
  - (a) within 3 years after it is granted; and
  - (b) after the first review, at intervals of not less than 3 years.
- (7) A local authority may, at any time, revoke an exemption it has granted.

Section 7(1): amended, on 28 June 2006, by section 5(1) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 7(2): substituted, on 28 June 2006, by section 5(2) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

## **8 Act binds the Crown**

- (1) Except as provided in subsections (2) and (3), this Act does not bind the Crown.
- (2) The following provisions of this Act bind the Crown:
  - (a) section 22 and subpart 4 of Part 2 (which relate to the powers of the Minister and of officials); and
  - (b) Part 3 and Schedules 4, 5, and 6 (which relate to the Commission, the reorganisation of local authorities, and the establishment of community boards); and
  - (c) Part 10 and Schedule 15 (which relate to the Minister's powers in relation to the governance of local authorities).
- (3) Subpart 1 of Part 8 binds the Crown to the extent set out in sections 153 and 154.

- (4) Except as provided in subsections (2) and (3), this Act, and the regulations and bylaws made under it, apply to the interest of any lessee, licensee, or other person claiming an interest in any property of the Crown in the same manner as they apply to private property.
- (5) A local authority or person or body of persons (whether incorporated or not) appointed, under section 28 of the Reserves Act 1977, to control and manage any public reserve that is vested in the Crown is, by virtue of that appointment, deemed to have an interest in that reserve.

## **Part 2**

### **Purpose of local government, and role and powers of local authorities**

#### **9 Outline of Part**

This Part—

- (a) states the purpose of local government; and
- (b) states the role and powers of local authorities.

#### **Subpart 1—Purpose of local government**

#### **10 Purpose of local government**

The purpose of local government is—

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

#### **Subpart 2—Role of local authorities and related matters**

#### **11 Role of local authority**

The role of a local authority is to—

- (a) give effect, in relation to its district or region, to the purpose of local government stated in section 10; and
- (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.

**11A Core services to be considered in performing role**

In performing its role, a local authority must have particular regard to the contribution that the following core services make to its communities:

- (a) network infrastructure:
- (b) public transport services:
- (c) solid waste collection and disposal:
- (d) the avoidance or mitigation of natural hazards:
- (e) libraries, museums, reserves, recreational facilities, and other community infrastructure.

Section 11A: inserted, on 27 November 2010, by section 5 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**12 Status and powers**

- (1) A local authority is a body corporate with perpetual succession.
- (2) For the purposes of performing its role, a local authority has—
  - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
  - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) is subject to this Act, any other enactment, and the general law.
- (4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district.
- (5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.
- (6) Subsections (4) and (5) do not—
  - (a) prevent 2 or more local authorities engaging in a joint undertaking, a joint activity, or a co-operative activity; or
  - (b) prevent a transfer of responsibility from one local authority to another in accordance with this Act; or
  - (c) restrict the activities of a council-controlled organisation; or
  - (d) prevent a local authority from making a donation (whether of money, resources, or otherwise) to another



local authority or to a person or organisation outside its district or region or outside New Zealand—

- (i) if the local authority considers, on reasonable grounds, that the donation will benefit its district or region, or the communities within its district or region; or
- (ii) if the local authority considers, on reasonable grounds, that a benefit will be conferred on the local government sector as a whole; or
- (iii) for emergency relief; or
- (e) prevent a local authority from making a donation (whether of money, resources, or otherwise) to a local government body outside New Zealand to enable it to share its experience and expertise with that body.

Section 12(6)(c): amended, on 28 June 2006, by section 6 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 12(6)(d): added, on 28 June 2006, by section 6 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 12(6)(e): added, on 28 June 2006, by section 6 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### **13 Performance of functions under other enactments**

Sections 10 and 12(2) apply to a local authority performing a function under another enactment to the extent that the application of those provisions is not inconsistent with the other enactment.

### **14 Principles relating to local authorities**

- (1) In performing its role, a local authority must act in accordance with the following principles:
  - (a) a local authority should—
    - (i) conduct its business in an open, transparent, and democratically accountable manner; and
    - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner;
  - (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
  - (c) when making a decision, a local authority should take account of—

- (i) the diversity of the community, and the community's interests, within its district or region; and
    - (ii) the interests of future as well as current communities; and
    - (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:
  - (d) a local authority should provide opportunities for Māori to contribute to its decision-making processes:
  - (e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and
  - (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
  - (fa) a local authority should periodically—
    - (i) assess the expected returns to the authority from investing in, or undertaking, a commercial activity; and
    - (ii) satisfy itself that the expected returns are likely to outweigh the risks inherent in the investment or activity; and
  - (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and
  - (h) in taking a sustainable development approach, a local authority should take into account—
    - (i) the social, economic, and cultural well-being of people and communities; and
    - (ii) the need to maintain and enhance the quality of the environment; and
    - (iii) the reasonably foreseeable needs of future generations.
- (2) If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).

Section 14(1)(fa): inserted, on 27 November 2010, by section 6 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### Subpart 3—Co-ordination of responsibilities of local authorities

#### **15 Triennial agreements**

- (1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement containing protocols for communication and co-ordination among them during the period until the next triennial general election of members.
- (2) Each agreement must include a statement of the process for consultation on proposals for new regional council activities.
- (3) After the date specified in subsection (1), but before the next triennial general election of members, all local authorities within each region may meet and agree to amendments to the protocols.
- (4) An agreement remains in force until replaced by another agreement.

#### **16 Significant new activities proposed by regional council**

- (1) This section applies if,—
  - (a) in the exercise of its powers under section 12(2), a regional council proposes to undertake a significant new activity; or
  - (b) a regional council-controlled organisation proposes to undertake a significant new activity; and
  - (c) in either case, 1 or more territorial authorities in the region of the regional council—
    - (i) are already undertaking the significant new activity; or
    - (ii) have notified their intention to do so in their long-term plans or their annual plans.
- (2) When this section applies, the regional council—
  - (a) must advise all the territorial authorities within its region and the Minister of the proposal and the reasons for it; and
  - (b) must include the proposal in its draft long-term plan.
- (3) A proposal included in a draft long-term plan must include—
  - (a) the reasons for the proposal; and

- (b) the expected effects of the proposal on the activities of the territorial authorities within the region; and
  - (c) the objections raised by those territorial authorities, if any.
- (4) If, after complying with subsection (2), the regional council indicates that it intends to continue with the proposal, but agreement is not reached on the proposal among the regional council and all of the affected territorial authorities, either the regional council or 1 or more of the affected territorial authorities may submit the matter to mediation.
- (5) Mediation must be by a mediator or a mediation process—
  - (a) agreed to by the relevant local authorities; or
  - (b) in the absence of an agreement, as specified by the Minister.
- (6) If mediation is unsuccessful, either the regional council or 1 or more affected territorial authorities may ask the Minister to make a binding decision on the proposal.
- (7) Before making a binding decision, the Minister must—
  - (a) seek and consider the advice of the Commission; and
  - (b) consult with other Ministers whose responsibilities may be affected by the proposal.
- (8) This section does not apply to—
  - (a) a proposal by a regional council to establish, own, or operate a park for the benefit of its region; or
  - (b) a proposal to transfer responsibilities; or
  - (c) a proposal to transfer bylaw-making powers; or
  - (d) a reorganisation proposal; or
  - (e) a proposal to undertake an activity or enter into an undertaking jointly with the Crown.
- (9) For the purposes of this section,—  
**affected territorial authority** means a territorial authority—
  - (a) the district of which is wholly or partly in the region of a regional council; and
  - (b) that undertakes, or has notified in its long-term plan or annual plan its intention to undertake, the significant new activity

**annual plan—**

- (a) means a report adopted under section 223D of the Local Government Act 1974; and
- (b) includes such a report that section 281 applies to

**new activity—**

- (a) means an activity that, before the commencement of this section, a regional council was not authorised to undertake; but
- (b) does not include an activity authorised by or under an enactment

**regional council-controlled organisation** means a council-controlled organisation that is—

- (a) a company—
  - (i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—
    - (A) held by 1 or more regional councils; or
    - (B) controlled, directly or indirectly, by 1 or more regional councils; or
  - (ii) in which 1 or more regional councils have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or
- (b) an organisation in respect of which 1 or more regional councils have, whether or not jointly with other regional councils or persons,—
  - (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the organisation; or
  - (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the organisation.

Section 16(1)(c)(ii): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 16(2)(b): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 16(3): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 16(9) **affected territorial authority** paragraph (b): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**17 Transfer of responsibilities**

- (1) A regional council may transfer 1 or more of its responsibilities (other than a responsibility that may be transferred under section 33 of the Resource Management Act 1991) to a territorial authority in accordance with this section.
- (2) A territorial authority may transfer 1 or more of its responsibilities (other than a responsibility that may be transferred under section 33 of the Resource Management Act 1991) to a regional council in accordance with this section.
- (3) A transfer of responsibilities under this section—
  - (a) must be made by agreement between the local authorities concerned and may be on the terms and conditions that are agreed; and
  - (b) may be, as agreed, either—
    - (i) a substantive transfer of responsibilities; or
    - (ii) a delegation of the undertaking of responsibilities with the transferring local authority remaining responsible for the exercise of those responsibilities.
- (4) A local authority may not transfer a responsibility, or accept a transfer of a responsibility, unless—
  - (a) it has—
    - (i) included the proposal in its annual plan or draft long-term plan; or
    - (ii) used the special consultative procedure; and
  - (b) it has given prior notice to the Minister of the proposal.
- (5) From the time a transfer takes effect, the responsibilities and powers of the local authority receiving the transfer are extended as necessary to enable the local authority to undertake, exercise, and perform the transferred responsibilities.
- (6) If a transfer of responsibilities has been made, either local authority that was party to the transfer may, through the process set out in subsections (3) to (5), initiate—
  - (a) a variation of the terms of the transfer; or
  - (b) the reversal of the transfer.

Compare: 1974 No 66 ss 37SC, 37SD

Section 17(4)(a)(i): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### Subpart 4—Minister and Secretary

##### **18 Responsibilities, powers, and duties of Minister**

- (1) The responsibilities, powers, and duties conferred or imposed on the Minister of Internal Affairs by any of the Acts specified in Schedule 1, or by any regulations, rules, orders, or bylaws made under any of those Acts, must be exercised or performed by the Minister.
- (2) The Governor-General may, by Order in Council, amend Schedule 1 to add or delete any Act.

Compare: 1974 No 66 s 2A

##### **19 Secretary**

The responsibilities, powers, and duties conferred on the Secretary for Internal Affairs by any of the Acts specified in Schedule 1, or by any regulations, rules, orders, or bylaws made under any such Act, must be exercised or performed by the Secretary for Local Government.

Compare: 1974 No 66 s 2B(2)

### **Part 3**

#### **Structure and reorganisation of local government**

##### **20 Outline of Part**

This Part—

- (a) sets out the structure of local government; and
- (b) provides for the reorganisation of local authorities; and
- (c) continues the Local Government Commission.

#### Subpart 1—Structure of local government

##### **21 Local authorities**

- (1) Local government in New Zealand consists of the following local authorities:
  - (a) regional councils; and
  - (b) territorial authorities.
- (2) Every part of New Zealand (other than the Chatham Islands) that is within the district of a territorial authority must also be within the region of 1 or more regional councils.

- (3) Part 3 of Schedule 2 applies to the boundaries of regions and districts.

## **22 Minister is territorial authority in certain cases**

- (1) The Minister is the territorial authority for any part of New Zealand that does not form part of the district of a territorial authority.
- (2) Subsection (1)—
- (a) does not apply at all in relation to any of the following:
    - (i) the territorial sea; or
    - (ii) the Kermadec Islands; or
    - (iii) the Sub-Antarctic Islands (which include the Antipodes Islands, the Auckland Islands, the Bounty Islands, Campbell Island and the islands adjacent to Campbell Island, and the Snares Islands); and
  - (b) does not apply in relation to the Three Kings Islands (which include Great Island, South West Island, West Island, North East Island, and several islets and rock stacks) for the purposes of the Building Act 2004.
- (3) For the purposes of the Building Act 2004,—
- (a) the Minister of Local Government is the territorial authority for any part of New Zealand referred to in subsection (1); and
  - (b) the Minister of Conservation is the territorial authority for the islands referred to in subsection (2).

Compare: 1974 No 66 s 37R

Section 22(2): replaced, on 13 March 2012, by section 91(2) of the Building Amendment Act 2012 (2012 No 23).

Section 22(3): inserted, on 13 March 2012, by section 91(2) of the Building Amendment Act 2012 (2012 No 23).

## **23 Description of local government**

- (1) A territorial authority must be either a city council or a district council.
- (2) A territorial authority that is a city council must be described as the “[*name of city*] City Council”.
- (3) A territorial authority that is a district council must be described as the “[*name of district*] District Council”.



- (4) A regional council must be described as the “[*name of region*] Regional Council”.
- (5) Despite subsection (1), the Auckland Council and the Chatham Islands Council are territorial authorities.

Compare: 1974 No 66 s 37L(2), (3)

Section 23(5): substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

## Subpart 2—Reorganisation of local authorities

### **24 Reorganisation proposals**

- (1) A reorganisation proposal may deal with any or all of the following matters:
  - (a) the union of districts or regions:
  - (b) the constitution of a new district or region, including the constitution of a new local authority for that district or region:
  - (c) the abolition of a district or region, including the dissolution or abolition of the local authority for that district or region:
  - (d) the alteration of the boundaries of any district or region:
  - (e) the transfer of a statutory obligation from one local authority to another:
  - (f) a proposal that a territorial authority assume the power of a regional council.
- (2) Schedule 3 applies to reorganisation proposals.
- (3) A reorganisation proposal made before the commencement of this Act must be completed under the provisions of the Local Government Act 1974 (as if this Act had not been passed).

### **25 Order in Council to give effect to reorganisation schemes**

- (1) A reorganisation scheme—
  - (a) is given effect to by Order in Council; and
  - (b) has effect on and from the date specified for this purpose by Order in Council.
- (2) If a reorganisation scheme does not specifically provide for a matter that the Secretary considers to be necessary, desirable, or incidental as a consequence of the scheme,—

- (a) the Secretary must consult with the Commission, or any affected local authority, about the inclusion of the matter in the Order in Council; and
  - (b) the matter may be included in the Order in Council if considered appropriate by the Governor-General in Council.
- (3) Clause 67 of Schedule 3 applies in respect of each reorganisation scheme that is given effect to by Order in Council, except to the extent that the reorganisation scheme provides that the clause is—
  - (a) amended in its application by the reorganisation scheme; or
  - (b) declared not to apply.
- (4) Clauses 68 to 70 of Schedule 3 apply to each reorganisation scheme that is given effect to by Order in Council.
- (5) An Order in Council may, if appropriate, consequentially amend Part 1 or Part 2 of Schedule 2.

Compare: 1974 No 66 ss 37ZZZJ, 37ZZZK

## **26 Power to amend reorganisation schemes**

- (1) The Commission may issue a determination amending a reorganisation scheme if satisfied that—
  - (a) some further or other provision is necessary to enable, or better enable, the intention of the scheme; or
  - (b) some provision of the scheme is no longer relevant or appropriate to the intention of the scheme.
- (2) A determination issued under subsection (1) has effect on and from the date specified for this purpose by Order in Council.
- (3) In this section, **reorganisation scheme** means—
  - (a) a reorganisation scheme prepared under Schedule 3 and given effect to by Order in Council;
  - (b) a reorganisation scheme prepared and given effect to under the Local Government Act 1974.

Compare: 1974 No 66 s 37ZZZO

**27 Application to be called city council or district council**

- (1) A territorial authority that wishes to be called a city council or a district council may, instead of making a reorganisation proposal, apply to the Local Government Commission.
- (2) The Commission may refer the application to the Minister for the preparation of an Order in Council to give effect to it, if the Commission considers that—
  - (a) the application should be approved; and
  - (b) in the case of a territorial authority wishing to be called a city council, the district of the territorial authority meets the criteria specified in clause 7 of Schedule 3.
- (3) The Governor-General may, by Order in Council made on the recommendation of the Minister, give effect to the application.
- (4) The Order in Council may consequentially amend Part 2 of Schedule 2.

**Subpart 3—Local Government Commission**

**28 Local Government Commission**

There continues to be a Local Government Commission.

Compare: 1974 No 66 s 37V

**29 Commission is body corporate with full powers**

- (1) The Commission is a body corporate with perpetual succession.
- (2) For the purpose of performing its functions, the Commission has—
  - (a) full capacity to carry on or undertake any activity, do any act, or enter into any transaction; and
  - (b) for the purposes of paragraph (a), full rights, powers, and privileges.

**30 Functions and powers of Commission**

- (1) The Commission has the functions, duties, and powers conferred on it by this Act or any other enactment.
- (2) Without limiting subsection (1), the Commission may—
  - (a) provide information about local government; and

- (b) promote good practice relating to a local authority or to local government generally.

Compare: 1974 No 66 s 37W

### **31 Report to Minister on matters relating to local government**

- (1) The Commission may consider, report on, and make recommendations to the Minister and any relevant local authority on matters relating to a local authority or local government considered appropriate by the Commission.
- (2) The Commission must consider, report on, and make recommendations to the Minister and any relevant local authority on matters relating to a local authority or local government that are referred to the Commission by the Minister.
- (3) If the Minister refers any matter to the Commission under subsection (2), the Minister must immediately publish the terms of reference in the *Gazette*.
- (4) A local authority that receives a report or recommendation from the Commission under subsection (1) or subsection (2) must consider and respond to the Commission in relation to the report or recommendation.
- (5) A local authority must comply with subsection (4)—
  - (a) by a date specified by the Commission; or
  - (b) if the Commission does not specify a date, within 20 working days after receiving a report or recommendation.

Compare: 1974 No 66 s 37X

### **32 Review of operation of Act and Local Electoral Act 2001**

- (1) The Commission must—
  - (a) review the operation of this Act and the Local Electoral Act 2001; and
  - (b) present a report on the review to the Minister.
- (2) The report must be presented to the Minister as soon as practicable after the triennial general election of members of local authorities in 2007.
- (3) Without limiting the scope of the review, the review must determine and assess—

- (a) the impact of conferring on local authorities full capacity, rights, powers, and privileges; and
  - (b) the cost-effectiveness of consultation and planning procedures; and
  - (c) the impact of increasing participation in local government and improving representation on local authorities.
- (4) The Commission must, no later than 1 July 2005, present a report to the Minister if it considers that amendments should be made to this Act or the Local Electoral Act 2001 before the triennial general election of members of local authorities in 2007.

### **33 Membership of Commission**

- (1) The Commission consists of 3 members appointed by the Minister.
- (2) One member of the Commission—
  - (a) must have a knowledge of tikanga Māori; and
  - (b) is to be appointed after consultation with the Minister of Māori Affairs.
- (3) The powers of the Commission are not affected by any vacancy in its membership.
- (4) No person is to be treated as employed in the service of the Crown for the purposes of the Government Superannuation Fund Act 1956 or the State Sector Act 1988 because the person is a member of the Commission.
- (5) In this section, **tikanga Māori** means Māori custom and practice.

Compare: 1974 No 66 s 37Y

### **34 Commission is Commission of Inquiry**

- (1) The Commission is to be treated as a Commission of Inquiry under the Commissions of Inquiry Act 1908 and, subject to this Act, the provisions of that Act (except sections 2, 4A, and 11 to 15), as far as they are applicable, apply accordingly.
- (2) The chairperson of the Commission, or any other person (being a member of the Commission or an officer of the Public Service) purporting to act by direction or with the authority of the chairperson, may—

- (a) issue summonses requiring the attendance of witnesses before the Commission or the production of documents; and
- (b) do any other act preliminary or incidental to the investigation or consideration of any matter by the Commission.

Compare: 1974 No 66 Schedule 3A cl 8

### **35 Evidence before Commission**

- (1) The Evidence Act 2006 applies to the Commission and its members, and to all proceedings before the Commission, in the same manner as if the Commission were a court within the meaning of that Act.
- (2) However, the Commission may receive as evidence any statement, document, information, or matter that may, in its opinion, assist it to deal effectively with the matter being dealt with, whether or not the same would be admissible in a court of law.

Compare: 1974 No 66 Schedule 3A cl 9

Section 35(1): amended, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

### **36 Further provisions relating to Commission and its proceedings**

Schedule 4 applies in respect of the Commission and its proceedings.

### **37 Appeals against decisions of Commission**

Schedule 5 applies in respect of appeals against decisions of the Commission.

## **Part 4**

### **Governance and management of local authorities and community boards**

#### **38 Outline of Part**

This Part—

- (a) identifies the principles and requirements for the governance and management of local authorities; and

- (b) provides for the establishment of community boards and their governance arrangements.

## Subpart 1—Local authorities

### *Governance and management*

#### **39 Governance principles**

A local authority must act in accordance with the following principles in relation to its governance:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community; and
- (b) a local authority should ensure that the governance structures and processes are effective, open, and transparent; and
- (c) a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities; and
- (d) a local authority should be a good employer; and
- (e) a local authority should ensure that the relationship between elected members and management of the local authority is effective and understood.

#### **40 Local governance statements**

- (1) A local authority must prepare and make publicly available, following the triennial general election of members, a local governance statement that includes information on—
  - (a) the functions, responsibilities, and activities of the local authority; and
  - (b) any local legislation that confers powers on the local authority; and
  - (ba) the bylaws of the local authority, including for each by-law, its title, a general description of it, when it was made, and, if applicable, the date of its last review under section 158 or 159; and

- (c) the electoral system and the opportunity to change it; and
  - (d) representation arrangements, including the option of establishing Māori wards or constituencies, and the opportunity to change them; and
  - (e) members' roles and conduct (with specific reference to the applicable statutory requirements and code of conduct); and
  - (f) governance structures and processes, membership, and delegations; and
  - (g) meeting processes (with specific reference to the applicable provisions of the Local Government Official Information and Meetings Act 1987 and standing orders); and
  - (h) consultation policies; and
  - (i) policies for liaising with, and memoranda or agreements with, Māori; and
  - (j) the management structure and the relationship between management and elected members; and
  - (k) equal employment opportunities policy; and
  - (l) key approved planning and policy documents and the process for their development and review; and
  - (m) systems for public access to it and its elected members; and
  - (n) processes for requests for official information.
- (2) A local authority must comply with subsection (1) within 6 months after each triennial general election of members of the local authority.
- (3) A local authority must update its governance statement as it considers appropriate.

Section 40(1)(ba): inserted, on 14 October 2007, by section 7 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### *Governing bodies and chief executives*

#### **41 Governing bodies**

- (1) A regional council must have a governing body consisting of—
- (a) members elected in accordance with the Local Electoral Act 2001; and



- (b) a chairperson elected by members of the regional council in accordance with clause 25 of Schedule 7.
- (2) A territorial authority must have a governing body consisting of members and a mayor elected in accordance with the Local Electoral Act 2001.
- (3) A governing body of a local authority is responsible and democratically accountable for the decision-making of the local authority.
- (4) A chairperson of a regional council, or a mayor of a territorial authority, is a Justice of the Peace during the time that he or she holds the office of chairperson or mayor.
- (5) An employee of a local authority who is elected to be a member of the local authority's governing body must resign from his or her position as an employee of the local authority before taking up his or her position as a member of the local authority.  
Compare: 1974 No 66 ss 101C, 101CA, 101N, 101T

#### **42 Chief executive**

- (1) A local authority must, in accordance with clauses 33 and 34 of Schedule 7, appoint a chief executive.
- (2) A chief executive appointed under subsection (1) is responsible to his or her local authority for—
  - (a) implementing the decisions of the local authority; and
  - (b) providing advice to members of the local authority and to its community boards, if any; and
  - (c) ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed or exercised; and
  - (d) ensuring the effective and efficient management of the activities of the local authority; and
  - (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority; and
  - (f) providing leadership for the staff of the local authority; and

- (g) employing, on behalf of the local authority, the staff of the local authority; and
  - (h) negotiating the terms of employment of the staff of the local authority.
- (3) A chief executive appointed under subsection (1) is responsible to his or her local authority for ensuring, so far as is practicable, that the management structure of the local authority—
  - (a) reflects and reinforces the separation of regulatory responsibilities and decision-making processes from other responsibilities and decision-making processes; and
  - (b) is capable of delivering adequate advice to the local authority to facilitate the explicit resolution of conflicting objectives.
- (4) For the purposes of any other Act, a chief executive appointed under this section is the principal administrative officer of the local authority.

Compare: 1974 No 66 ss 119C, 119D

#### *Other governance matters*

### **43 Certain members indemnified**

- (1) A member of a local authority (or a committee, community board, or other subordinate decision-making body of that local authority) is indemnified by that local authority, whether or not that member was elected to that local authority or community board under the Local Electoral Act 2001 or appointed by the local authority, for—
  - (a) costs and damages for any civil liability arising from any action brought by a third party if the member was acting in good faith and in pursuance (or intended pursuance) of the responsibilities or powers of the local authority (or committee, community board, or other subordinate decision-making body of that local authority); and
  - (b) costs arising from any successfully defended criminal action relating to acts or omissions in his or her capacity as a member.

- (2) Subsection (1) does not apply to a member's liability for a loss under section 46.
- (3) To avoid doubt, a local authority may not indemnify a director of a council-controlled organisation for any liability arising from that director's acts or omissions in relation to that council-controlled organisation.

**44 Report by Auditor-General on loss incurred by local authority**

- (1) For the purposes of this section and sections 45 and 46, a local authority is to be regarded as having incurred a loss to the extent that any of the following actions and omissions has occurred and the local authority has not been fully compensated for the action or omission concerned:
  - (a) money belonging to, or administrable by, a local authority has been unlawfully expended; or
  - (b) an asset has been unlawfully sold or otherwise disposed of by the local authority; or
  - (c) a liability has been unlawfully incurred by the local authority; or
  - (d) a local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.
- (2) If the Auditor-General is satisfied that a local authority has incurred a loss, the Auditor-General may make a report on the loss to the local authority, and may include in the report any recommendations in relation to the recovery of the loss or the prevention of further loss that the Auditor-General thinks fit.
- (3) The Auditor-General must send copies of the report to the Minister and every member of the local authority.

Compare: 1974 No 66 s 706A

**45 Local authority to respond to Auditor-General**

- (1) On receipt of a report from the Auditor-General, the local authority must, within 28 days, respond in writing to the Auditor-General, and send a copy of the response to the Minister.
- (2) The local authority's response must—

- (a) respond to each of the Auditor-General's recommendations; and
  - (b) include a statement as to what action, if any, the local authority intends to take in respect of the loss.
- (3) The Minister may extend the period of time within which the local authority must forward its response.
- (4) An individual member of the local authority may respond to the Auditor-General—
  - (a) by making a separate response to the Auditor-General, and sending a copy to the local authority and the Minister, within the time required for the local authority's response; or
  - (b) with the consent of the local authority, by incorporating that member's response in the local authority's response.
- (5) The local authority must, as soon as practicable after the expiry of the time for forwarding its response, table in a meeting of the local authority that is open to the public a copy of the Auditor-General's report, the local authority's response, and any response of an individual member of the local authority not incorporated in the local authority's response.

Compare: 1974 No 66 s 706B

#### **46 Members of local authority liable for loss**

- (1) If the Auditor-General has made a report on a loss to a local authority under section 44, then, without limiting any other person's liability for the loss, the loss is recoverable as a debt due to the Crown from each member of the local authority jointly and severally.
- (2) If the members of the local authority or any other person or persons do not pay the amount of the loss to the Crown or the local authority within a reasonable time, the Crown may commence proceedings to recover the loss from any or all of those members.
- (3) Any amount recovered by the Crown under subsection (2), less all costs incurred by the Crown in respect of the recovery, must be paid by the Crown to the local authority concerned.

- (4) It is a defence to any proceedings under subsection (2) if the defendant proves that the act or failure to act resulting in the loss occurred—
- (a) without the defendant's knowledge; or
  - (b) with the defendant's knowledge but against the defendant's protest made at or before the time when the loss occurred; or
  - (c) contrary to the manner in which the defendant voted on the issue at a meeting of the local authority; or
  - (d) in circumstances where, although being a party to the act or failure to act, the defendant acted in good faith and in reliance on reports, statements, financial data, or other information prepared or supplied, or on professional or expert advice given, by any of the following persons:
    - (i) an employee of the local authority whom the defendant believed on reasonable grounds to be reliable and competent in relation to the matters concerned;
    - (ii) a professional adviser or expert in relation to matters that the defendant believed on reasonable grounds to be within the person's professional or expert competence.

Compare: 1974 No 66 s 706C

**47 Members may be required to pay costs of proceeding in certain cases**

- (1) This section applies if, in a proceeding commenced by the Attorney-General, the local authority is—
- (a) held to have—
    - (i) disposed of, or dealt with, any of its property wrongfully or illegally; or
    - (ii) applied its property to any unlawful purpose; or
    - (iii) permitted the reserves that it must manage to be used for purposes not authorised by law; or
  - (b) restrained from acting in the ways referred to in paragraph (a).

- (2) If subsection (1) applies, costs and other expenses arising out of the proceeding or incurred in doing the things to which the proceeding relates—
- (a) must not be paid out of general revenues by the local authority; and
  - (b) must be paid, by order of the court, by the members of the local authority who, by voting or otherwise, assented to the acts concerned.
- (3) The court must not make an order under subsection (2) against a member of the local authority if the member proves that, in doing the act concerned,—
- (a) the member acted in good faith and in accordance with the written advice of the solicitor to the local authority; or
  - (b) the member acted honestly and reasonably and, having regard to all the circumstances of the case, the member ought fairly to be excused.

Compare: 1974 No 66 s 706

#### **48 Further provisions of Schedule 7**

The following activities of local authorities must be carried out in accordance with Part 1 of Schedule 7:

- (a) vacation of office by members:
- (b) remuneration of members:
- (c) conduct of members:
- (d) election and removal of chairperson, deputy chairperson, and deputy mayor:
- (e) calling of meetings:
- (f) conduct of meetings:
- (g) procedures at meetings:
- (h) subordinate decision-making structures:
- (i) delegations:
- (j) employment of staff.

### Subpart 2—Community boards

#### **49 Establishment of community boards**

- (1) A community board must be established for each community constituted, in accordance with Schedule 6, by—

- (a) an Order in Council giving effect to a reorganisation scheme; or
  - (b) a resolution made by the territorial authority within whose district the community will be situated as a result of a proposal by electors to establish a community; or
  - (c) a resolution made by the territorial authority within whose district the community will be situated as a result of the territorial authority's review of representation arrangements.
- (2) The community board must be described as the “[*name of community*] Community Board”.
- Compare: 1974 No 66 s 101ZG

## **50 Membership of community boards**

The membership of a community board consists of—

- (a) members elected under the Local Electoral Act 2001; and
- (b) members (if any) of, and appointed in accordance with the Local Electoral Act 2001 by, the territorial authority in whose district the relevant community is situated.

## **51 Status of community boards**

A community board—

- (a) is an unincorporated body; and
- (b) is not a local authority; and
- (c) is not a committee of the relevant territorial authority.

Compare: 1974 No 66 s 101ZP

## **52 Role of community boards**

The role of a community board is to—

- (a) represent, and act as an advocate for, the interests of its community; and
- (b) consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the community board; and
- (c) maintain an overview of services provided by the territorial authority within the community; and
- (d) prepare an annual submission to the territorial authority for expenditure within the community; and

- (e) communicate with community organisations and special interest groups within the community; and
- (f) undertake any other responsibilities that are delegated to it by the territorial authority.

Compare: 1974 No 66 s 101ZY

### **53 Powers of community boards**

- (1) A community board has the powers that are—
  - (a) delegated to it by the relevant territorial authority in accordance with clause 32 of Schedule 7; or
  - (b) prescribed by the Order in Council constituting its community.
- (2) The powers of a community board prescribed by Order in Council expire at the close of 6 years after the order comes into force.
- (3) Despite subsection (1), a community board may not—
  - (a) acquire, hold, or dispose of property; or
  - (b) appoint, suspend, or remove staff.

Compare: 1974 No 66 ss 101ZZ, 101ZZA

### **54 Application of other provisions to community boards**

- (1) Part 2 of Schedule 7 applies to community boards.
- (2) Part 1 of Schedule 7 (excluding clauses 15 and 33 to 36) applies to community boards, with all necessary modifications, as if they were local authorities.

## **Part 5**

### **Council-controlled organisations and council organisations**

### **55 Outline of Part**

This Part establishes—

- (a) requirements for the governance and accountability of council-controlled organisations and council organisations; and
- (b) procedures for the transfer of local authority undertakings to council-controlled organisations.



*Establishment*

**56 Consultation required before council-controlled organisation established**

- (1) A proposal to establish a council-controlled organisation must be adopted in accordance with the special consultative procedure before a local authority may establish or become a shareholder in the council-controlled organisation.
- (2) The consultation required in subsection (1) may be undertaken as part of another proposal or as part of a long-term plan.

Section 56(2): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

*Directors*

**57 Appointment of directors**

- (1) A local authority must adopt a policy that sets out an objective and transparent process for—
  - (a) the identification and consideration of the skills, knowledge, and experience required of directors of a council organisation; and
  - (b) the appointment of directors to a council organisation; and
  - (c) the remuneration of directors of a council organisation.
- (2) A local authority may appoint a person to be a director of a council organisation only if the person has, in the opinion of the local authority, the skills, knowledge, or experience to—
  - (a) guide the organisation, given the nature and scope of its activities; and
  - (b) contribute to the achievement of the objectives of the organisation.

**58 Role of directors of council-controlled organisations**

- (1) The role of a director of a council-controlled organisation is to assist the organisation to meet its objectives and any other requirements in its statement of intent.
- (2) This section does not limit or affect the other duties that a director of a council-controlled organisation has.

**59 Principal objective of council-controlled organisation**

- (1) The principal objective of a council-controlled organisation is to—
- (a) achieve the objectives of its shareholders, both commercial and non-commercial, as specified in the statement of intent; and
  - (b) be a good employer; and
  - (c) exhibit a sense of social and environmental responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage these when able to do so; and
  - (d) if the council-controlled organisation is a council-controlled trading organisation, conduct its affairs in accordance with sound business practice.
- (2) In subsection (1)(b), **good employer** has the same meaning as in clause 36 of Schedule 7.

**60 Decisions relating to operation of council-controlled organisations**

All decisions relating to the operation of a council-controlled organisation must be made by, or under the authority of, the board of the organisation in accordance with—

- (a) its statement of intent; and
- (b) its constitution.

Compare: 1974 No 66 s 594R

**61 Certain goods and services to be supplied under purchase contracts**

A local authority obtaining goods or services from a council-controlled organisation (whether for itself or any other person) must do so under a contract for the supply of the goods or services if the supply of the goods or services is an activity specified in the council-controlled organisation's statement of intent as an activity to be undertaken by the council-controlled organisation or any subsidiary of the council-controlled organisation.

**62 Prohibition on guarantees, etc**

A local authority must not give any guarantee, indemnity, or security in respect of the performance of any obligation by a council-controlled trading organisation.

Compare: 1974 No 66 s 594ZP

**63 Restriction on lending to council-controlled trading organisation**

A local authority must not lend money, or provide any other financial accommodation, to a council-controlled trading organisation on terms and conditions that are more favourable to the council-controlled trading organisation than those that would apply if the local authority were (without charging any rate or rate revenue as security) borrowing the money or obtaining the financial accommodation.

Compare: 1974 No 66 s 594ZPA

*Statements of intent*

**64 Statements of intent for council-controlled organisations**

- (1) A council-controlled organisation must have a statement of intent that complies with clauses 9 and 10 of Schedule 8.
- (2) *[Repealed]*
- (3) *[Repealed]*
- (4) Schedule 8 applies to statements of intent of council-controlled organisations.
- (5) A statement of intent—
  - (a) must not be inconsistent with the constitution of a council-controlled organisation; and
  - (b) may include and apply to 2 or more related council-controlled organisations.
- (6) Despite this section, an organisation that becomes a council-controlled organisation not more than 6 months before the end of a financial year is not required to prepare a statement of intent for that financial year.

Section 64(1): amended, on 27 November 2010, by section 7 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 64(2): repealed, on 7 July 2004, by section 4 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 64(3): repealed, on 7 July 2004, by section 4 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 64(6): added, on 28 June 2006, by section 8 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### *Monitoring and reporting*

#### **65 Performance monitoring**

- (1) A local authority that is a shareholder in a council organisation must regularly undertake performance monitoring of that organisation to evaluate its contribution to the achievement of—
  - (a) the local authority's objectives for the organisation; and
  - (b) (if applicable) the desired results, as set out in the organisation's statement of intent; and
  - (c) the overall aims and outcomes of the local authority.
- (2) A local authority must, as soon as practicable after a statement of intent of a council-controlled organisation is delivered to it,—
  - (a) agree to the statement of intent; or
  - (b) if it does not agree, take all practicable steps under clause 5 of Schedule 8 to require the statement of intent to be modified.

Section 65(1)(b): amended, on 7 July 2004, by section 5(1) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 65(2): amended, on 7 July 2004, by section 5(2) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 65(2)(a): amended, on 7 July 2004, by section 5(3) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

#### **66 Half-yearly report**

- (1) Within 2 months after the end of the first half of each financial year, the board of a council-controlled organisation must deliver to the shareholders a report on the organisation's operations during that half year.
- (2) The report must include the information required to be included by its statement of intent.

Compare: 1974 No 66 s 594Z

**67 Annual report**

- (1) Within 3 months after the end of each financial year, the board of a council-controlled organisation must deliver to the shareholders, and make available to the public, a report on the organisation's operations during that year.
- (2) The report must include the information required to be included by—
  - (a) sections 68 and 69; and
  - (b) its statement of intent.
- (3) *[Repealed]*

Section 67(3): repealed, on 7 July 2004, by section 6 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**68 Content of reports on operations of council-controlled organisations**

A report on the operations of a council-controlled organisation under section 67 must—

- (a) contain the information that is necessary to enable an informed assessment of the operations of that organisation and its subsidiaries, including—
  - (i) a comparison of the performance of the organisation and its subsidiaries with the statement of intent; and
  - (ii) an explanation of any material variances between that performance and the statement of intent; and
- (b) state the dividend, if any, authorised to be paid or the maximum dividend proposed to be paid by that organisation for its equity securities (other than fixed interest securities) for the financial year to which the report relates.

Compare: 1974 No 66 s 594Z

**69 Financial statements and auditor's report**

- (1) A report on the operations of a council-controlled organisation under section 67 must include—
  - (a) audited consolidated financial statements for that financial year for that organisation and its subsidiaries; and
  - (b) an auditor's report on—
    - (i) those financial statements; and

- (ii) the performance targets and other measures by which performance was judged in relation to that organisation's objectives.
- (2) The audited financial statements under subsection (1)(a) must be prepared in accordance with generally accepted accounting practice.

Compare: 1974 No 66 s 594Z

**70 Auditor-General is auditor of council-controlled organisations**

Despite sections 196 to 203 of the Companies Act 1993, a council-controlled organisation or a subsidiary of a council-controlled organisation is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Compare: 1974 No 66 s 594ZC

**71 Protection from disclosure of sensitive information**

Nothing in this Act requires the inclusion in any statement of intent, annual report, financial statement, or half-yearly report required to be produced under this Act by a council-controlled organisation of any information that may be properly withheld if a request for that information were made under the Local Government Official Information and Meetings Act 1987.

Compare: 1974 No 66 s 594ZA

**71A Application of Part to listed companies**

- (1) This section applies to a council-controlled organisation if the shares of any of the following are listed on a stock exchange:
  - (a) the council-controlled organisation;
  - (b) a holding company of the council-controlled organisation;
  - (c) controlling companies of the council-controlled organisation.
- (2) If subsection (1) applies, the council-controlled organisation is not required to—
  - (a) have a statement of intent under section 64;
  - (b) deliver a half-yearly report under section 66;
  - (c) deliver an annual report under section 67.

- (3) In this section,—

**controlling companies** means 2 or more companies whose degree of control over a council-controlled organisation, if exercisable by one notional company, would make the notional company a holding company of the council-controlled organisation

**holding company** has the same meaning as in section 5 of the Companies Act 1993.

Section 71A: inserted, on 7 July 2004, by section 7 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**72 Application of Act to related companies**

Sections 57 to 71 apply to a company as if it were a council-controlled organisation if the company is a related company (within the meaning of section 2(3) and (4) of the Companies Act 1993) of a council-controlled organisation.

Section 72: substituted, on 7 July 2004, by section 8 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

*Transfer of undertakings*

**73 Transfer of undertakings to council-controlled organisations**

Schedule 9 applies to the transfer of an existing undertaking to a council-controlled organisation.

*Application of Local Government Official  
Information and Meetings Act 1987 and  
Ombudsmen Act 1975 to council-controlled  
organisations*

**74 Official information**

- (1) Parts 1 to 6 of the Local Government Official Information and Meetings Act 1987 apply to a council-controlled organisation as if that organisation were a local authority.
- (2) The Ombudsmen Act 1975 applies to a council-controlled organisation as if that organisation were listed in Part 3 of Schedule 1 of that Act.

## Part 6

### Planning, decision-making, and accountability

#### 75 Outline of Part

This Part—

- (a) sets out obligations of local authorities in relation to the making of decisions:
- (b) states the obligations of local authorities in relation to the involvement of Māori in decision-making processes:
- (c) states the obligations of local authorities in relation to consultation with interested and affected persons:
- (d) sets out the nature and use of the special consultative procedure:
- (e) *[Repealed]*
- (f) prescribes the processes and general content of the long-term plan, the annual plan, and the annual report (all of which are prescribed in more detail in Schedule 10):
- (g) prescribes the obligations of local authorities in relation to financial management:
- (h) provides for borrowing by local authorities.

Section 75(e): repealed, on 27 November 2010, by section 8 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 75(f): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### Subpart 1—Planning and decision-making

##### *Decision-making*

#### 76 Decision-making

- (1) Every decision made by a local authority must be made in accordance with such of the provisions of sections 77, 78, 80, 81, and 82 as are applicable.
- (2) Subsection (1) is subject, in relation to compliance with sections 77 and 78, to the judgments made by the local authority under section 79.
- (3) A local authority—



- (a) must ensure that, subject to subsection (2), its decision-making processes promote compliance with subsection (1); and
  - (b) in the case of a significant decision, must ensure, before the decision is made, that subsection (1) has been appropriately observed.
- (4) For the avoidance of doubt, it is declared that, subject to subsection (2), subsection (1) applies to every decision made by or on behalf of a local authority, including a decision not to take any action.
- (5) Where a local authority is authorised or required to make a decision in the exercise of any power, authority, or jurisdiction given to it by this Act or any other enactment or by any bylaws, the provisions of subsections (1) to (4) and the provisions applied by those subsections, unless inconsistent with specific requirements of the Act, enactment, or bylaws under which the decision is to be made, apply in relation to the making of the decision.
- (6) This section and the sections applied by this section do not limit any duty or obligation imposed on a local authority by any other enactment.

**77 Requirements in relation to decisions**

- (1) A local authority must, in the course of the decision-making process,—
  - (a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - (b) assess those options by considering—
    - (i) the benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural well-being of the district or region; and
    - (ii) the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option; and
    - (iii) the impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and

- (iv) any other matters that, in the opinion of the local authority, are relevant; and
  - (c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.
- (2) This section is subject to section 79.

#### **78 Community views in relation to decisions**

- (1) A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.
- (2) *[Repealed]*
- (3) A local authority is not required by this section alone to undertake any consultation process or procedure.
- (4) This section is subject to section 79.

Section 78(2): repealed, on 27 November 2010, by section 9 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **79 Compliance with procedures in relation to decisions**

- (1) It is the responsibility of a local authority to make, in its discretion, judgments—
  - (a) about how to achieve compliance with sections 77 and 78 that is largely in proportion to the significance of the matters affected by the decision; and
  - (b) about, in particular,—
    - (i) the extent to which different options are to be identified and assessed; and
    - (ii) the degree to which benefits and costs are to be quantified; and
    - (iii) the extent and detail of the information to be considered; and
    - (iv) the extent and nature of any written record to be kept of the manner in which it has complied with those sections.

- (2) In making judgments under subsection (1), a local authority must have regard to the significance of all relevant matters and, in addition, to—
- (a) the principles set out in section 14; and
  - (b) the extent of the local authority's resources; and
  - (c) the extent to which the nature of a decision, or the circumstances in which a decision is taken, allow the local authority scope and opportunity to consider a range of options or the views and preferences of other persons.
- (3) The nature and circumstances of a decision referred to in subsection (2)(c) include the extent to which the requirements for such decision-making are prescribed in or under any other enactment (for example, the Resource Management Act 1991).
- (4) Subsection (3) is for the avoidance of doubt.

Section 79(3): added, on 7 July 2004, by section 9 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 79(4): added, on 7 July 2004, by section 9 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

## **80 Identification of inconsistent decisions**

- (1) If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by the local authority or any plan required by this Act or any other enactment, the local authority must, when making the decision, clearly identify—
- (a) the inconsistency; and
  - (b) the reasons for the inconsistency; and
  - (c) any intention of the local authority to amend the policy or plan to accommodate the decision.
- (2) Subsection (1) does not derogate from any other provision of this Act or of any other enactment.

## **81 Contributions to decision-making processes by Māori**

- (1) A local authority must—
- (a) establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority; and

- (b) consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority; and
  - (c) provide relevant information to Māori for the purposes of paragraphs (a) and (b).
- (2) A local authority, in exercising its responsibility to make judgments about the manner in which subsection (1) is to be complied with, must have regard to—
  - (a) the role of the local authority, as set out in section 11; and
  - (b) such other matters as the local authority considers on reasonable grounds to be relevant to those judgments.

### *Consultation*

#### **82 Principles of consultation**

- (1) Consultation that a local authority undertakes in relation to any decision or other matter must be undertaken, subject to subsections (3) to (5), in accordance with the following principles:
  - (a) that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons:
  - (b) that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority:
  - (c) that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented:
  - (d) that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons:

- (e) that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:
  - (f) that persons who present views to the local authority should be provided by the local authority with information concerning both the relevant decisions and the reasons for those decisions.
- (2) A local authority must ensure that it has in place processes for consulting with Māori in accordance with subsection (1).
- (3) The principles set out in subsection (1) are, subject to subsections (4) and (5), to be observed by a local authority in such manner as the local authority considers, in its discretion, to be appropriate in any particular instance.
- (4) A local authority must, in exercising its discretion under subsection (3), have regard to—
  - (a) the requirements of section 78; and
  - (b) the extent to which the current views and preferences of persons who will or may be affected by, or have an interest in, the decision or matter are known to the local authority; and
  - (c) the nature and significance of the decision or matter, including its likely impact from the perspective of the persons who will or may be affected by, or have an interest in, the decision or matter; and
  - (d) the provisions of Part 1 of the Local Government Official Information and Meetings Act 1987 (which Part, among other things, sets out the circumstances in which there is good reason for withholding local authority information); and
  - (e) the costs and benefits of any consultation process or procedure.
- (5) Where a local authority is authorised or required by this Act or any other enactment to undertake consultation in relation to any decision or matter and the procedure in respect of that consultation is prescribed by this Act or any other enactment, such of the provisions of the principles set out in subsection (1) as are inconsistent with specific requirements of the procedure

so prescribed are not to be observed by the local authority in respect of that consultation.

### **83 Special consultative procedure**

- (1) Where this Act or any other enactment requires a local authority to use or adopt the special consultative procedure, that local authority must—
- (a) prepare—
    - (i) a statement of proposal; and
    - (ii) a summary of the information contained in the statement of proposal (which summary must comply with section 89); and
  - (b) include the statement of proposal on the agenda for a meeting of the local authority; and
  - (c) make the statement of proposal available for public inspection at—
    - (i) the principal public office of the local authority; and
    - (ii) such other places as the local authority considers necessary in order to provide all ratepayers and residents of the district with reasonable access to that statement; and
  - (d) distribute in accordance with section 89(c) the summary of the information contained in the statement of proposal; and
  - (e) give public notice, and such other notice as the local authority considers appropriate, of the proposal and the consultation being undertaken; and
  - (f) include in the public notice a statement about how persons interested in the proposal—
    - (i) may obtain the summary of information about the proposal; and
    - (ii) may inspect the full proposal; and
  - (g) include in the public notice a statement of the period within which submissions on the proposal may be made to the local authority; and
  - (h) ensure that any person who makes a submission on the proposal within that period—

- (i) is sent a written notice acknowledging receipt of that person's submission; and
    - (ii) is given a reasonable opportunity to be heard by the local authority (if that person so requests); and
  - (i) ensure that the notice given to a person under paragraph (h)(i) contains information—
    - (i) advising that person of that person's opportunity to be heard; and
    - (ii) explaining how that person may exercise that person's opportunity to be heard; and
  - (j) ensure that, except as otherwise provided by Part 7 of the Local Government Official Information and Meetings Act 1987, every meeting at which submissions are heard or at which the local authority, community board, or committee deliberates on the proposal is open to the public; and
  - (k) subject to the Local Government Official Information and Meetings Act 1987, make all written submissions on the proposal available to the public.
- (2) The period specified in the statement included under subsection (1)(g) must be a period of not less than 1 month beginning with the date of the first publication of the public notice.
- (3) This section does not prevent a local authority from requesting or considering, before making a decision, comment or advice from an officer of the local authority or any other person in respect of the proposal or any submission or both.

Compare: 1974 No 66 s 716A

### **83A Combined or concurrent consultation**

- (1) Where this Act or any other enactment requires a local authority to use or adopt the special consultative procedure in relation to any decision or matter, it may (but is not required to) carry out the consultation at the same time as, or combined with, any other special consultative procedure that it is required to carry out under this or any other enactment.
- (2) This section—
- (a) applies except to the extent that this Act or any other enactment expressly provides otherwise; and

- (b) is for the avoidance of doubt.

Section 83A: inserted, on 7 July 2004, by section 10 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**84 Special consultative procedure in relation to long-term plan**

- (1) Where the special consultative procedure is used in relation to the adoption of a long-term plan under section 93, the statement of proposal referred to in section 83(1)(a) must include a draft of the long-term plan.
- (2) Where the special consultative procedure is used in relation to the amendment of a long-term plan under section 93, the statement of proposal referred to in section 83(1)(a)—
  - (a) must include a draft of the parts of the long-term plan that are proposed to be amended; and
  - (b) must be accompanied by a draft of any consequential amendments to the long-term plan that will be required if it is amended in the manner proposed.
- (3) Where a statement of proposal to which subsection (1) or subsection (2) applies relates to a proposal for the making of a decision to which section 97 applies, that statement of proposal must (unless the making of that decision was explicitly provided for in the long-term plan last adopted by the local authority) include—
  - (a) the details of the proposal; and
  - (b) the reasons for the proposal; and
  - (c) an analysis of the reasonably practicable options, including the proposal, identified under section 77(1); and
  - (d) in respect of a proposal to transfer ownership or control of a strategic asset from the local authority to any other person,—
    - (i) a description of any accountability or monitoring arrangements to be used to assess the performance of that person and any other person in regard to the asset; and
    - (ii) an assessment of whether there are any conflicts of interest arising from the proposed transfer of the control or ownership of the asset, and, if so, what they are and how they will be managed; and



- (e) in respect of a proposal that the local authority assume or cease responsibility for an activity,—
    - (i) an assessment of the possible effects on other current providers of the activity; and
    - (ii) an assessment of whether there are any conflicts of interest arising from the proposal, and, if so, what they are and how they will be managed.
- (4) A statement of proposal to which subsection (1) or subsection (2) applies must also contain a report from the local authority's auditor on—
  - (a) the extent to which the statement complies with the requirements of this Act; and
  - (b) the quality of the information and assumptions underlying the forecast information provided in the statement.
  - (c) *[Repealed]*
- (5) For the avoidance of doubt, the report under subsection (4) must not comment on the merits of any policy content of the statement.

Section 84 heading: amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 84(1): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 84(2): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 84(2)(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 84(2)(b): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 84(3): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 84(4)(b): amended, on 27 November 2010, by section 10(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 84(4)(c): repealed, on 27 November 2010, by section 10(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **85 Use of special consultative procedure in relation to annual plan**

- (1) Where the special consultative procedure is used in relation to the adoption of an annual plan under section 95, the statement of proposal referred to in section 83(1)(a) must include a draft of the annual plan.

- (2) A statement of proposal to which subsection (1) applies must also include—
- (a) the information that, under clauses 3 to 5 of Schedule 10, is specified, in relation to the year to which the draft annual plan relates, in the long-term plan in relation to each group of activities; and
  - (b) the reasons why any information included in the draft annual plan departs from information specified, in relation to the year to which the draft annual plan relates, in the long-term plan; and
  - (c) if it is proposed that the making of an amendment to the long-term plan and the adoption of the annual plan should take place concurrently, the summary under section 89 in relation to the amendment.

Section 85(2)(a): amended, on 27 November 2010, by section 11 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 85(2)(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 85(2)(b): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 85(2)(c): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 85(2)(c): amended, on 7 July 2004, by section 11 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

## **86 Use of special consultative procedure in relation to making, amending, or revoking bylaws**

- (1) This section applies to the following:
- (a) making a bylaw to which section 156 applies;
  - (b) amending a bylaw to which section 156 applies (other than under subsection (2) of that section);
  - (c) revoking a bylaw to which section 156 applies.
- (2) Where the special consultative procedure is used in relation to an activity described in subsection (1), the statement of proposal referred to in section 83(1)(a) must include,—
- (a) as the case may be,—
    - (i) a draft of the bylaw as proposed to be made or amended; or
    - (ii) a statement that the bylaw is to be revoked; and
  - (b) the reasons for the proposal; and

- (c) a report on any relevant determinations by the local authority under section 155.

Section 86: substituted, on 28 June 2006, by section 9 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**87 Other use of special consultative procedure**

- (1) This section applies in any case where—
  - (a) none of sections 84 to 86 apply but a local authority is required to use or adopt the special consultative procedure; or
  - (b) a local authority chooses to use the special consultative procedure.
- (2) In any case to which this section applies, the statement of proposal referred to in section 83(1)(a) is,—
  - (a) if a plan or policy or similar document is proposed to be adopted, a draft of the proposed plan, policy, or document; and
  - (b) in any other case, a detailed statement of the proposal.
- (3) A statement of proposal under subsection (2)(b) must include—
  - (a) a statement of the reasons for the proposal; and
  - (b) an analysis of the reasonably practicable options, including the proposal, identified under section 77(1); and
  - (c) any other information that the local authority identifies as relevant.

**88 Use of special consultative procedure in relation to change of mode of delivery of significant activity**

*[Repealed]*

Section 88: repealed, on 27 November 2010, by section 12 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**89 Summary of information**

A summary of the information contained in a statement of proposal must—

- (a) be a fair representation of the major matters in the statement of proposal; and
- (b) be in a form determined by the local authority; and

- (c) be distributed as widely as reasonably practicable (in such manner as is determined appropriate by the local authority, having regard to the matter to which the proposal relates) as a basis for general consultation; and
- (d) indicate where the statement of proposal may be inspected, and how a copy may be obtained; and
- (e) state the period within which submissions on the proposal may be made to the local authority.

## **90 Policy on significance**

- (1) Every local authority must adopt a policy setting out—
  - (a) that local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, or other matters; and
  - (b) any thresholds, criteria, or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, decisions, or other matters are significant.
- (2) The policy adopted under subsection (1) must list the assets considered by the local authority to be strategic assets.
- (3) A policy adopted under subsection (1) may be amended from time to time.
- (4) A local authority must use the special consultative procedure both in relation to—
  - (a) the adoption of a policy under subsection (1); and
  - (b) the amendment, under subsection (3), of a policy adopted under subsection (1).

### *Community outcomes*

*[Repealed]*

Heading: repealed, on 27 November 2010, by section 13 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **91 Process for identifying community outcomes**

*[Repealed]*

Section 91: repealed, on 27 November 2010, by section 13 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**92 Obligation to report against community outcomes**

*[Repealed]*

Section 92: repealed, on 27 November 2010, by section 13 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

*Planning*

**93 Long-term plan**

- (1) A local authority must, at all times, have a long-term plan under this section.
- (2) A local authority must use the special consultative procedure in adopting a long-term plan.
- (3) A long-term plan must be adopted before the commencement of the first year to which it relates, and continues in force until the close of the third consecutive year to which it relates.
- (4) A local authority may amend a long-term plan at any time.
- (5) A local authority must use the special consultative procedure in making any amendment to a long-term plan.
- (6) The purpose of a long-term plan is to—
  - (a) describe the activities of the local authority; and
  - (b) describe the community outcomes of the local authority's district or region; and
  - (c) provide integrated decision-making and co-ordination of the resources of the local authority; and
  - (d) provide a long-term focus for the decisions and activities of the local authority; and
  - (e) provide a basis for accountability of the local authority to the community; and
  - (f) provide an opportunity for participation by the public in decision-making processes on activities to be undertaken by the local authority.
- (7) A long-term plan adopted under this section must—
  - (a) cover a period of not less than 10 consecutive financial years; and
  - (b) include the information required by Part 1 of Schedule 10.
- (8) A local authority must, in complying with the requirements of this Act in relation to the preparation and adoption of a long-term plan, act in such manner, and include in that plan such

detail, as the local authority considers on reasonable grounds to be appropriate.

- (9) A local authority must, in deciding what is appropriate for the purposes of subsection (8), have regard to—
- (a) the provisions of sections 77, 78, 79, 80, 81, 82, 83, 84, 96, 97, and 101; and
  - (b) the significance of any matter; and
  - (c) the extent of the local authority's resources.
- (10) A local authority must, within 1 month after the adoption of its long-term plan,—
- (a) make its long-term plan publicly available; and
  - (b) send copies of that plan to—
    - (i) the Secretary; and
    - (ii) the Auditor-General; and
    - (iii) the Parliamentary Library.

Section 93 heading: amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(1): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(2): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(3): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(4): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(5): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(6): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(7): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(8): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(9): amended, on 7 July 2004, by section 12 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 93(10): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 93(10)(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**94 Audit of long-term plan**

- (1) The long-term plan must contain a report from the local authority's auditor on—
  - (a) the extent to which the local authority has complied with the requirements of this Act in respect of the plan; and
  - (b) the quality of the information and assumptions underlying the forecast information provided in the plan.
  - (c) *[Repealed]*
- (2) A report under subsection (1) may be in the form of confirmation or amendment of the report made by the auditor under section 84(4).
- (3) For the avoidance of doubt, a report under subsection (1) must not comment on the merits of any policy content of the plan.

Section 94 heading: amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 94(1): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 94(1)(b): amended, on 27 November 2010, by section 14(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 94(1)(c): repealed, on 27 November 2010, by section 14(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**95 Annual plan**

- (1) A local authority must prepare and adopt an annual plan for each financial year.
- (2) A local authority must use the special consultative procedure in adopting an annual plan.
- (3) An annual plan must be adopted before the commencement of the year to which it relates.
- (4) Despite subsection (1), for the first year to which a long-term plan under section 93 relates, the financial statement and funding impact statement included in that long-term plan in relation to that year must be regarded as the annual plan adopted by the local authority for that year.
- (5) The purpose of an annual plan is to—
  - (a) contain the proposed annual budget and funding impact statement for the year to which the annual plan relates; and

- (b) identify any variation from the financial statements and funding impact statement included in the local authority's long-term plan in respect of the year; and
  - (c) support the long-term plan in providing integrated decision-making and co-ordination of the resources of the local authority; and
  - (d) contribute to the accountability of the local authority to the community; and
  - (e) extend opportunities for participation by the public in decision-making processes relating to the costs and funding of activities to be undertaken by the local authority.
- (6) Each annual plan adopted under this section must—
  - (a) be prepared in accordance with the principles and procedures that apply to the preparation of the financial statements and funding impact statement included in the long-term plan; and
  - (b) contain appropriate references to the long-term plan in which the local authority's activities for the financial year covered by the annual plan are set out; and
  - (c) include the information required by Part 2 of Schedule 10.
- (7) A local authority must, within 1 month after the adoption of its annual plan,—
  - (a) make its annual plan publicly available; and
  - (b) send copies of that plan to—
    - (i) the Secretary; and
    - (ii) the Auditor-General; and
    - (iii) the Parliamentary Library.

Compare: 1974 No 66 s 223D(1), (3)–(5), (7)–(8)

Section 95(4): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 95(5)(b): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 95(5)(c): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 95(6)(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 95(6)(b): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).



**96 Effect of resolution adopting long-term plan or annual plan**

- (1) The effect of a long-term plan and an annual plan adopted by a local authority is to provide a formal and public statement of the local authority's intentions in relation to the matters covered by the plan.
- (2) A resolution to adopt a long-term plan or an annual plan does not constitute a decision to act on any specific matter included within the plan.
- (3) Subject to section 80, and except as provided in section 97, a local authority may make decisions that are inconsistent with the contents of any long-term plan or annual plan.
- (4) No person is entitled to require a local authority to implement the provisions of a long-term plan or an annual plan.
- (5) This section applies subject to Part 4A of the Local Government (Rating) Act 2002.

Section 96 heading: amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 96(1): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 96(2): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 96(3): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 96(4): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 96(5): added, on 28 June 2006, by section 15(2) of the Local Government (Rating) Amendment Act 2006 (2006 No 28).

**97 Certain decisions to be taken only if provided for in long-term plan**

- (1) This section applies to the following decisions of a local authority:
  - (a) a decision to alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the local authority, including a decision to commence or cease any such activity;
  - (b) a decision to transfer the ownership or control of a strategic asset to or from the local authority.

- (c) *[Repealed]*
- (d) *[Repealed]*
- (2) A local authority must not make a decision to which this section relates unless—
  - (a) the decision is explicitly provided for in its long-term plan; and
  - (b) the proposal to provide for the decision was included in a statement of proposal prepared under section 84.
- (3) Nothing in this section applies to a decision of a local authority to fund a capital project by lump sum contributions if the local authority has complied with section 117B(3)(c)(i) of the Local Government (Rating) Act 2002.

Section 97 heading: amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 97(1)(c): repealed, on 27 November 2010, by section 15 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 97(1)(d): repealed, on 27 November 2010, by section 15 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 97(2)(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 97(2)(a): amended, on 28 June 2006, by section 10 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 97(3): added, on 28 June 2006, by section 15(3) of the Local Government (Rating) Amendment Act 2006 (2006 No 28).

## Subpart 2—Reporting

### 98 Annual report

- (1) A local authority must prepare and adopt in respect of each financial year an annual report containing in respect of that year the information required by Part 3 of Schedule 10.
- (2) The purposes of an annual report are—
  - (a) to compare the actual activities and the actual performance of the local authority in the year with the intended activities and the intended level of performance as set out in respect of the year in the long-term plan and the annual plan; and
  - (b) to promote the local authority's accountability to the community for the decisions made throughout the year by the local authority.

- (3) Each annual report must be completed and adopted, by resolution, within 4 months after the end of the financial year to which it relates.
- (4) A local authority must, within 1 month after the adoption of its annual report, make publicly available—
  - (a) its annual report; and
  - (b) a summary of the information contained in its annual report.
- (5) The summary must represent, fairly and consistently, the information regarding the major matters dealt with in the annual report.
- (6) A local authority must, within 1 month after the adoption of its annual report, send copies of that report and of the summary prepared under subsection (4)(b) to—
  - (a) the Secretary; and
  - (b) the Auditor-General; and
  - (c) the Parliamentary Library.

Compare: 1974 No 66 s 223E(1), (2), (14), (15)(c)

Section 98(2)(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **99 Audit of information in annual report and summary**

- (1) In addition to the information required by Part 3 of Schedule 10, the annual report must contain the auditor's report on—
  - (a) the financial statements referred to in clause 29 of Schedule 10; and
  - (b) the statement about budgeted and actual capital expenditure referred to in clause 24 of Schedule 10; and
  - (c) the funding impact statement referred to in clause 30 of Schedule 10; and
  - (d) the local authority's compliance with the requirements of Schedule 10 that are applicable to the annual report.
- (2) In addition to the information required by section 98(5), the summary required by section 98(4)(b) must contain the auditor's report on whether the summary represents, fairly and consistently, the information regarding the major matters dealt with in the annual report.

Compare: 1974 No 66 s 223E(8)(a)

Section 99(1): substituted, on 27 November 2010, by section 16 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **99A Pre-election report**

- (1) The chief executive of a local authority must prepare a pre-election report containing the information required by clause 36 of Schedule 10.
- (2) However, the chief executive of a local authority that has an ordinarily resident population of fewer than 20 000 people need not comply with clause 36(1)(a) and (2) of Schedule 10 for the financial year ending in the same year as the election.
- (3) Instead of complying with clause 36(1)(a) and (2) of Schedule 10, the chief executive of the local authority referred to in subsection (2) may include in a pre-election report the information set out in clause 37 of Schedule 10.
- (4) The purpose of a pre-election report is to provide information to promote public discussion about the issues facing the local authority.
- (5) A pre-election report must be completed and published no later than the day that is 2 weeks before the nomination day for a triennial general election of members of a local authority under the Local Electoral Act 2001.
- (6) A pre-election report must not contain a statement by, or a photograph of, an elected member of the local authority.

Section 99A: inserted, on 1 July 2011, by section 17 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### **Subpart 3—Financial management**

#### **100 Balanced budget requirement**

- (1) A local authority must ensure that each year's projected operating revenues are set at a level sufficient to meet that year's projected operating expenses.
- (2) Despite subsection (1), a local authority may set projected operating revenues at a different level from that required by that subsection if the local authority resolves that it is financially prudent to do so, having regard to—
  - (a) the estimated expenses of achieving and maintaining the predicted levels of service provision set out in the

- long-term plan, including the estimated expenses associated with maintaining the service capacity and integrity of assets throughout their useful life; and
- (b) the projected revenue available to fund the estimated expenses associated with maintaining the service capacity and integrity of assets throughout their useful life; and
  - (c) the equitable allocation of responsibility for funding the provision and maintenance of assets and facilities throughout their useful life; and
  - (d) the funding and financial policies adopted under section 102.

Section 100(2)(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **101 Financial management**

- (1) A local authority must manage its revenues, expenses, assets, liabilities, investments, and general financial dealings prudently and in a manner that promotes the current and future interests of the community.
- (2) A local authority must make adequate and effective provision in its long-term plan and in its annual plan (where applicable) to meet the expenditure needs of the local authority identified in that long-term plan and annual plan.
- (3) The funding needs of the local authority must be met from those sources that the local authority determines to be appropriate, following consideration of,—
  - (a) in relation to each activity to be funded,—
    - (i) the community outcomes to which the activity primarily contributes; and
    - (ii) the distribution of benefits between the community as a whole, any identifiable part of the community, and individuals; and
    - (iii) the period in or over which those benefits are expected to occur; and
    - (iv) the extent to which the actions or inaction of particular individuals or a group contribute to the need to undertake the activity; and

- (v) the costs and benefits, including consequences for transparency and accountability, of funding the activity distinctly from other activities; and
- (b) the overall impact of any allocation of liability for revenue needs on the current and future social, economic, environmental, and cultural well-being of the community.

Compare: 1974 No 66 s 122C(1)(a)–(c), (f)

Section 101(2): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### **101A Financial strategy**

- (1) A local authority must, as part of its long-term plan, prepare and adopt a financial strategy for all of the consecutive financial years covered by the long-term plan.
- (2) The purpose of the financial strategy is to facilitate—
  - (a) prudent financial management by the local authority by providing a guide for the local authority to consider proposals for funding and expenditure against; and
  - (b) consultation on the local authority’s proposals for funding and expenditure by making transparent the overall effects of those proposals on the local authority’s services, rates, debt, and investments.
- (3) The financial strategy adopted under this section must—
  - (a) include a statement of the factors that are expected to have a significant impact on the local authority during the consecutive financial years covered by the strategy, including—
    - (i) the expected changes in population and the use of land in the district or region, and the capital and operating costs of providing for those changes; and
    - (ii) the expected capital expenditure on network infrastructure, flood protection, and flood control works that is required to maintain existing levels of service currently provided by the local authority; and
    - (iii) other significant factors affecting the local authority’s ability to maintain existing levels of ser-

- vice and to meet additional demands for services;  
and
- (b) include a statement of the local authority's—
  - (i) quantified limits on rates, rate increases, and borrowing; and
  - (ii) assessment of its ability to provide and maintain existing levels of service and to meet additional demands for services within those limits; and
- (c) specify the local authority's policy on the giving of securities for its borrowing; and
- (d) specify the local authority's objectives for holding and managing financial investments and equity securities and its quantified targets for returns on those investments and equity securities.

Section 101A: inserted, on 27 November 2010, by section 18 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **102 Funding and financial policies**

- (1) A local authority must, in order to provide predictability and certainty about sources and levels of funding, adopt the funding and financial policies listed in subsection (2).
- (2) The policies are—
  - (a) a revenue and financing policy; and
  - (b) a liability management policy; and
  - (c) an investment policy; and
  - (d) a policy on development contributions or financial contributions; and
  - (e) a policy on the remission and postponement of rates on Māori freehold land.
- (3) A local authority may adopt either or both of the following policies:
  - (a) a rates remission policy;
  - (b) a rates postponement policy.
- (4) A local authority—
  - (a) must use the special consultative procedure in adopting a policy under this section;
  - (b) may amend a policy adopted under this section at any time using the special consultative procedure.
- (5) However, subsection (4) does not apply to—

- (a) a liability management policy:
- (b) an investment policy.

Section 102: substituted, on 27 November 2010, by section 19 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### **103 Revenue and financing policy**

- (1) A policy adopted under section 102(1) must state—
  - (a) the local authority's policies in respect of the funding of operating expenses from the sources listed in subsection (2); and
  - (b) the local authority's policies in respect of the funding of capital expenditure from the sources listed in subsection (2).
- (2) The sources referred to in subsection (1) are as follows:
  - (a) general rates, including—
    - (i) choice of valuation system; and
    - (ii) differential rating; and
    - (iii) uniform annual general charges:
  - (b) targeted rates:
  - (ba) lump sum contributions:
  - (c) fees and charges:
  - (d) interest and dividends from investments:
  - (e) borrowing:
  - (f) proceeds from asset sales:
  - (g) development contributions:
  - (h) financial contributions under the Resource Management Act 1991:
    - (i) grants and subsidies:
    - (j) any other source.
- (3) A policy adopted under section 102(1) must also show how the local authority has, in relation to the sources of funding identified in the policy, complied with section 101(3).
- (4) If a local authority amends its revenue and financing policy under section 93(4), only a significant amendment to the policy is required to be audited in accordance with sections 84(4) and 94(1).

Compare: 1974 No 66 s 122O

Section 103(1): amended, on 27 November 2010, by section 20(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).



Section 103(2)(ba): inserted, on 28 June 2006, by section 15(4) of the Local Government (Rating) Amendment Act 2006 (2006 No 28).

Section 103(3): amended, on 27 November 2010, by section 20(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 103(4): added, on 27 November 2010, by section 20(3) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **104 Liability management policy**

A policy adopted under section 102(1) must state the local authority's policies in respect of the management of both borrowing and other liabilities, including—

- (a) interest rate exposure; and
- (b) liquidity; and
- (c) credit exposure; and
- (d) debt repayment.
- (e) *[Repealed]*
- (f) *[Repealed]*

Compare: 1974 No 66 s 122S

Section 104: amended, on 27 November 2010, by section 21(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 104(d): amended, on 27 November 2010, by section 21(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 104(e): repealed, on 27 November 2010, by section 21(3) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 104(f): repealed, on 27 November 2010, by section 21(3) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **105 Investment policy**

A policy adopted under section 102(1) must state the local authority's policies in respect of investments, including—

- (a) *[Repealed]*
- (b) the mix of investments; and
- (c) the acquisition of new investments; and
- (d) an outline of the procedures by which investments are managed and reported on to the local authority; and
- (e) an outline of how risks associated with investments are assessed and managed.

Compare: 1974 No 66 s 122Q

Section 105: amended, on 27 November 2010, by section 22(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 105(a): repealed, on 27 November 2010, by section 22(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**106 Policy on development contributions or financial contributions**

- (1) In this section, **financial contributions** has the meaning given to it by section 108(9) of the Resource Management Act 1991.
- (2) A policy adopted under section 102(1) must, in relation to the purposes for which development contributions or financial contributions may be required,—
  - (a) summarise and explain the capital expenditure identified in the long-term plan that the local authority expects to incur to meet the increased demand for community facilities resulting from growth; and
  - (b) state the proportion of that capital expenditure that will be funded by—
    - (i) development contributions;
    - (ii) financial contributions;
    - (iii) other sources of funding; and
  - (c) explain, in terms of the matters required to be considered under section 101(3), why the local authority has determined to use these funding sources to meet the expected capital expenditure referred to in paragraph (a); and
  - (d) identify separately each activity or group of activities for which a development contribution or a financial contribution will be required and, in relation to each activity or group of activities, specify the total amount of funding to be sought by development contributions or financial contributions; and
  - (e) if development contributions will be required, comply with the requirements set out in sections 201 and 202; and
  - (f) if financial contributions will be required, summarise the provisions that relate to financial contributions in the district plan or regional plan prepared under the Resource Management Act 1991.
- (3) If development contributions are required, the local authority must keep available for public inspection the full methodology

that demonstrates how the calculations for those contributions were made.

- (4) If financial contributions are required, the local authority must keep available for public inspection the provisions of the district plan or regional plan prepared under the Resource Management Act 1991 that relate to financial contributions.
- (5) The places within its district or region at which the local authority must keep the information specified in subsections (3) and (4) available for public inspection are—
  - (a) the principal public office of the local authority; and
  - (b) such other places within its district or region as the local authority considers necessary in order to provide members of the public with reasonable access to the methodology, provisions, or plan.
- (6) A policy adopted under section 102(1) must be reviewed at least once every 3 years using the special consultative procedure.

Section 106(2): amended, on 27 November 2010, by section 23(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 106(2)(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 106(6): added, on 27 November 2010, by section 23(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **107 Policy on partnerships with private sector**

*[Repealed]*

Section 107: repealed, on 27 November 2010, by section 24 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **108 Policy on remission and postponement of rates on Māori freehold land**

- (1) If a policy adopted under section 102(1) provides for the remission of rates on Māori freehold land, the policy must state—
  - (a) the objectives sought to be achieved by the remission of rates; and
  - (b) the conditions and criteria to be met in order for rates to be remitted.

- (2) If a policy adopted under section 102(1) provides for the postponement of the requirement to pay rates on Māori freehold land, the policy must state—
  - (a) the objectives sought to be achieved by a postponement of the requirement to pay rates; and
  - (b) the conditions and criteria to be met in order for the requirement to pay rates to be postponed.
- (3) For the avoidance of doubt, a policy adopted under section 102(1) is not required to provide for the remission of, or postponement of the requirement to pay, rates on Māori freehold land.
- (4) In determining a policy under section 102(1), the local authority must consider the matters set out in Schedule 11.
- (4A) A policy adopted under section 102(1) must be reviewed at least once every 6 years using the special consultative procedure.
- (5) For the purposes of this section, the term **rates** includes penalties payable on unpaid rates.

Section 108(1): amended, on 27 November 2010, by section 25(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 108(2): amended, on 27 November 2010, by section 25(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 108(3): amended, on 27 November 2010, by section 25(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 108(4): amended, on 27 November 2010, by section 25(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 108(4A): inserted, on 27 November 2010, by section 25(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **109 Rates remission policy**

- (1) A policy adopted under section 102(3)(a) must state—
  - (a) the objectives sought to be achieved by the remission of rates; and
  - (b) the conditions and criteria to be met in order for rates to be remitted.
- (2) In determining a policy under section 102(3)(a), the local authority may consider the matters set out in Schedule 11.
- (2A) If a policy is adopted under section 102(3)(a), the policy—

- (a) must be reviewed at least once every 6 years using the special consultative procedure; and
  - (b) may be revoked following the review under paragraph (a).
- (3) For the purposes of this section, the term **rates** includes penalties payable on unpaid rates.

Section 109(1): amended, on 27 November 2010, by section 26(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 109(2): amended, on 27 November 2010, by section 26(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 109(2A): inserted, on 27 November 2010, by section 26(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **110 Rates postponement policy**

- (1) A policy adopted under section 102(3)(b) must state—
  - (a) the objectives sought to be achieved by a postponement of the requirement to pay rates; and
  - (b) the conditions and criteria to be met in order for the requirement to pay rates to be postponed.
- (2) In determining a policy under section 102(3)(b), the local authority may consider the matters set out in Schedule 11.
- (2A) If a policy is adopted under section 102(3)(b), the policy—
  - (a) must be reviewed at least once every 6 years using the special consultative procedure; and
  - (b) may be revoked following the review under paragraph (a).
- (3) For the purposes of this section, the term **rates** includes penalties payable on unpaid rates.

Section 110(1): amended, on 27 November 2010, by section 27(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 110(2): amended, on 27 November 2010, by section 27(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 110(2A): inserted, on 27 November 2010, by section 27(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **111 Information to be prepared in accordance with generally accepted accounting practice**

- (1) All information that is required by any provision of this Part or of Schedule 10 to be included in any plan, report, or other document must be prepared in accordance with generally ac-

cepted accounting practice if that information is of a form or nature for which generally accepted accounting practice has developed standards.

- (2) Subsection (1) does not apply to the preparation of a funding impact statement.

Section 111(2): added, on 27 November 2010, by section 28 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### Subpart 4—Borrowing and security

#### 112 Interpretation

In this subpart, unless the context otherwise requires,—

**asset** of a local authority, in relation to a charge or to charging, includes any revenue, rate, or other right or entitlement of the local authority capable of being subjected to a charge

**borrowing**—

- (a) means the incurring by any means of debt to raise money; and
- (b) includes the incurring of debt—
  - (i) under any contract or arrangement for hire purchase, deferred payment, instalment payment, sale and lease back or buy back, financial lease, loan, overdraft, or other arrangement for obtaining debt finance; or
  - (ii) by the drawing, acceptance, making, endorsement, issue, or sale of bills of exchange, promissory notes, and other negotiable instruments and debt securities; or
  - (iii) by the use, for any purpose, of funds received or invested by the local authority for any other purpose if the local authority has resolved to repay, with or without interest, the funds used; but
- (c) does not include debt incurred in connection with the hire purchase of goods, the deferred purchase of goods or services, or the giving of credit for the purchase of goods or services if—
  - (i) the period for which the indebtedness is outstanding is less than 91 days and the indebtedness is not incurred again promptly after payment; or

- (ii) the goods or services are obtained in the ordinary course of the local authority's performance of its lawful responsibilities, on terms and conditions available generally to parties of equivalent credit worthiness, for amounts not exceeding in aggregate an amount—
  - (A) determined by resolution of the local authority as not being so significant as to require specific authorisation; or
  - (B) recorded for the purposes of this subparagraph in the then current borrowing management policy of the local authority—

and **borrow** has a corresponding meaning

**charge** includes a mortgage, a floating charge, and any other non-possessory security interest deliberately created by the local authority concerned

**incidental arrangement** means—

- (a) a contract or arrangement for the management, reduction, sharing, limiting, assumption, offset, or hedging of financial risks and liabilities in relation to any investment or investments or any loan or loans or other incidental arrangement, whether or not that contract or arrangement involves—
  - (i) the expenditure, borrowing, or lending of money; or
  - (ii) the local authority undertaking to make payments in exchange for another person undertaking to make payments to the local authority; or
  - (iii) the creation or acquisition or disposal of any property or right; or
- (b) a contract or arrangement with any bank, financial institution, or other person providing for any person to act as underwriter, broker, indemnifier, guarantor, accommodation party, manager, dealer, trustee, registrar, or paying, fiscal, or other agent for, or in connection with, any loan or investment—

and includes the creation of a charge

**loan** includes the amounts raised or indebtedness incurred, as the context may require, as a result of borrowing

**protected transaction** means—

- (a) any deed, agreement, right, or obligation constituting, relating to, or for the purpose of, any borrowing or incidental arrangement; and
- (b) includes—
  - (i) any charge, guarantee, or security for the payment of any amount (including any loan) payable in relation to, or for the purpose of, any borrowing or incidental arrangement; and
  - (ii) any conveyance or transfer of any property in relation to, or for the purpose of, any borrowing or incidental arrangement.

Compare: 1974 No 66 ss 122Z, 122ZB, 122ZG(1)

### *Borrowing*

#### **113 Prohibition on borrowing in foreign currency**

- (1) No local authority may borrow or enter into incidental arrangements, within or outside New Zealand, in currency other than New Zealand currency.
- (2) Subsection (1) does not apply to an incidental arrangement in relation to an investment in currency other than New Zealand currency.

Compare: 1974 No 66 s 122ZC

Section 113(2): added, on 28 June 2006, by section 12 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

#### **114 Constraints on receiver**

Every charge given by a local authority over any 1 or more of the assets of the local authority as security for any loan, or the performance of obligations under any incidental arrangement, is subject to subsections (5) and (6) of section 40D of the Receiverships Act 1993.

Compare: 1974 No 66 s 122ZE(1), (4), (5)

#### **115 Rates as security**

- (1) This section applies if—
  - (a) a local authority has charged a rate or rates revenue as security for any loan or the performance of any obligations under an incidental arrangement; and



- (b) a receiver has been appointed under section 40A or section 40B of the Receiverships Act 1993 in respect of that loan or arrangement.
- (2) The receiver may, without further authority than this section, assess and collect in each financial year a rate under this section to recover sufficient funds to meet—
  - (a) the payment of the local authority's commitments in respect of the loan or incidental arrangement during that year; and
  - (b) the reasonable costs of administering, assessing, and collecting the rate.
- (3) A rate under this section must be assessed as a uniform rate in the dollar on the rateable value of property—
  - (a) in the district; or
  - (b) if the local authority resolved, at the time when the loan was being raised or the incidental arrangement was being entered into, that it was for the benefit of only a specified part of the district or region, that part.
- (4) For the purposes of this section, **rateable value**, in relation to any property, means its rateable value under the valuation system used by the local authority for its general rate.
- (5) A rate under this section may not be assessed and collected on rateable property in respect of which an election under section 65 or section 77 of the Rating Powers Act 1988 has been exercised in respect of any repayment loan or the works for which any loan was borrowed.

Compare: 1974 No 66 ss 122ZE(2), (3), 122ZF

## **116 Register of charges maintained by local authority**

- (1) A local authority that has any charge over any of its assets must establish and maintain at its principal office a register of, and keep copies of, all instruments specifically affecting any of its property.
- (2) The register referred to in subsection (1) must be available for inspection during ordinary office hours.
- (3) No fee is payable for inspection of the register.

- (4) A local authority may charge for supplying any person with copies of, or any particulars from, the register.

Compare: 1974 No 66 s 122ZJ

### *Protected transactions*

#### **117 Protected transactions**

Every protected transaction entered into, or purportedly entered into, by or on behalf of a local authority is valid and enforceable despite—

- (a) the local authority failing to comply with any provision of this Act in any respect; or
- (b) the entry into, or performance of, the protected transaction being outside the capacity, rights, or powers of the local authority; or
- (c) a person held out by the local authority as being a member, employee, agent, or attorney of the local authority—
  - (i) not having been validly appointed as such; or
  - (ii) not having the authority to exercise any power or to do anything either which the person is held out as having or which a person appointed to such a position would customarily have; or
- (d) a document issued, or purporting to be issued, on behalf of the local authority by a person with actual or customary authority, or held out as having such authority, to issue the document not being valid or not being genuine.

Compare: 1974 No 66 s 122ZG(2)

#### **118 Certificate of compliance**

A certificate signed, or purporting to be signed, by the chief executive of a local authority to the effect that the local authority has complied with this Act in connection with a protected transaction is conclusive proof for all purposes that the local authority has so complied.

Compare: 1974 No 66 s 122ZG(3)

**119 Good faith in relation to protected transactions**

- (1) Sections 117 and 118 apply even though a person of the kind referred to in section 117(c) or section 117(d) or section 118 acts fraudulently or forges a document that appears to have been signed on behalf of the local authority, unless the person dealing with the local authority or a person who had acquired property, rights, or interests from the local authority acts in bad faith.
- (2) A person may not rely on section 117 or section 118 in relation to a protected transaction if that person—
  - (a) has dealt in bad faith with a local authority in relation to the protected transaction; or
  - (b) had actual knowledge before the protected transaction was entered into that it was in breach of section 113.
- (3) For the purpose of subsections (1) and (2),—
  - (a) a person is not regarded as acting in bad faith by reason only of the fact that, in relation to any protected transaction, the person knew or ought to have known of the existence of any of the states of affairs referred to in paragraphs (a) to (d) of section 117; and
  - (b) a person must be presumed to have acted in good faith unless the contrary is proved.

Compare: 1974 No 66 s 122ZG(4)–(6)

**120 Saving provision in respect of power of court**

Nothing in sections 117 to 119 affects the ability of any person to obtain any remedy from a court that has the effect of preventing or restraining temporarily or permanently a local authority from doing any act or thing in the future (other than an act or thing necessary for the performance of a protected transaction that has already been entered into).

*Miscellaneous provisions*

**121 The Crown not liable for debts**

- (1) The Crown is not liable to contribute to the payment of any debts or liabilities of any local authority.

- (2) Subsection (1) does not apply in relation to liability for any sum of a kind described in section 49 of the Public Finance Act 1989.

Compare: 1974 No 66 s 122ZP(1)

Section 121(2): amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

**122 Prospectuses and loan documents to contain statement that the Crown does not guarantee securities or loan**

- (1) If a local authority is named as the issuer or a promoter in any registered prospectus within the meaning of the Securities Act 1978, that prospectus must, unless the securities being offered pursuant to the prospectus are expressly guaranteed by the Crown under the Public Finance Act 1989, contain a statement that the securities being offered pursuant to the prospectus are not guaranteed by the Crown.
- (2) If a local authority enters into any loan agreement or incidental arrangement, that agreement or arrangement must include a statement that the loan or other liability under the incidental arrangement is not guaranteed by the Crown.
- (3) Subsection (2) does not apply in relation to liability for any sum of a kind described in section 49 of the Public Finance Act 1989.

Compare: 1974 No 66 s 122ZP

Section 122(3): amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

## **Part 7**

### **Specific obligations and restrictions on local authorities and other persons**

**123 Outline of Part**

This Part contains provisions that set out specific obligations and restrictions on local authorities and other persons as follows:

- (a) the obligation to assess water and sanitary services, the scope of those assessments, and the process to be followed:

- (b) the obligations and restrictions on local authorities and other persons in relation to the delivery of water services:
- (c) specific restrictions on disposal of parks, reserves, and endowment properties, including provision for the protection of parks and reserves from disposal:
- (d) a requirement that, if a public library is provided, the residents of the district must be entitled to free membership.

### Subpart 1—Specific obligations to make assessments of water and sanitary services

#### 124 Interpretation

In this Part,—

**assessment** means—

- (a) an assessment of water services and other sanitary services available to communities in the district of the territorial authority; but
- (b) does not include assessments in relation to individual properties

**local government organisation** means a local authority, council-controlled organisation, or a subsidiary of a council-controlled organisation, that provides water services

**sanitary services** has the same meaning as sanitary works in section 25(1)(a), (b), (d), (h), and (i) of the Health Act 1956

**wastewater services** means sewerage, treatment and disposal of sewage, and stormwater drainage

**water services** means water supply and wastewater services

**water supply** means the provision of drinking water to communities by network reticulation to the point of supply of each dwellinghouse and commercial premise to which drinking water is supplied.

Section 124 **sanitary services**: amended, on 1 July 2009, by section 62(1) of the Waste Minimisation Act 2008 (2008 No 89).

#### 125 Requirement to assess water and other sanitary services

- (1) A territorial authority must, from time to time, assess the provision within its district of—

- (a) water services; and
    - (b) other sanitary services.
  - (2) One type of service may be assessed in conjunction with another type of service.
  - (3) An assessment may be included in the territorial authority's long-term plan, but, if it is not, the territorial authority must adopt the assessment using the special consultative procedure.
- Section 125(1): amended, on 27 November 2010, by section 29 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).
- Section 125(3): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **126 Information required in assessment of water services**

*[Repealed]*

Section 126: repealed, on 27 November 2010, by section 30 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **127 Information required in assessment of sanitary services**

*[Repealed]*

Section 127: repealed, on 27 November 2010, by section 30 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **128 Process for making assessments**

*[Repealed]*

Section 128: repealed, on 27 November 2010, by section 30 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **129 Extent of information in assessments**

*[Repealed]*

Section 129: repealed, on 27 November 2010, by section 30 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### **Subpart 2—Obligations and restrictions relating to provision of water services**

## **130 Obligation to maintain water services**

- (1) This subpart applies to a local government organisation that provides water services to communities within its district or region—
  - (a) at the commencement of this section:

- (b) at any time after the commencement of this section.
- (2) A local government organisation to which this section applies must continue to provide water services and maintain its capacity to meet its obligations under this subpart.
- (3) In order to fulfil the obligations under this subpart, a local government organisation must—
  - (a) not use assets of its water services as security for any purpose:
  - (b) not divest its ownership or other interest in a water service except to another local government organisation:
  - (c) not lose control of, sell, or otherwise dispose of, the significant infrastructure necessary for providing water services in its region or district, unless, in doing so, it retains its capacity to meet its obligations:
  - (d) not, in relation to a property to which it supplies water,—
    - (i) restrict the water supply unless section 193 applies; or
    - (ii) stop the water supply unless section 69S of the Health Act 1956 applies.
- (4) This section—
  - (a) does not prevent a local government organisation from transferring a water service to another local government organisation; and
  - (b) does not override sections 131 to 137.

Section 130(3)(d)(ii): amended, on 27 November 2010, by section 31 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### *Closure or transfer of small water services*

#### **131 Power to close down or transfer small water services**

- (1) Despite section 130(2), a local government organisation may, in relation to a water service that it is no longer appropriate to maintain,—
  - (a) close down the water service; or
  - (b) transfer the water service to an entity representative of the community for which the service is operated.
- (2) A local government organisation must not close down or transfer a water service unless—

- (a) there are 200 or fewer persons to whom the water service is delivered and who are ordinarily resident in the district, region, or other subdivision; and
  - (b) it has consulted on the proposal with the Medical Officer of Health for the district; and
  - (c) it has made publicly available in a balanced and timely manner—
    - (i) the views of the Medical Officer of Health; and
    - (ii) the information it has received in the course of—
      - (A) undertaking a review, assessment, and comparison under section 134(a) and (b); or
      - (B) preparing a management plan and making assessments under section 135(a), (b), and (c); and
  - (d) the proposal is supported, in a binding referendum conducted under section 9 of the Local Electoral Act 2001 using the First Past the Post electoral system,—
    - (i) in the case of a proposal to close down a water service, by 75% or more of the votes cast in accordance with subsection (3); and
    - (ii) in the case of a proposal to transfer a water service, by more than 50% of the votes cast in accordance with section 132.
- (3) For the purpose of subsection (2)(a), a certificate signed by the chief executive of the local government organisation as to the number of persons to whom the water service is delivered in the district, region, or other subdivision at any date is conclusive evidence of that number.

### **132 Eligibility to vote in referendum**

A person is eligible to vote in a referendum conducted under section 131(2)(d) if the person is qualified as either—

- (a) a residential elector under section 23 of the Local Electoral Act 2001 and the address in respect of which the person is registered as a parliamentary elector is a property serviced by the water service that is the subject of the referendum; or



- (b) a ratepayer elector under section 24 of the Local Electoral Act 2001 and the property, for the purposes of section 24(1)(a) or (b) of that Act, is a property serviced by the water service that is the subject of the referendum.

**133 Responsibility for conduct of referendum**

- (1) The territorial authority that is responsible for conducting a referendum under section 131(2)(d) is the territorial authority in whose district the majority of persons eligible to vote in that referendum is on the roll of electors of that territorial authority.
- (2) The electoral officer of a territorial authority responsible for conducting a referendum under subsection (1) must prepare a special roll of the persons eligible to vote under section 132.
- (3) The provisions of the Local Electoral Act 2001 apply, with any necessary modifications, to the conduct of a referendum under section 131(2)(d).

**134 Criteria for closure of water service**

A local government organisation may only close down a water service under section 131(1)(a) if it has first—

- (a) reviewed the likely effect of the closure on—
  - (i) the public health of the community that would be affected by the closure; and
  - (ii) the environment in the district of that community; and
- (b) assessed, in relation to each property that receives the water service, the likely capital cost and annual operating costs of providing an appropriate alternative service if the water service is closed down; and
- (c) compared the quality and adequacy of the existing water service with the likely quality and adequacy of the alternative service referred to in paragraph (b).

**135 Criteria for transfer of water service**

A local government organisation may only transfer a water service under section 131(1)(b) if it has first—

- (a) developed a draft management plan under which the entity representative of the community would maintain and operate the water service; and

- (b) assessed the likely future capital and operating costs of the entity representative of the community to maintain and operate the water service; and
- (c) assessed the ability of the entity representative of the community to maintain and operate the water service satisfactorily.

*Contracting out of water services*

**136 Contracts relating to provision of water services**

- (1) Despite section 130(2), a local government organisation may enter into contracts for any aspect of the operation of all or part of a water service for a term not longer than 35 years.
- (2) If a local government organisation enters into a contract under subsection (1), it must—
  - (a) continue to be legally responsible for providing the water services; and
  - (b) retain control over the following matters:
    - (i) the pricing of water services; and
    - (ii) the development of policy related to the delivery of water services.
- (3) This section does not limit contracts in relation to water services that are entered into solely between local government organisations.

Section 136: substituted, on 27 November 2010, by section 32 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

*Joint local government arrangements and joint  
arrangements with other entities*

Heading: substituted, on 7 July 2004, by section 13 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**137 Joint local government arrangements and joint  
arrangements with other entities**

- (1) In this section,—  
**joint arrangement** means an arrangement entered into by 1 or more local government organisations with 1 or more bodies that are not local government organisations for the purpose of providing water services or any aspect of a water service

**joint local government arrangement** means an arrangement entered into by 2 or more local government organisations for the purpose of providing water services or any aspect of a water service.

- (2) Section 130(2) does not prevent a local government organisation from entering into, for the purpose of providing water services,—
- (a) a joint arrangement for a term not longer than 35 years (except a concession or other franchise agreement relating to the provision of the water services or any aspect of the water services);
  - (b) a joint local government arrangement for any term.
- (3) However, before a local government organisation enters into a joint arrangement or joint local government arrangement, it must,—
- (a) in the case of a local government organisation that is a local authority, have undertaken consultation in accordance with the procedures set out in Part 6; and
  - (b) in the case of a local government organisation that is not a local authority, have undertaken consultation in accordance with the procedures set out in Part 6 as if it were a local authority.
  - (c) *[Repealed]*
- (4) If a local government organisation enters into a joint arrangement under subsection (2)(a), it must—
- (a) continue to be legally responsible for providing the water services; and
  - (b) retain control over the following matters:
    - (i) the pricing of water services; and
    - (ii) the development of policy related to water services; and
  - (c) after the end of the joint arrangement, retain ownership of all the infrastructure associated with the water service, whether or not the infrastructure was—
    - (i) provided by the local government organisation at the beginning of the joint arrangement; or
    - (ii) developed or purchased during the joint arrangement; and

- (d) not sell or transfer ownership of any existing infrastructure associated with the water service, unless the local government organisation reasonably believes that the sale is—
  - (i) incidental to the joint arrangement; and
  - (ii) desirable for the success of the joint arrangement.
- (5) In this section, **concession or other franchise agreement** means an agreement under which a person other than the local government organisation is entitled to receive a payment from any person other than the local government organisation for the supply of the water service.

Section 137 heading: substituted, on 7 July 2004, by section 14(1) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 137(1): substituted, on 7 July 2004, by section 14(2) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 137(2)(a): substituted, on 27 November 2010, by section 33(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 137(2)(b): amended, on 7 July 2004, by section 14(3) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 137(3): amended, on 7 July 2004, by section 14(3) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 137(3): amended, on 7 July 2004, by section 14(4) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 137(3)(b): amended, on 27 November 2010, by section 33(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 137(3)(c): repealed, on 27 November 2010, by section 33(3) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 137(4): substituted, on 27 November 2010, by section 33(4) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 137(5): added, on 27 November 2010, by section 33(4) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### Subpart 3—Restrictions on disposal of parks, reserves, and endowment properties

#### *Parks and reserves*

#### **138 Restriction on disposal of parks (by sale or otherwise)**

- (1) A local authority proposing to sell or otherwise dispose of a park or part of a park must consult on the proposal before it sells or disposes of, or agrees to sell or dispose of, the park or part of the park.

- (2) In this section,—
- dispose of**, in relation to a park, includes the granting of a lease for more than 6 months that has the effect of excluding or substantially interfering with the public's access to the park
- park**—
- (a) means land acquired or used principally for community, recreational, environmental, cultural, or spiritual purposes; but
  - (b) does not include land that is held as a reserve, or part of a reserve, under the Reserves Act 1977.

Section 138: substituted, on 28 June 2006, by section 13 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### 139 Protection of regional parks

- (1) In this section and section 139A, **regional park**—
- (a) means land—
    - (i) owned by a regional council; and
    - (ii) acquired or used principally for community, recreational, environmental, cultural, or spiritual purposes; and
  - (b) includes land within the meaning of paragraph (a) that is—
    - (i) reserve within the meaning of section 2(1) of the Reserves Act 1977; or
    - (ii) otherwise held or administered under the Reserves Act 1977 or any earlier corresponding enactment.
- (2) For the purpose of enabling a regional council to protect a regional park or part of a regional park in its region, the Governor-General may, by Order in Council made on the recommendation of the Minister, declare the park or the part of the park to be protected in perpetuity from disposition (by sale or otherwise).
- (3) The Minister must not make a recommendation unless the regional council has requested the Minister to do so.
- (4) An Order in Council does not prevent a regional council from disposing of part of the regional park to which the order applies—
- (a) to make a minor boundary adjustment to it:

- (b) for the more efficient administration of it.
- (5) However, subsection (4) applies only if—
  - (a) the retention of the land would not materially enhance the conservation or recreational value of the park; and
  - (b) the regional council has used the special consultative procedure in the process of determining whether to dispose of the land.
- (6) Any land within the meaning of subsection (1)(b) that is included in an Order in Council—
  - (a) retains its classification under the Reserves Act 1977; and
  - (b) remains subject to that Act; and
  - (c) if the land is to be sold or disposed of under subsection (4) of this section, must first be dealt with under sections 24 and 25 of that Act.
- (7) An Order in Council must specify the regional park or the part of the regional park to which the order applies—
  - (a) by name and legal description, if it is practicable to do so; or
  - (b) by name and a detailed description of the location of the land, in any other case.

Section 139: substituted, on 28 June 2006, by section 14 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### **139A Further provision in relation to regional parks**

- (1) An Order in Council made under section 139 may be varied to include a reference to any land included in the regional park after the Order is made.
- (2) The provisions of section 139 apply, with all necessary modifications, to an Order in Council varied under subsection (1).

Section 139A: inserted, on 28 June 2006, by section 14 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### *Endowment property*

### **140 Restrictions on disposal of endowment property**

- (1) In this section and section 141, **property**—
  - (a) means real property of every type; and
  - (b) includes every type of estate and interest in property.

- (2) This section and section 141 apply to property or part of a property vested in a local authority in trust or as an endowment.
- (3) The property must be retained by the local authority for the purpose for which the property was vested in the local authority.
- (4) However,—
  - (a) the Minister may approve in writing additional or different purposes—
    - (i) for which the property may be used; or
    - (ii) for which income derived from the property may be used; or
  - (b) unless expressly prohibited by the instrument that vested the property in the local authority, the local authority may sell or exchange the property and use the proceeds of the sale or exchange for a purpose identified by the local authority in accordance with section 141.

**141 Conditions applying to sale or exchange of endowment property**

- (1) A local authority must not exercise the power in section 140(4)(b) unless—
  - (a) the proposed use of the proceeds of sale of the property, or of the property received in exchange, is consistent with the purpose of the endowment; and
  - (b) *[Repealed]*
  - (c) in a case where the Crown was the donor of the property, the local authority has notified the Minister for Land Information and the Minister in Charge of Treaty of Waitangi Negotiations of the local authority's proposal to sell or exchange the endowment land; and
  - (d) in other cases, the local authority has—
    - (i) made a reasonable attempt to notify the donor of the property, or his or her successor, as the case may be, that the local authority intends to sell or exchange the property; and
    - (ii) provided the donor with a reasonable opportunity to comment on the intended sale or exchange.

- (2) To avoid doubt, notification of a proposal to sell or exchange a property under subsection (1)(c) does not oblige a Minister to take any action in relation to the proposal to sell or exchange the property.
- (3) If the local authority is subject to reorganisation, the proceeds of a sale or exchange of property must be applied to the district or districts of the new local authority or authorities arising from the reorganisation of which the local authority formed part.

Compare: 1974 No 66 s 230

Section 141(1)(b): repealed, on 27 November 2010, by section 34 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### Subpart 4—Public libraries

##### **142 Obligation to provide free membership of libraries**

If a local authority or a council-controlled organisation provides a library for public use, the residents in the district or region are entitled to join the library free of charge.

Compare: 1974 No 66 s 601(4)

### **Part 8**

#### **Regulatory, enforcement, and coercive powers of local authorities**

##### **Subpart 1—Powers of local authorities to make bylaws**

##### **143 Outline of Part**

This Part provides the powers necessary for local authorities—

- (a) to make bylaws:
- (b) in relation to enforcement,—
  - (i) to enforce all regulatory measures made under this Act, including bylaws and infringement offences; and
  - (ii) to undertake, or contract out the administration of, those enforcement powers:
- (c) to undertake certain activities on, or in relation to, private land, including powers in relation to owners and



- occupiers, and powers to recover for damage to certain local authority property caused wilfully or negligently:
- (d) to undertake activities in relation to water services, including discharge of sewage and trade wastes:
- (e) to require development contributions:
- (f) to apply for and enforce removal orders.

**144 Bylaws Act 1910**

The Bylaws Act 1910 prevails over this Part and Part 9.

Compare: 1974 No 66 s 679

*Powers of territorial authorities to make bylaws*

**145 General bylaw-making power for territorial authorities**

A territorial authority may make bylaws for its district for 1 or more of the following purposes:

- (a) protecting the public from nuisance:
- (b) protecting, promoting, and maintaining public health and safety:
- (c) minimising the potential for offensive behaviour in public places.

**146 Specific bylaw-making powers of territorial authorities**

Without limiting section 145, a territorial authority may make bylaws for its district for the purposes—

- (a) of regulating 1 or more of the following:
  - (i) on-site wastewater disposal systems:
  - (ii) waste management:
  - (iii) trade wastes:
  - (iv) solid wastes:
  - (v) keeping of animals, bees, and poultry:
  - (vi) trading in public places:
- (b) of managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with 1 or more of the following:
  - (i) water races:
  - (ii) water supply:
  - (iii) wastewater, drainage, and sanitation:

- (iv) land drainage:
- (v) cemeteries:
- (vi) reserves, recreation grounds, or other land under the control of the territorial authority:
- (c) subject to sections 20 to 22 of the Forest and Rural Fires Act 1977, of preventing the spread of fires involving vegetation.

**147 Power to make bylaws for liquor control purposes**

- (1) In this section,—

**liquor** has the meaning given to it in the Sale of Liquor Act 1989

**public place**—

- (a) means a place—
  - (i) that is under the control of the territorial authority; and
  - (ii) that is open to, or being used by, the public, whether or not there is a charge for admission; and
- (b) includes—
  - (i) a road, whether or not the road is under the control of a territorial authority; and
  - (ii) any part of a public place.
- (2) Without limiting section 145, a territorial authority may make bylaws for its district for the purpose of prohibiting or otherwise regulating or controlling, either generally or for 1 or more specified periods,—
  - (a) the consumption of liquor in a public place:
  - (b) the bringing of liquor into a public place:
  - (c) the possession of liquor in a public place:
  - (d) in conjunction with a prohibition relating to liquor under paragraphs (a) to (c), the presence or use of a vehicle in a public place.
- (3) A bylaw made under this section does not prohibit, in the case of liquor in an unopened bottle or other unopened container,—
  - (a) the transport of that liquor from premises that adjoin a public place during any period when, under the Sale of Liquor Act 1989, it is lawful to sell liquor on those

- premises for consumption off the premises, provided the liquor is promptly removed from the public place:
- (b) the transport of that liquor from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989:
  - (c) the transport of that liquor from outside a public place to premises that adjoin a public place—
    - (i) by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
    - (ii) from those premises to a place outside the public place by a resident of those premises, provided the liquor is promptly removed from the public place.

Compare: 1974 No 66 s 709A

**148 Special requirements for bylaws relating to trade wastes**

- (1) Before making bylaws under section 146(a)(iii), a territorial authority must send a copy of the proposed bylaws to the Minister of Health for his or her comments.
- (2) Before sending proposed bylaws to the Minister of Health under subsection (1), the territorial authority must, at least 2 months before the making of the bylaws, give public notice of its intention to make the bylaws, stating—
  - (a) the trade wastes to which the bylaws will relate; and
  - (b) that copies of the draft bylaws may be inspected free of charge at the place specified in the notice and may be obtained on payment of the charge specified in the notice; and
  - (c) that the territorial authority is prepared to receive and consider any representation about the bylaws made to it in writing by, or on behalf of, owners or occupiers of trade premises within its district at the time specified in the notice, being not less than 2 months after publication of the notice.
- (3) Before making the bylaws, the territorial authority must consider any representation received in accordance with the notice given under subsection (2).

- (4) The territorial authority must, before making the bylaws, consult any body of persons the Minister of Health specifies to the territorial authority as being representative of—
  - (a) the interests of the owners or occupiers of trade premises in the district of the territorial authority; or
  - (b) any class of those owners or occupiers.
- (5) A territorial authority—
  - (a) must enter on a register the name and postal address of an owner or occupier of trade premises who serves on the territorial authority a written request for registration; and
  - (b) must ensure that a copy of a notice required under subsection (2) is sent to the persons registered under paragraph (a); and
  - (c) may remove from the register the name of a person who has ceased to be the owner or occupier of trade premises within its district, or who has requested the local authority in writing to remove his or her name from the register.
- (6) Nothing in this section limits the provisions of the Health Act 1956 or the Resource Management Act 1991.
- (7) The requirements in this section are in addition to the requirements in section 156, but a territorial authority may comply with both sections by using a single process.

Compare: 1974 No 66 s 492

Section 148(7): substituted, on 20 September 2007, by section 5 of the Local Government Act 2002 Amendment Act 2007 (2007 No 69).

*Power of regional councils to make bylaws*

**149 Power of regional councils to make bylaws**

- (1) A regional council may make bylaws in relation to the following matters:
  - (a) forests that the regional council owns or controls, whether or not the forest is within the region of the regional council;
  - (b) parks, reserves, recreation grounds, or other land that the regional council owns or controls;
  - (c) flood protection and flood control works undertaken by, or on behalf of, the regional council;

- (d) water supply works undertaken by, or on behalf of, the regional council.
- (2) Without limiting the generality of subsection (1), bylaws may be made in relation to the matters listed in subsection (1) for the purpose of managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of,—
  - (a) the real and personal property owned or controlled by the regional council; and
  - (b) sites or places on land of the regional council that have cultural, historical, recreational, scientific, or other community or amenity values.

Compare: 1974 No 66 s 586

*Power of local authorities to prescribe fees*

**150 Fees may be prescribed by bylaw**

- (1) A local authority may prescribe fees or charges payable for a certificate, authority, approval, permit, or consent from, or inspection by, the local authority in respect of a matter provided for—
  - (a) in a bylaw made under this Act; or
  - (b) under any other enactment, if the relevant provision does not—
    - (i) authorise the local authority to charge a fee; or
    - (ii) provide that the certificate, authority, approval, permit, consent, or inspection is to be given or made free of charge.
- (2) A bylaw may provide for the refund, remission, or waiver of a fee in specified situations or in situations determined by the local authority.
- (3) Fees provided for in subsection (1) must be prescribed either—
  - (a) in bylaws; or
  - (b) using the special consultative procedure set out in section 83.
- (4) The fees prescribed under subsection (1) must not provide for the local authority to recover more than the reasonable costs incurred by the local authority for the matter for which the fee is charged.

- (5) The local authority must ensure that copies of all bylaws made under subsection (1) or subsection (3) are available for public inspection free of charge at the public office of the local authority during ordinary office hours.
- (6) This section does not apply to charges for goods, services, or amenities provided by the local authority in reliance on the general power under section 12.

Compare: 1974 No 66 s 690A

*General provisions applying to bylaws made by  
a local authority*

**151 General provisions applying to bylaws made under this Act**

(1AA) This section applies to a bylaw only if it is made under this Act.

- (1) A bylaw may require anything to be done in any manner, or within any time, that is required by the local authority or by a person referred to in the bylaw.
- (2) A bylaw may leave any matter or thing to be regulated, controlled, or prohibited by the local authority by resolution either generally, for any specified classes of case, or in a particular case.
- (3) A bylaw may provide for the following:
  - (a) the licensing of persons or property:
  - (b) the payment of reasonable licence fees:
  - (c) recovery of costs incurred by the local authority in relation to an activity licensed under a bylaw.

Compare: 1974 No 66 s 682(a)–(c)

Section 151 heading: amended, on 28 June 2006, by section 15(1) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 151(1AA): inserted, on 28 June 2006, by section 15(2) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**152 Effect of Building Act 2004 on bylaws**

- (1) A council may not make a bylaw under this Act that purports to have the effect of requiring a building to achieve performance criteria additional to, or more restrictive than, those specified in the Building Act 2004 or the building code.

- (2) For the purposes of this section, **building**, **building code**, and **performance criteria** have the meanings given to them by the Building Act 2004.

Compare: 1974 No 66 s 684A

Section 152 heading: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 152(1): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 152(2): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

*The Crown bound by certain bylaws*

**153 The Crown bound by certain bylaws**

- (1) The Crown is bound by bylaws made by a local authority under any of the following provisions:
- (a) section 146(a)(iii), in relation to trade wastes:
  - (b) section 146(a)(iv), in relation to solid wastes:
  - (c) section 146(b)(ii), in relation to water supply:
  - (d) section 146(b)(iii), in relation to stormwater from any building and drainage from any infrastructure:
  - (e) section 146(c), in relation to fires in the open air.
- (2) The Crown is not bound by bylaws made by a local authority under any other provision of this Part.
- (3) However, the Crown is bound by any bylaw if non-compliance with that bylaw by the Crown would be likely to have an adverse effect on public health or safety.

**154 Power of exemption**

- (1) The Minister of Local Government may, by written notice to the relevant local authority, exempt the Crown from any bylaw by which it is bound under section 153 if the Minister is satisfied, in his or her discretion, that the exemption is in the national interest.
- (2) If a notice is given under subsection (1), the Minister must, as soon as practicable after giving the notice, publish in the *Gazette* and present to the House of Representatives a copy of the notice.

*Procedure for making bylaws***155 Determination whether bylaw made under this Act is appropriate**

(1AA) This section applies to a bylaw only if it is made under this Act.

- (1) A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.
- (2) If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw—
  - (a) is the most appropriate form of bylaw; and
  - (b) gives rise to any implications under the New Zealand Bill of Rights Act 1990.
- (3) No bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990, notwithstanding section 4 of that Act.

Section 155 heading: amended, on 28 June 2006, by section 16(1) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 155(1AA): inserted, on 28 June 2006, by section 16(2) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**156 Special consultative procedure must be used in making, amending, or revoking bylaw made under this Act**

- (1) A local authority must use the special consultative procedure (as modified by section 86) in—
  - (a) making a bylaw under this Act;
  - (b) amending a bylaw made under this Act;
  - (c) revoking a bylaw made under this Act.
- (2) Despite subsection (1)(b), a local authority may, by resolution publicly notified,—
  - (a) make minor changes to, or correct errors in, a bylaw, but only if the changes or corrections do not affect—
    - (i) an existing right, interest, title, immunity, or duty of any person to whom the bylaw applies; or
    - (ii) an existing status or capacity of any person to whom the bylaw applies:



- (b) convert an imperial weight or measure specified in a bylaw into its metric equivalent or near metric equivalent.

Section 156: substituted, on 28 June 2006, by section 17 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**157 Public notice of bylaws and availability of copies**

- (1) As soon as practicable after a bylaw is made, the local authority must give public notice of the making of the bylaw, stating—
  - (a) the date on which the bylaw will come into operation; and
  - (b) that copies of the bylaw may be inspected and obtained at the office of the local authority on payment of a specified amount.
- (2) A local authority must—
  - (a) keep copies of all its bylaws at the office of the local authority; and
  - (b) make its bylaws available for public inspection, without fee, at reasonable hours at the office of the authority; and
  - (c) supply to any person, on request and on payment of a reasonable charge, a copy of any of its bylaws.

Compare: 1974 No 66 s 689

*Review of bylaws made under this Act or the  
Local Government Act 1974*

Heading: amended, on 28 June 2006, by section 18 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**158 Review of bylaws made under this Act or the Local Government Act 1974**

- (1) A local authority must review a bylaw made by it under this Act (other than a bylaw deemed to be made under this Act by section 293) no later than 5 years after the date on which the bylaw was made.
- (2) A local authority must review a bylaw made by it under the Local Government Act 1974 (other than a bylaw deemed to be made under this Act by section 293)—

- (a) no later than 1 July 2008, if the bylaw was made before 1 July 2003; and
- (b) no later than 5 years after the bylaw was made, if the bylaw was made after 1 July 2003.

Section 158: substituted, on 28 June 2006, by section 19 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### **159 Further reviews of bylaws every 10 years**

A local authority must review a bylaw made by it under this Act or the Local Government Act 1974 no later than 10 years after it was last reviewed as required by section 158 or this section.

Section 159: substituted, on 28 June 2006, by section 19 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### **160 Procedure for and nature of review**

- (1) A local authority must review a bylaw to which section 158 or 159 applies by making the determinations required by section 155.
- (2) For the purposes of subsection (1), section 155 applies with all necessary modifications.
- (3) If, after the review, the local authority considers that the bylaw—
  - (a) should be amended, revoked, or revoked and replaced, it must act under section 156:
  - (b) should continue without amendment, it must use the special consultative procedure.
- (4) For the purposes of subsection (3)(b), the statement of proposal referred to in section 83(1)(a) must include—
  - (a) a copy of the bylaw to be continued; and
  - (b) the reasons for the proposal; and
  - (c) a report of any relevant determinations by the local authority under section 155.
- (5) This section does not apply to any bylaw to which section 10AA of the Dog Control Act 1996 applies.

Section 160: substituted, on 28 June 2006, by section 19 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**160A Bylaw not reviewed within specified time frame revoked**

A bylaw that is not reviewed as required under section 158 or 159, if not earlier revoked by the local authority concerned, is revoked on the date that is 2 years after the last date on which the bylaw should have been reviewed under that section.

Section 160A: inserted, on 28 June 2006, by section 19 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

*Transfer of bylaw-making power*

**161 Transfer of bylaw-making power**

- (1) A territorial authority may transfer all or any of its powers to make bylaws—
  - (a) to a regional council if any part of the district of the territorial authority is within the region of that regional council; or
  - (b) to another territorial authority.
- (2) A regional council may transfer all or any of its powers to make bylaws to a territorial authority within its region or to another regional council.
- (3) The provisions of section 17 apply in relation to a transfer under this section.
- (4) A local authority must not transfer or delegate the power to make bylaws, except as provided for in this section.

**Subpart 2—Enforcement powers**

*Injunctions*

**162 Injunctions restraining commission of offences and breaches of bylaws**

- (1) A District Court may, on the application of a local authority, grant an injunction restraining a person from committing a breach of a bylaw or an offence against this Act.
- (2) An injunction may be granted under subsection (1)—
  - (a) despite anything in any other enactment;
  - (b) whether or not proceedings in relation to the breach or offence have been commenced;
  - (c) if a person is convicted of the breach or offence,—

- (i) in substitution for, or in addition to, any other penalty; or
- (ii) in subsequent proceedings.

Compare: 1974 No 66 ss 683, 698

### *Removal of works*

#### **163 Removal of works in breach of bylaws**

- (1) If authorised by a bylaw to do so, a local authority may—
  - (a) remove or alter a work or thing that is, or has been, constructed in breach of a bylaw; and
  - (b) recover the costs of removal or alteration from the person who committed the breach.
- (2) Nothing done under subsection (1) or in a bylaw referred to in that subsection relieves the person who committed the breach from any other liability for the breach of the bylaw.

Compare: 1974 No 66 s 692

### *Seizure of property*

#### **164 Seizure of property not on private land**

- (1) An enforcement officer may seize and impound property that is not on private land if—
  - (a) the property is materially involved in the commission of an offence; and
  - (b) it is reasonable in the circumstances to seize and impound the property; and
  - (c) before seizing and impounding the property, the enforcement officer—
    - (i) directed (orally or in writing) the person committing the offence to stop committing the offence; and
    - (ii) has advised (orally or in writing) the person committing the offence that, if he or she does not stop committing the offence, the enforcement officer has power to seize and impound the property; and
    - (iii) provided the person with a reasonable opportunity to stop committing the offence.
- (2) However, if the property is not in the possession of a person at the time the enforcement officer proposes to seize and im-

pound the property, the enforcement officer does not have to comply with subsection (1)(c).

- (3) As soon as practicable after seizing and impounding property, an enforcement officer must give a notice in the prescribed form—
  - (a) to the person in possession of the property at the time it was seized and impounded; or
  - (b) if paragraph (a) does not apply, to any person who the enforcement officer can ascertain is the owner of, or has an interest in, the property.
- (4) In this section and section 165, **offence**—
  - (a) means an offence against this Act; and
  - (b) includes a breach of a bylaw.

#### **165 Seizure of property from private land**

- (1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may issue a warrant authorising an enforcement officer to enter private property involved in the commission of an offence, and seize and impound property.
- (2) A warrant may be issued only if—
  - (a) the application for it is made in the manner provided for an application for a search warrant in subpart 3 of Part 4 of the Search and Surveillance Act 2012; and
  - (b) the issuing officer is satisfied that—
    - (i) the property is materially involved in the commission of an offence; and
    - (ii) it is reasonable in the circumstances for the property to be seized; and
    - (iii) the enforcement officer has directed the person committing the offence to stop committing the offence and has advised the person that, if he or she fails to do so, the enforcement officer intends to apply for a warrant; and
    - (iv) the enforcement officer has given the person committing the offence a reasonable opportunity to stop committing the offence.
- (3) None of the following persons may act as an issuing officer under this section:

- (a) the mayor or any elected member of the local authority;
  - (b) any employee of the local authority.
- (4) The provisions of Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) apply as if a warrant issued under subsection (1) were a search warrant.

Section 165(1): amended, on 1 October 2012, by section 270(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 165(2)(a): amended, on 1 October 2012, by section 270(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 165(2)(b): amended, on 1 October 2012, by section 270(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 165(3): replaced, on 1 October 2012, by section 270(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 165(4): replaced, on 1 October 2012, by section 270(4) of the Search and Surveillance Act 2012 (2012 No 24).

#### **166 Conditions for exercise of warrant to seize property on private land**

- (1) An enforcement officer executing a warrant issued under section 165(1) must be accompanied by a constable.
- (2) Subsection (1) overrides section 165(4).

Section 166(1): replaced, on 1 October 2012, by section 271(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 166(2): replaced, on 1 October 2012, by section 271(1) of the Search and Surveillance Act 2012 (2012 No 24).

#### **167 Return of property seized and impounded**

- (1) The owner of property that has been seized and impounded under section 164, or the person from whom the property was seized, may request the local authority concerned to return the property.
- (2) The local authority must return the property if—
- (a) the property is not likely to be involved in an offence for which it was seized; and
  - (b) the owner or person has paid, or tenders with the request payment of, the costs of the local authority in seizing, impounding, transporting, and storing the property.
- (3) If the local authority refuses to return the property, the owner or person from whom it was seized may apply to a District Court to review the local authority's decision.

- (4) The District Court may—
- (a) confirm the local authority's decision; or
  - (b) order that the property be returned.

Section 167(1): amended, on 1 October 2012, by section 271(2) of the Search and Surveillance Act 2012 (2012 No 24).

**168 Power to dispose of property seized and impounded**

- (1) A local authority may dispose of property seized and impounded under section 164 that has not been returned within 6 months after it was seized and impounded.
- (2) A local authority must not dispose of property before giving the owner of the property and the person it was seized from not less than 14 working days' notice of the authority's intention to do so.
- (3) A local authority may dispose of the property by way of sale or otherwise as it thinks fit.
- (4) Any proceeds from the disposal of the property must be applied to pay,—
  - (a) first, the costs incurred in seizing, impounding, transporting, and storing the property;
  - (b) second, the costs of disposing of the property;
  - (c) third, any surplus to the owner of the property or the person from whom it was seized.

Section 168(1): amended, on 1 October 2012, by section 271(3) of the Search and Surveillance Act 2012 (2012 No 24).

*Powers of arrest, search, and seizure in relation  
to liquor*

**169 Powers of arrest, search, and seizure in relation to bylaw prohibiting liquor in public place**

- (1) In this section and in section 170,—

**bylaw** means a bylaw made under section 147(2)

**liquor** has the meaning given to it in the Sale of Liquor Act 1989

**offence** means an offence under section 239 that is a breach of a bylaw prohibiting—

- (a) the consumption or possession or both of liquor in, or the bringing of liquor into, a public place; or

- (b) in conjunction with a prohibition relating to liquor, the presence or use of a vehicle in a public place  
**public place** means a public place as defined in section 147(1) in respect of which there is a bylaw prohibiting—
  - (a) the consumption or possession or both of liquor in, or the bringing of liquor into, that place; or
  - (b) in conjunction with a prohibition relating to liquor, the presence or use of a vehicle in that place.
- (2) A constable may, without warrant,—
  - (a) for the purpose of ascertaining whether liquor is present, search—
    - (i) a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, a public place;
    - (ii) a vehicle that is in, or is entering, a public place;
  - (b) seize and remove liquor and its container if the liquor is in a public place in breach of a bylaw;
  - (c) arrest a person whom the constable finds committing an offence;
  - (d) arrest a person who has refused to comply with a request by a constable—
    - (i) to leave the public place; or
    - (ii) to surrender to a constable the liquor that, in breach of a bylaw, is in that person's possession.
- (3) Liquor or a container seized under subsection (2)(b) is forfeited to the Crown if the person from whom the liquor or container is seized is convicted of breaching the bylaw.

Section 169(1) **bylaw**: inserted, on 28 June 2006, by section 20 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 169(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 169(2)(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 169(2)(d): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 169(2)(d)(ii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).



**170 Conditions relating to power of search**

- (1) Before exercising the power of search under section 169(2)(a) in relation to a container or a vehicle, a constable must—
  - (a) inform the person in possession of the container or the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the public place; and
  - (b) provide the person with a reasonable opportunity to remove the container or the vehicle, as the case may be, from the public place.
- (2) However, on specified dates or in relation to specified events, notified in accordance with subsection (3), a constable may, immediately and without further notice, exercise the power under section 169(2)(a) to search a container or a vehicle.
- (3) Before a constable may exercise the power of search under subsection (2), the territorial authority must—
  - (a) specify the public place (within the meaning of section 169(1)) where, and the period when, this power may be exercised by the Police by public notice given 14 days in advance in accordance with this Act; and
  - (b) indicate the location of the public place by 1 or more clearly legible notices affixed in 1 or more conspicuous places on, or adjacent to, the place to which the notice relates, unless it is impracticable or unreasonable to do so.
- (4) Subsection (2) only applies if the constable is authorised to exercise that power by a bylaw made under section 147.

Compare: 1974 No 66 s 709H

Section 170(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 170(1)(b): amended, on 7 July 2004, by section 17 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 170(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 170(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 170(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

*Powers of entry***171 General power of entry**

- (1) For the purpose of doing anything that the local authority is empowered to do under this Act or any other Act, a local authority may enter any land or building other than a dwelling-house.
- (2) *[Repealed]*
- (3) *[Repealed]*
- (4) If a local authority exercises the power under subsection (1) to enter unoccupied land or unoccupied buildings, the local authority must notify the owner—
  - (a) not less than 24 hours in advance of the intended entry if it is reasonably practicable to do so; or
  - (b) as early as reasonably practicable, whether before or after entry has been made.
- (5) This section does not limit section 172 or section 173.

Section 171(2): repealed, on 1 October 2012, by section 271(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 171(3): repealed, on 1 October 2012, by section 271(4) of the Search and Surveillance Act 2012 (2012 No 24).

**172 Power of entry for enforcement purposes**

- (1) A warranted enforcement officer may enter land for the purpose of detecting a breach of a bylaw or the commission of an offence against this Act if the officer has reasonable grounds for suspecting that a breach of the bylaw or the commission of the offence has occurred or is occurring on the land.
- (2) Before exercising the power in subsection (1), the officer must, if practicable, give reasonable notice to the occupier of the land of the intention to exercise the power, unless the giving of notice would defeat the purpose of entry.
- (3) The power in subsection (1) to enter a dwellinghouse must not be exercised unless—
  - (a) the entry is authorised by a warrant given by an issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) on application made in the manner provided for an application for a search warrant in subpart 3 of Part 4 of that Act; and

- (b) when exercising the power, the enforcement officer is accompanied by a constable.
- (4) Subject to subsections (3)(b) and (5), the provisions of Part 4 of the Search and Surveillance Act 2012 apply.
- (5) Despite subsection (4), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Section 172(3)(a): amended, on 1 October 2012, by section 271(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 172(4): replaced, on 1 October 2012, by section 271(6) of the Search and Surveillance Act 2012 (2012 No 24).

Section 172(5): inserted, on 1 October 2012, by section 271(6) of the Search and Surveillance Act 2012 (2012 No 24).

### **173 Power of entry in cases of emergency**

- (1) A local authority may, for the purpose of doing anything that it is authorised to do under this Act or any other enactment, enter occupied land or buildings without giving prior notice, if—
  - (a) there is a sudden emergency causing or likely to cause—
    - (i) loss of life or injury to a person; or
    - (ii) damage to property; or
    - (iii) damage to the environment; or
  - (b) there is danger to any works or adjoining property.

- (2) The provisions of Part 4 of the Search and Surveillance Act 2012 (except subparts 2 and 3, and sections 118 and 119) apply.

Compare: 1974 No 66 s 708A(3)

Section 173(2): replaced, on 1 October 2012, by section 271(7) of the Search and Surveillance Act 2012 (2012 No 24).

### **174 Authority to act**

- (1) If an officer of a local authority or other person is authorised by this Act or another enactment to enter private land on behalf of the local authority, the local authority must provide a written warrant under the seal of the local authority as evidence that the person is so authorised.
- (2) The production of a warrant issued under subsection (1) is sufficient proof of a person's authorisation.

- (3) An authorised person must, if requested, produce the warrant provided under subsection (1) before entering private land under the authority.
- (4) An officer or other person must surrender to the local authority the warrant provided under subsection (1) if—
  - (a) the officer's appointment is terminated; or
  - (b) the authorisation referred to in subsection (1) is terminated.
- (5) This section does not apply to—
  - (a) a dog control officer or dog ranger acting under a power of entry conferred by the Dog Control Act 1996; or
  - (b) an enforcement officer acting under a power conferred by the Resource Management Act 1991; or
  - (c) an inspector or authorised person acting under a power conferred by the Biosecurity Act 1993.

Compare: 1974 No 66 s 710

### *Recovery for damage*

#### **175 Power to recover for damage by wilful or negligent behaviour**

A person who wilfully or negligently destroys, damages, stops, obstructs, or otherwise interferes with any works or property owned, constructed, acquired, or used by a local authority is liable for, as the case may be,—

- (a) the amount of the destruction or damage; or
- (b) the cost incurred by the local authority in removing the stoppage or obstruction; or
- (c) any loss or expenses incurred by the local authority by the stoppage or obstruction or interference.

Compare: 1974 No 66 s 695

#### **176 Costs of remedying damage arising from breach of bylaw**

- (1) A person who has been convicted of an offence against a bylaw is liable to pay to the local authority concerned the costs of remedying any damage caused in the course of committing the offence.
- (2) The costs must be assessed by a District Court Judge and are recoverable summarily as if they were a fine.

- (3) Costs recoverable under this section are in addition to any penalty for which the person who committed the offence is liable.

Compare: 1974 No 66 s 493(2)–(4)

*Administration of enforcement functions*

**177 Appointment of enforcement officer**

- (1) A local authority may appoint persons to be enforcement officers in the district or region of the local authority in relation to any offence under this Act, including, without limitation,—
- (a) offences against bylaws made under this Act;
  - (b) infringement offences provided for by regulations made under section 259.
- (2) A local authority must issue warrants in writing to enforcement officers appointed under this section, specifying—
- (a) the responsibilities and powers delegated to them; and
  - (b) the infringement offences in relation to which they are appointed.
- (3) An enforcement officer must produce his or her warrant and evidence of identity whenever reasonably required to do so by any person.
- (4) Enforcement officers may exercise the power to seize an object under section 164.

*Powers of enforcement officers*

**178 Enforcement officers may require certain information**

If an enforcement officer believes on reasonable grounds that a person is committing or has committed an offence under this Act, the officer may direct the person to give—

- (a) his or her name and address; and
- (b) the name and address and whereabouts of any other person connected in any way with the alleged offence.

*Administration of enforcement may be  
contracted out*

**179 Contracting out administration of enforcement**

- (1) A local authority may contract out to any other local authority or other person the administration of its regulatory functions, including, without limitation, the operational aspects of enforcement, inspection, licensing, and other administrative matters.
- (2) If any aspects of the administration of bylaws or other regulatory functions of the local authority are contracted out under this section, the local authority retains responsibility for the manner in which those tasks are undertaken, including legal responsibility.

*Enforcement of regional council bylaws*

**180 Enforcement and administration of regional council bylaws**

- (1) If a regional council has made a bylaw under subpart 1, a territorial authority with jurisdiction in that region may, with the consent of the regional council, undertake within its district the enforcement and administration of that bylaw.
- (2) If a bylaw is enforced and administered under subsection (1), fines imposed for breaches committed within the district must—
  - (a) be dealt with by the territorial authority as if they were fines imposed for breaches of a bylaw of that territorial authority; and
  - (b) subject to section 73 of the Public Finance Act 1989, be paid to the relevant territorial authority.

Compare: 1974 No 66 s 687

### Subpart 3—Powers in relation to private land

#### *Construction of works*

#### **181 Construction of works on private land**

- (1) A local authority may construct works on or under private land or under a building on private land that it considers necessary for—
  - (a) the supply by territorial authorities of water by means of reticulated systems;
  - (b) the supply of water through water races;
  - (c) trade wastes disposal;
  - (d) land drainage and rivers clearance.
- (2) A territorial authority may construct works on or under private land or under a building on private land that it considers necessary for sewage and stormwater drainage.
- (3) A local authority or a territorial authority, as the case may be, must not exercise the power in subsection (1) or subsection (2) unless it has—
  - (a) the prior written consent of the owner of the land to the construction of the work; or
  - (b) complied with the requirements of Schedule 12.
- (4) A local authority may enter the land to inspect, alter, renew, repair, or clean any work constructed under this section or under the corresponding provision of a former Act.
- (5) The power in subsection (4) must not be exercised without first giving reasonable notice of the intention to enter the land to the owner and occupier (if any).
- (6) This section applies subject to the Public Works Act 1981 as to compensation for injurious affection to land.

Compare: 1974 No 66 s 708

Section 181(1)(a): substituted, on 7 July 2004, by section 18 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

*Powers of entry***182 Power of entry to check utility services**

- (1) An enforcement officer of a local authority may enter any land or building (but not a dwellinghouse) for the purpose of ascertaining whether—
  - (a) water supplied from any waterworks or water race to any land or building is being wasted or misused; or
  - (b) any drainage works on any land are being misused; or
  - (c) any appliance or equipment associated with a local authority utility service on the land is in a condition that makes it dangerous to life or property.
- (2) The power under subsection (1) may only be exercised if the enforcement officer—
  - (a) believes on reasonable grounds that the circumstances in any of paragraph (a), paragraph (b), or paragraph (c) of that subsection exist; and
  - (b) the local authority gives reasonable notice to the occupier of the land or building of the intention to exercise the power.
- (3) If an enforcement officer is refused entry or obstructed when exercising the power in subsection (1), the local authority may restrict the water supply to the land or building, as provided for in section 193.

Compare: 1974 No 66 s 709

*Powers relating to owners and occupiers of land***183 Removal of fire hazards**

- (1) A territorial authority may, by notice in writing, require the occupier or (if there is no occupier) the owner of land to cut down, eradicate, or remove any growth on the land or to remove or destroy any matter on the land if the growth or matter is likely to become a source of danger from fire in the opinion of—
  - (a) the chief executive officer of the territorial authority; or
  - (b) the Chief Fire Officer of the New Zealand Fire Service; or
  - (c) if the land is in a rural fire district under the Forest and Rural Fires Act 1977, a rural fire officer.



- (2) A resident of the district may, by notice in writing to a territorial authority, request the territorial authority to issue a notice under this section.
- (3) If the territorial authority has not, within 1 month after the notice, complied with the request, the resident may apply to a District Court for an order requiring the territorial authority to comply with the request.
- (4) On hearing the application, the court may order that the territorial authority comply with the request or cancel the request.
- (5) A territorial authority may, after oral notice from an authorised officer of the territorial authority to the occupier or (if there is no occupier) the owner, eradicate or remove growth or remove or destroy matter on land in its district if the growth or matter is an imminent danger to life, property, or any road.
- (6) The cost of work done under subsection (5) is a charge on the land.
- (7) The powers in this section—
  - (a) are in addition to any powers a territorial authority has under any other enactment; and
  - (b) may be exercised in accordance with any agreement or arrangement under section 14(2) of the Forest and Rural Fires Act 1977.
- (8) In this section,—

**cut down** means cutting down and keeping cut down, or removing or controlling by chemical means, the stem and roots of a tree so as to prevent the tree from throwing out leaves, offshoots, or flowers

**growth** means broom, gorse, scrub, weeds, undergrowth, dry grass, or other growth on land, whether or not it is standing or growing

**matter** means accumulated refuse or flammable waste.

Compare: 1974 No 66 s 650

**184 Rights and obligations if notice given under section 183(1)**

- (1) This section applies if a notice is given under section 183(1).
- (2) The owner or occupier may, within 10 days after service of the notice, apply to a District Court for an order cancelling the notice.

- (3) On hearing the application, the District Court may confirm the notice or cancel the notice.
- (4) An owner or occupier, as the case may be, must comply with a notice within 1 month after—
  - (a) the notice is served on the owner or occupier; or
  - (b) if the owner or occupier applies to a District Court under subsection (2), the court confirms the order.
- (5) If the owner or occupier fails to comply with subsection (4), the territorial authority may enter the land and do the thing or things required by the notice.
- (6) The territorial authority may recover from the owner or occupier the cost of anything done under subsection (5).
- (7) The costs are a charge on the land.

*Default by owner or occupier*

**185 Occupier may act if owner of premises makes default**

- (1) If an owner of premises defaults in doing any work required by or under this Act, the occupier of the premises, with the approval of the local authority, may do the work.
- (2) If the occupier of the premises does the work under subsection (1), or is compelled to do any work or pay any money that ought primarily to be done or paid by the owner of the premises,—
  - (a) the occupier is entitled to be paid by the owner for the work done or money paid; and
  - (b) the occupier may deduct the amount of the expense or the money paid from any rent due from the occupier to the owner.

Compare: 1974 No 66 s 672

**186 Local authority may execute works if owner or occupier defaults**

- (1) This section applies if an owner or occupier of private premises is required to execute, provide, or do any works, materials, or things on, or in connection with, any premises or other matter, and—
  - (a) the owner or occupier, after notice requiring him or her to do so, defaults in commencing to comply within the

- time specified in the notice or, if no time is specified in the notice, within a reasonable time; or
- (b) the work is certified in writing by an officer of the local authority to be urgent, and the contents of the certificate have been communicated to the owner or occupier, and the default is made for 24 hours after the time of the communication; and
  - (c) in either case, the owner or occupier does not proceed with the work with all reasonable expedition.
- (2) The local authority may, if it thinks fit,—
- (a) itself execute, provide, or do the works, materials, and things; and
  - (b) recover from the owner or occupier as a debt the cost of doing so.
- (3) Money payable to the local authority under subsection (2) is recoverable from the owner or occupier, as the case may be, together with reasonable administration charges.
- (4) However, the person primarily liable under subsection (3) is the owner or occupier in default, as the case may be.
- (5) The local authority—
- (a) may destroy, sell, or otherwise dispose of any materials resulting from doing any work under this section; and
  - (b) must apply the proceeds of sale towards payment of the amount payable under subsection (2) and pay the surplus (if any) to the owner.
- (6) The exercise of powers under this section by the local authority does not relieve any person from any penalty for failing to comply with the requirements of a notice under this Act.
- (7) Any work done or to be done by the local authority under this section is a public work for the purposes of the Public Works Act 1981.

Compare: 1974 No 66 s 676

Section 186(1)(b): amended, on 27 November 2010, by section 35(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 186(5)(b): amended, on 27 November 2010, by section 35(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

*Recovery of costs***187 Recovery of cost of works by local authority**

If the default of a person in doing an act is an offence under this Act and the local authority or any officer of the local authority is authorised to do the act in default, the local authority may recover from the person in default the cost of doing the work, together with reasonable administrative and supervision charges.

Compare: 1974 No 66 s 677

**188 Liability for payments in respect of private land**

If, under this Act or any other enactment, money paid for expenses incurred by the local authority in relation to private land is a charge on the land, the omission to register the charge does not affect—

- (a) the liability of the person who is liable to pay the amount; or
- (b) the rights of the local authority under the charge as against the person.

Compare: 1974 No 66 s 678

*Compulsory acquisition of land***189 Power to acquire land**

- (1) A local authority may purchase, or take in the manner provided in the Public Works Act 1981, any land or interest in land, whether within or outside its district, that may be necessary or convenient for the purposes of, or in connection with, any public work that the local authority was empowered to undertake, construct, or provide immediately before 1 July 2003.
- (2) All land taken, purchased, or acquired under the Public Works Act 1981 is vested in the local authority for the purpose for which it was acquired and is subject to the provisions of that Act as to a change of the purpose or its disposal.

Compare: 1974 No 66 s 247F

**190 Compensation payable by local authority for land taken or injuriously affected**

- (1) This section applies to a person having an estate or interest in land—
- (a) taken under the authority of this Act for any public work; or
  - (b) injuriously affected by any public work; or
  - (c) suffering any damage from the exercise of any of the powers given by this Act.
- (2) A person is entitled to full compensation from the local authority for the matters referred to in subsection (1)(a), (b), or (c) to the extent provided in the Public Works Act 1981.
- (3) The compensation may be claimed and must be determined in the manner provided by the Public Works Act 1981.

Compare: 1974 No 66 s 247G

*Nuisance*

**191 Local authority not authorised to create nuisance**

This subpart does not entitle a local authority—

- (a) to create a nuisance; or
- (b) to deprive the Crown or any person of any right or remedy the Crown or the person would otherwise have against the local authority or any other person in respect of any nuisance.

Compare: 1974 No 66 s 247H

**Subpart 4—Powers in relation to water  
services and trade wastes**

*Water supply*

**192 Wastage of water**

A person who is supplied with reticulated water by, or on behalf of, a local authority must not waste the water or allow it to be wasted.

Compare: 1974 No 66 s 382

**193 Power to restrict water supply**

- (1) The water supply to a person's land or building may be restricted by a local government organisation in any manner it thinks fit if the person—
- (a) commits an offence against this subpart; or
  - (b) fails or refuses to do anything required by this Part in respect of water, water pipes, waterworks, or water races; or
  - (ba) fails to comply with any bylaw of a local authority that relates—
    - (i) to water, water pipes, waterworks, water races, or water supply; and
    - (ii) to the person's land or building; or
  - (c) fails or refuses to do anything that he or she has undertaken or agreed to do in respect of the water supply to his or her land or building; or
  - (d) refuses entry to, or obstructs, an enforcement officer under section 182.
- (2) Restriction of the water supply under subsection (1) must not create unsanitary conditions in, or associated with, the land or building.
- (3) Restriction of the water supply under subsection (1) is subject to section 69S of the Health Act 1956.

Section 193(1)(ba): substituted, on 28 June 2006, by section 21 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 193(3): added, on 1 July 2008, by section 16 of the Health (Drinking Water) Amendment Act 2007 (2007 No 92).

**194 Power to stop water services**

*[Repealed]*

Section 194: repealed, on 1 July 2008, by section 17 of the Health (Drinking Water) Amendment Act 2007 (2007 No 92).

*Discharge of sewage and trade wastes***195 Discharge of sewage**

- (1) The discharge of domestic sewage into a sewerage drain under the control of a local authority in accordance with the bylaws of the local authority, and the discharge of trade wastes into a

sewerage drain in accordance with trade wastes bylaws, is not a breach of—

- (a) this Act; or
  - (b) the Resource Management Act 1991 or regulations made under that Act; or
  - (c) the Building Act 2004 or regulations made under that Act.
- (2) However, this section does not absolve a local authority from liability for the discharge, in contravention of this Part or of the Resource Management Act 1991, of a contaminant from a sewerage drain under the control of the local authority.
- (3) The Minister of Health may, by notice in the *Gazette*, declare that a bylaw made by a local authority and specified in the notice is a trade wastes bylaw for the purposes of this section.

Compare: 1974 No 66 s 498

Section 195(1)(c): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

#### **196 Discharge of trade wastes**

- (1) The occupier of trade premises within the district of a territorial authority may discharge into the sewerage drains under the control of the territorial authority trade wastes proceeding from those premises either—
- (a) with the consent of the territorial authority; or
  - (b) without consent if, and to the extent that, the discharge is permitted by trade wastes bylaws.
- (2) This section does not override any trade wastes bylaws, or the Resource Management Act 1991.

Compare: 1974 No 66 s 499

### **Subpart 5—Development contributions**

#### **197 Interpretation**

In this subpart and Schedule 13,—

**allotment** has the meaning given to it in section 218(2) of the Resource Management Act 1991

**community facilities** means reserves, network infrastructure, or community infrastructure for which development contributions may be required in accordance with section 199

**community infrastructure** means—

- (a) land, or development assets on land, owned or controlled by the territorial authority to provide public amenities; and
- (b) includes land that the territorial authority will acquire for that purpose

**development** means—

- (a) any subdivision or other development that generates a demand for reserves, network infrastructure, or community infrastructure; but
- (b) does not include the pipes or lines of a network utility operator

**development contribution** means a contribution—

- (a) provided for in a development contribution policy included in the long-term plan of a territorial authority; and
- (b) calculated in accordance with the methodology; and
- (c) comprising—
  - (i) money; or
  - (ii) land, including a reserve or esplanade reserve (other than in relation to a subdivision consent), but excluding Māori land within the meaning of Te Ture Whenua Māori Act 1993, unless that Act provides otherwise; or
  - (iii) both

**development contribution policy** means the policy on development contributions adopted under section 102(1)

**methodology** means the methodology for calculating development contributions set out in Schedule 13

**network infrastructure** means the provision of roads and other transport, water, wastewater, and stormwater collection and management

**network utility operator** has the meaning given to it by section 166 of the Resource Management Act 1991

**service connection** means a physical connection to a service provided by, or on behalf of, a territorial authority.

Section 197: amended, on 28 June 2006, by section 22(1) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).



Section 197 **community facilities**: inserted, on 28 June 2006, by section 22(2) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 197 **development contribution** paragraph (a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 197 **development contribution policy**: substituted, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

*Contributions may be required by territorial  
authorities*

**198 Power to require contributions for developments**

- (1) A territorial authority may require a development contribution to be made to the territorial authority when—
  - (a) a resource consent is granted under the Resource Management Act 1991 for a development within its district;
  - (b) a building consent is granted under the Building Act 2004 for building work situated in its district (whether by the territorial authority or a building consent authority);
  - (c) an authorisation for a service connection is granted.
- (2) A territorial authority may only require a development contribution as provided for in a policy adopted under section 102(1) that is consistent with section 201.
- (3) A requirement for a development contribution under subsection (1)(a) or (1)(b) is not—
  - (a) a condition of a resource consent that gives rise to any right of objection or appeal; or
  - (b) as the case may be, a matter that gives rise to any right to apply to the chief executive for a determination under the Building Act 2004.
- (4) Subsection (3) is for the avoidance of doubt.
- (5) In this section,—

**building consent authority** means a person whose name is entered in the register referred to in section 273(1)(a) of the Building Act 2004

**chief executive** has the meaning given to it in section 7 of the Building Act 2004.

Section 198(1): substituted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 198(1): amended, on 28 June 2006, by section 23(1) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 198(1)(b): amended, on 28 June 2006, by section 23(2) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 198(2): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 198(3): substituted, on 28 June 2006, by section 23(3) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 198(4): added, on 28 June 2006, by section 23(3) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 198(5): added, on 28 June 2006, by section 23(3) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

## **199 Basis on which development contributions may be required**

- (1) Development contributions may be required in relation to developments if the effect of the developments is to require new or additional assets or assets of increased capacity and, as a consequence, the territorial authority incurs capital expenditure to provide appropriately for—
  - (a) reserves:
  - (b) network infrastructure:
  - (c) community infrastructure.
- (2) This section does not prevent a territorial authority from requiring a development contribution that is to be used to pay, in full or in part, for capital expenditure already incurred by the territorial authority in anticipation of the development.
- (3) In subsection (1), **effect** includes the cumulative effects that a development may have in combination with another development.

### *Conditions relevant to requirement for contributions*

## **200 Limitations applying to requirement for development contribution**

- (1) A territorial authority must not require a development contribution for a reserve, network infrastructure, or community infrastructure if, and to the extent that—

- (a) it has, under section 108(2)(a) of the Resource Management Act 1991, imposed a condition on a resource consent in relation to the same development for the same purpose; or
  - (b) the developer will fund or otherwise provide for the same reserve, network infrastructure, or community infrastructure; or
  - (c) the territorial authority has received or will receive funding from a third party.
- (2) This subpart does not prevent a territorial authority from accepting from a person, with that person's agreement, additional contributions for reserves, network infrastructures, or community infrastructures.

*Development contributions policy*

**201 Contents of development contributions policy**

- (1) If a territorial authority has determined to seek funding for community facilities under this subpart, the policy required by section 102(1) must include, in summary form, in addition to the matters set out in section 106,—
  - (a) an explanation of, and justification for, the way each development contribution in the schedule required by subsection (2) is calculated; and
  - (b) the significant assumptions underlying the calculation of the schedule of development contributions, including an estimate of the potential effects, if there is a significant level of uncertainty as to the scope and nature of the effects; and
  - (c) the conditions and criteria (if any) that will apply in relation to the remission, postponement, or refund of development contributions, or the return of land; and
  - (d) the basis on which the value of additional allotments or land is assessed for the purposes of section 203(1).
- (2) A development contributions policy must contain a schedule in accordance with section 202.

Section 201(1): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**202 Contents of schedule to development contributions policy**

- (1) The schedule of development contributions required by section 201(2) must specify—
- (a) the development contributions payable in each district, calculated, in each case, in accordance with the methodology in respect of—
    - (i) reserves; and
    - (ii) network infrastructure; and
    - (iii) community infrastructure; and
  - (b) the event that will give rise to a requirement for a development contribution under section 198, whether upon granting—
    - (i) a resource consent under the Resource Management Act 1991; or
    - (ii) a building consent under the Building Act 2004; or
    - (iii) an authorisation for a service connection.
- (2) If different development contributions are payable in different parts of the district, subsection (1) applies in relation to the parts of the district.
- (3) The specifications required under subsection (1) or subsection (2) must be given separately in relation to each activity or group of activities for which separate development contributions are required.

Section 202(1)(b)(ii): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

**203 Maximum development contributions not to be exceeded**

- (1) Development contributions for reserves must not exceed the greater of—
- (a) 7.5% of the value of the additional allotments created by a subdivision; and
  - (b) the value equivalent of 20 square metres of land for each additional household unit created by the development.
- (2) Development contributions for network infrastructure or community infrastructure must not exceed the amount calculated by multiplying the cost of the relevant unit of demand calculated under clause 1 of Schedule 13 by the number of units of

demand assessed for a development or type of development, as provided for in clause 2 of Schedule 13.

*Use of development contributions*

**204 Use of development contributions by territorial authority**

- (1) A development contribution—
- (a) must be used for, or towards, the capital expenditure of the reserve, network infrastructure, or community infrastructure for which the contribution was required, which may also include the development of the reserve, network infrastructure, or community infrastructure; but
  - (b) must not be used for the maintenance of the reserve, network infrastructure, or community infrastructure.
- (2) Subsection (1) is subject to section 205.

**205 Use of development contributions for reserves**

A territorial authority must use a development contribution received for reserves purposes for the purchase or development of reserves within its district, which may include—

- (a) the development of community or recreational facilities associated with the use of a reserve;
- (b) the provision or improvement of recreational facilities at a school established or about to be established under Part 12 of the Education Act 1989, if—
  - (i) a licence has been granted under section 6A of the Education Lands Act 1949 or section 70B of the Education Act 1989 in relation to the use or occupation of the community recreational facilities; and
  - (ii) the Minister for Sport and Recreation has notified the local authority in writing that he or she is satisfied that the licence provides for the reasonable use of the community recreational facilities by members of the public;
- (c) the purchase of land or an interest in land—
  - (i) to be held for conservation purposes under the Reserves Act 1977:

- (ii) that is, or will be, subject to a conservation covenant under section 77 of the Reserves Act 1977:
- (d) payment, on terms and conditions the territorial authority thinks fit, to—
  - (i) another local authority or public body in which land in the district is vested to enlarge, enhance, or develop the land for public recreation purposes:
  - (ii) the administering body of a reserve held under the Reserves Act 1977 to enlarge, enhance, or develop the reserve:
  - (iii) the trustees or body corporate in whom is vested a Māori reservation to which section 340 of Te Ture Whenua Maori Act 1993 applies, to enhance the reservation for cultural or other purposes:
  - (iv) any person, to secure an appropriate interest in perpetuity in land for conservation purposes.

Section 205(b)(i): amended, on 17 May 2006, by section 8(4) of the Education Amendment Act 2006 (2006 No 19).

## **206 Alternative uses of development contributions for reserves**

Despite section 205, if the territorial authority considers that the district in which the development is situated has adequate reserves, or that it is impracticable to purchase or develop reserves in that locality, it may, if it considers it will benefit the residents in the district in which the development is situated, use the development contributions—

- (a) to add to, improve, or develop land outside the district that is vested in, or controlled by, the territorial authority for public recreation purposes:
- (b) with the consent of the Minister and subject to the terms and conditions the Minister thinks fit, to make payments or advance money to a local authority or public body to add to, improve, or develop land outside the district that is vested in, or controlled by, the local authority or public body for public recreation purposes:

- (c) if the territorial authority has control of the foreshore or the bed of a lake or a harbour under a coastal permit by virtue of section 384(1)(b) or section 425(3)(a) of the Resource Management Act 1991,—
  - (i) to improve or develop the foreshore (whether within or outside the district) for public recreational purposes:
  - (ii) to erect, improve, or develop for public recreational purposes—
    - (A) the bed of the harbour or of the sea immediately contiguous to the foreshore; or
    - (B) the bed of a lake (whether within or outside the district).

**207 Power to use money collected and held under Local Government Act 1974 or Resource Management Act 1991**

- (1) This section applies to money collected—
  - (a) as contributions under Part 20 of the Local Government Act 1974:
  - (b) as contributions under sections 407 or 409 of the Resource Management Act 1991.
- (2) If, at the commencement of this subpart, a territorial authority holds money to which this section applies, the territorial authority may, with the written approval of the Minister, use the money as if it had been collected in accordance with this subpart,—
  - (a) in the case of money collected under Part 20 of the Local Government Act 1974, in accordance with this subpart; and
  - (b) in the case of money collected under sections 407 or 409 of the Resource Management Act 1991, in accordance with the conditions imposed under those sections.

*Powers to recover unpaid development  
contributions*

**208 Powers of territorial authority if development  
contributions not paid or made**

Until a development contribution required in relation to a development has been paid or made under section 198, a territorial authority may,—

- (a) in the case of a development contribution required under section 198(1)(a),—
  - (i) withhold a certificate under section 224(c) of the Resource Management Act 1991;
  - (ii) prevent the commencement of a resource consent under the Resource Management Act 1991;
- (b) in the case of a development contribution required under section 198(1)(b), withhold a code compliance certificate under section 95 of the Building Act 2004;
- (c) in the case of a development contribution required under section 198(1)(c), withhold a service connection to the development;
- (d) in each case, register the development contribution under the Statutory Land Charges Registration Act 1928, as a charge on the title of the land in respect of which the development contribution was required.

Section 208(b): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

*Refund of development contributions*

**209 Refund of money and return of land if development does  
not proceed**

- (1) A territorial authority must refund or return to the consent holder or to his or her personal representative a development contribution paid or land set aside under this subpart if—
  - (a) the resource consent—
    - (i) lapses under section 125 of the Resource Management Act 1991; or
    - (ii) is surrendered under section 138 of that Act; or
  - (b) the building consent lapses under section 52 of the Building Act 2004; or



- (c) the development or building in respect of which the resource consent or building consent was granted does not proceed; or
  - (d) the territorial authority does not provide the reserve, network infrastructure, or community infrastructure for which the development contribution was required.
- (2) A territorial authority may retain any portion of a development contribution or land referred to in subsection (1) of a value equivalent to the costs incurred by the territorial authority in relation to the development or building and its discontinuance.

Section 209(1)(b): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

**210 Refund of money or return of land if not applied to specified reserve purposes**

- (1) If a development contribution has been required for a specified reserve purpose, a territorial authority must—
  - (a) refund money received for that purpose, if the money is not applied to that purpose within 10 years after the authority receives the money or other period specified in the development contribution policy; or
  - (b) return land acquired for the specified reserve purpose, if the authority does not use the land for that purpose within 10 years after the authority acquires the land or other period agreed by the territorial authority and the person who paid the development contribution.
- (2) A territorial authority may retain part of the money or land referred to in subsection (1) of a value equivalent to the costs of the authority in refunding the money or returning the land.

**211 Application of other Acts**

This subpart is in addition to the Building Act 2004 and the Resource Management Act 1991.

Section 211: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

## Subpart 6—Removal orders

**212 Interpretation**

In sections 215 to 221 and Schedule 14, unless the context otherwise requires,—

**alter**, in relation to a fence, structure, or vegetation, includes the removal of all or part of the fence, structure, or vegetation if that removal is associated with its rebuilding or re-erection or replanting in a form specified in the removal order

**applicant** means a territorial authority or constable who applies for a removal order under section 215

**controlled drug** has the meaning given to it by section 2(1) of the Misuse of Drugs Act 1975

**court** means a District Court; and includes a District Court Judge

**crime involving dishonesty** has the meaning given to it by section 2(1) of the Crimes Act 1961

**plan** has the meaning given to it by section 2(1) of the Resource Management Act 1991

**proceeds** means property that is derived or realised, directly or indirectly, by a person from the commission of a serious offence

**proposed plan** has the meaning given to it by section 2(1) of the Resource Management Act 1991

**removal order** or **order** means an order made under section 216 to remove or alter any fence, structure, or vegetation

**respondent** means the person against whom an application for a removal order has been made; and includes a person against whom a removal order is made

**serious offence** means an offence punishable by imprisonment for a term of 5 years or more

**tainted property** means—

- (a) property used to commit, or to facilitate the commission of, a serious offence;
- (b) proceeds

**unauthorised weapon**—

- (a) means an article made or altered for use, or capable of being used, for causing bodily injury; and

- (b) includes, in respect of an offence against the Arms Act 1983 or an indictable offence committed or about to be committed,—
  - (i) a firearm, airgun, pistol, restricted weapon, or explosive, as those terms are defined in section 2 of the Arms Act 1983:
  - (ii) any ammunition.

Compare: 1974 No 66 s 692ZC

Section 212 **applicant**: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

### *Application of rules of court*

#### **213 Application of District Courts Rules to removal orders**

- (1) Despite section 247, an application made under section 215 must be made in accordance with Part 8 of the District Courts Rules 2009 and any rules made under subsection (2) or section 214.
- (2) In addition to all the powers conferred by the District Courts Act 1947, the Governor-General may, from time to time, by Order in Council, make rules under that Act—
  - (a) regulating the practice and procedure of the District Court in proceedings relating to an application for a removal order; and
  - (b) providing for the matters contemplated by, or necessary for giving full effect to, sections 215 to 221 and Schedule 14.
- (3) Rules made under the District Courts Act 1947 in accordance with this section are part of the District Courts Rules 2009.
- (4) In the absence of rules made under the District Courts Act 1947 in accordance with this section, or in a situation not covered by such rules, the District Courts Rules 2009 apply, with all necessary modifications, to proceedings relating to sections 215 to 221.

Compare: 1974 No 66 ss 692ZD(6), 692ZN

Section 213(1): amended, on 1 November 2009, pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

Section 213(3): amended, on 1 November 2009, pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

Section 213(4): amended, on 1 November 2009, pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

#### **214 Scope of rules made under section 213**

Without limiting section 213(2), rules made in accordance with that subsection under the District Courts Act 1947 may—

- (a) prescribe the procedure for serving a removal order, notice, and other documents for the purposes of sections 215 to 221 and Schedule 14 (including, without limitation, the circumstances in which service may be effected by leaving a copy of the order, notice, or document at the property to which the order relates):
- (b) provide for substituted service, and for service to be dispensed with, in the circumstances that are specified in the rules:
- (c) prescribe the circumstances and, if applicable, the manner in which persons entitled to object to a removal order may be served with a copy of notices of objection or other notices or documents in the proceedings:
- (d) provide that Registrars may exercise specified powers of the court or a Judge:
- (e) provide that proceedings may be stayed or dismissed, that an objection may be struck out, or that a party may not appear at the hearing of an objection to a removal order (whether not at all or only on the terms that the court considers appropriate)—
  - (i) if certain specified requirements of the rules are not complied with; or
  - (ii) unless certain specified requirements of the rules are complied with; or
  - (iii) if an order made under the rules is not complied with; or
  - (iv) unless an order made under the rules is complied with:
- (f) prescribe the forms necessary for the purposes of sections 215 to 221 and Schedule 14:
- (g) apply, with or without modification, provisions of the District Courts Rules 2009.

Compare: 1974 No 66 s 692ZN(2)

Section 214(g): amended, on 1 November 2009, pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

*Application for removal order*

**215 Application for removal order**

- (1) A territorial authority or constable may, without notice, apply to a District Court in the form prescribed in Part 8 of the District Courts Rules 2009 for a removal order requiring an owner or occupier of any property to remove or alter a fence, structure (whether or not forming part of a dwellinghouse or other building), or vegetation.
- (2) Schedule 14 applies to applications made under this section.

Compare: 1974 No 66 s 692ZD(1)

Section 215(1): amended, on 1 November 2009, pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

Section 215(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

*Making of removal orders*

**216 Circumstances when court may make removal order**

The District Court may make a removal order if—

- (a) the court is satisfied that the property is occupied, or regularly used, by persons who have been convicted of, or have committed, are committing, or are likely to commit, offences; and
- (b) the fence, structure, or vegetation—
  - (i) has facilitated or contributed to, is facilitating or contributing to, or is intended to facilitate or contribute to—
    - (A) the concealment on the property of an unauthorised weapon, controlled drug, tainted property, or property that is stolen or obtained by a crime involving dishonesty; or
    - (B) the avoidance of detection or arrest of a person believed or reasonably suspected to have committed an offence; or
    - (C) the commission of an offence by a person on or from the property; or

- (ii) is intended to injure a person; or
- (iii) is such that the court is satisfied that it may reasonably be regarded as intimidating.

Compare: 1974 No 66 s 692ZD(2)

Section 216(b)(ii): amended, on 1 December 2009, by section 4 of the Local Government Amendment Act 2009 (2009 No 48).

Section 216(b)(iii): added, on 1 December 2009, by section 4 of the Local Government Amendment Act 2009 (2009 No 48).

### *Objection to making of removal order*

#### **217 Right of objection**

- (1) If the court makes a removal order under section 216, the persons listed in clause 3(a) of Schedule 14 may object to the order being made.
- (2) A notice of objection lodged under subsection (1) operates as a stay of the removal order, pending the court's decision on the objection.

Compare: 1974 No 66 s 692ZG(1), (6)

#### **218 Consideration of objections**

- (1) After considering any objection made under section 217(1) to a removal order, the court may—
  - (a) confirm the order; or
  - (b) confirm the order but vary all or any of its terms; or
  - (c) discharge the order.
- (2) Without limiting the powers of the court, the court may strike out an objection made under section 217(1) if it is satisfied that the objection is frivolous or vexatious or an abuse of the procedure of the court.

Compare: 1974 No 66 ss 692ZH, 692ZI(1)

### *Right of appeal*

#### **219 Appeal to High Court final**

If a party to proceedings under this subpart appeals to the High Court under Part 5 of the District Courts Act 1947, the decision of the High Court on that appeal is final.

Compare: 1974 No 66 s 692ZJ

*Compliance with removal order*

**220 Compliance with removal order**

- (1) If no notice of objection to a removal order is lodged under section 217(1), or if the court confirms an order under section 218(1) with or without variation, the respondent must—
  - (a) comply with a removal order within the period specified in the order; and
  - (b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.
- (2) If the respondent fails to comply with a removal order, the applicant, without further notice, and using the force that is reasonable in the circumstances, may—
  - (a) enter the place where the fence, structure, or vegetation is situated and any portion of the adjoining land if reasonably necessary and authorised by the court in the removal order; and
  - (b) remove or alter the fence, structure, or vegetation, or arrange for its removal or alteration in accordance with the terms of the removal order; and
  - (c) sell or otherwise dispose of structures or materials salvaged in complying with the order; and
  - (d) after allowing for any money received under paragraph (c), recover the costs and expenses incurred in carrying out the terms of the removal order as a debt from the respondent.
- (3) Costs or expenses that remain unpaid under subsection (2)(d) may be registered under the Statutory Land Charges Registration Act 1928 as a charge on a property in respect of which a removal order is made.
- (4) Section 40 of the Building Act 2004 does not apply to the removal or alteration of a fence, structure, or vegetation in accordance with this section.

Compare: 1974 No 66 s 692ZK(1), (2), (3), (6)

Section 220(4): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

**221 Limits to power of entry to enforce compliance**

- (1) If a respondent fails to comply with a removal order, and the applicant enforces compliance under section 220(2), the power

conferred by that subsection to enter a place for that purpose is subject to the following conditions:

- (a) entry upon the property must be made only by—
    - (i) a constable; or
    - (ii) if the order was made on the application of a territorial authority, an officer of that authority or a constable or both; and
    - (iii) any other person, whether a contractor, agent, or otherwise, authorised in writing by the constable or the territorial authority, as the case may be, and who is necessary to effect the alterations to, or removal of, the fence, structure, or vegetation, as required by the order; or
  - (b) entry must be made at reasonable times; and
  - (c) a person entering the property must carry evidence of his or her identity and authority to enter, and must produce that evidence to the owner or occupier, if present, on initial entry and subsequently if required to do so; and
  - (d) as soon as practicable after entry is made, the applicant must give notice in writing, in the prescribed form and manner, to the owner and to the occupier of the property of the entry and the reasons for it.
- (2) Compensation or damages must not be awarded in civil proceedings brought against a person referred to in subsection (1)(a) for any act done in good faith by that person under section 220(2).

Compare: 1974 No 66 s 692ZK(3)–(5)

Section 221(1)(a)(i): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 221(1)(a)(ii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 221(1)(a)(iii): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).



*Application of certain other Acts*

**222 Provisions of Resource Management Act 1991 and Building Act 2004 continue to apply**

Except as otherwise provided in this subpart or in Schedule 14, sections 215 to 221 and Schedule 14 apply in addition to, and not in derogation of, the provisions relating to the removal or alteration of fences, structures, or vegetation under this Act, the Resource Management Act 1991, and the Building Act 2004.

Compare: 1974 No 66 s 692ZD(8)

Section 222 heading: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 222: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

**223 Relationship with Fencing Act 1978**

- (1) If a fence, within the meaning of section 2 of the Fencing Act 1978, or vegetation or a structure that is, or forms part of, a fence, is altered in accordance with a removal order made under this subpart, it is presumed, unless a court orders otherwise under the Fencing Act 1978, to be an adequate fence within the meaning of that Act in respect of the part of the boundary of the property that it covers until the expiry of the period described in subsection (4).
- (2) Until the expiry of the period described in subsection (4), if a fence, structure, or vegetation is removed under a removal order made under this subpart, the Fencing Act 1978 applies in respect of any boundary on the property affected by the removal as if section 9 of that Act required the occupier of the property in respect of which the order was made to pay the total cost of work on a fence.
- (3) For the purposes of subsection (2), **occupier** has the meaning given to it by section 2 of the Fencing Act 1978.
- (4) The period referred to in subsections (1) and (2) is the shorter period of—
  - (a) 3 years from the date of the removal order; or
  - (b) the period from the date of the removal order until the date on which the respondent ceases to occupy or, if the

respondent was the owner of the property, ceases to own the property in respect of which the order was made.

- (5) For the purposes of subsection (4), the date of the removal order is the date on which the order was made under section 216 or, if an objection was made under section 217(1), the date on which the order was confirmed or varied under section 218(1).

Compare: 1974 No 66 s 692ZM

## **Part 9**

### **Offences, penalties, infringement offences, and legal proceedings**

#### **Subpart 1—Offences**

##### *Offences relating to water*

#### **224 Offence relating to water wastage**

Every person who contravenes section 192 and continues to waste water or allow it to be wasted after receiving a written warning from the local authority commits an offence and is liable on summary conviction to the penalty set out in section 242(2).

Compare: 1974 No 66 s 382

#### **225 Offences relating to waterworks**

- (1) Every person commits an offence and is liable on summary conviction to the penalty set out in section 242(1) who, wilfully or negligently,—
- (a) takes water from the supply provided to another person without having entered into an agreement to be supplied with water from a waterworks; or
  - (b) having been supplied with water from a waterworks,—
    - (i) supplies that water to another person who has not entered into an agreement to be supplied; or
    - (ii) permits that other person to take water supplied from a waterworks; or
  - (c) bathes or washes clothing or other things in, or throws an animal, refuse, litter, or debris into, the water of a waterworks; or

- (d) carries out work on, or in relation to, a waterworks without first—
  - (i) notifying the local authority of the intention to carry out the work; and
  - (ii) obtaining written authorisation from the local authority, with terms or conditions the local authority thinks fit.
- (e) *[Repealed]*
- (2) It is not an offence under subsection (1) if the work referred to in subsection (1)(d) or (e)—
  - (a) is authorised by a valid consent granted under—
    - (i) the Building Act 2004, regulations made under that Act, or the Building Code; or
    - (ii) the Resource Management Act 1991 or regulations made under that Act; or
  - (b) was carried out in accordance with a valid building, plumbing, or drainage consent.
- (3) It is a defence to an offence under subsection (1)(d) or (e) if the work—
  - (a) was necessary to avoid an emergency, or to mitigate or remedy the effects of an emergency; and
  - (b) was carried out by a person appropriately registered to undertake the work.

Section 225 heading: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 225(1)(d)(ii): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 225(1)(e): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 225(2): amended, on 20 September 2007, by section 6(3) of the Local Government Act 2002 Amendment Act 2007 (2007 No 69).

Section 225(2)(a)(i): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 225(3): amended, on 20 September 2007, by section 6(3) of the Local Government Act 2002 Amendment Act 2007 (2007 No 69).

## **226 Liability for cost of damage**

A person who commits an offence under section 225 may, in addition to, or instead of, the penalty for the offence, be

ordered to pay the cost incurred by the council in repairing the damage done to the waterworks by the offence.

Compare: 1974 No 66 s 395

Section 226: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

*Offences relating to water meters*

**227 Offences relating to water meters**

Every person commits an offence and is liable on summary conviction to the penalty set out in section 242(1) who, without the prior written authorisation of the local authority,—

- (a) alters the index of, or in any other manner tampers with, a water meter being used in association with the water services of a local government organisation; or
- (b) alters the position of such a water meter.

Compare: 1974 No 66 s 396

*Offences relating to water races and private drains*

**228 Offences relating to water races**

Every person commits an offence and is liable on summary conviction to the penalty specified in section 242(1) who—

- (a) commits a nuisance in or near a water race; or
- (b) without being authorised to be supplied with water from a water race, takes water from the supply provided to another person; or
- (c) is supplied with water from a water race and—
  - (i) supplies that water to another person who is not authorised to be supplied with water from a water race; or
  - (ii) permits another person who is not authorised to be supplied with water from a water race to take water from the water race; or
- (d) bathes or washes clothing or other things in, or throws an animal, refuse, litter, or debris into, a water race; or
- (e) takes machinery through or across a water race, except at an appointed crossing place; or
- (f) obstructs by any means the flow of water in a water race; or

- (g) permits vegetation or other matter to grow or spread from land that person occupies—
  - (i) into, on, or over a water race; or
  - (ii) into, on, or over land reserved or used for a water race; or
  - (iii) into, on, or over land where the vegetation or other matter is likely to obstruct the flow of water in a water race; or
- (h) directly or indirectly pollutes or causes to be polluted the water in a water race or in a watercourse used for supplying water to a water race in a manner that—
  - (i) is offensive; or
  - (ii) makes the water a danger to human health; or
- (i) allows livestock that the person owns or controls to trespass on to—
  - (i) a water race; or
  - (ii) a watercourse used for supplying water to a water race; or
- (j) carries out work on, or in relation to, a water race or structure, apparatus, or other thing—
  - (i) connected with a water race; or
  - (ii) used in supplying water to, or to distribute water from, a water race, without first—
    - (A) notifying the local authority of the intention to carry out the work; and
    - (B) obtaining written authorisation from the local authority, with terms or conditions the local authority thinks fit.

Compare: 1974 No 66 ss 436, 437, 438

Section 228(b): substituted, on 7 July 2004, by section 20 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 228(c): substituted, on 7 July 2004, by section 20 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

*Offence relating to obstruction of enforcement  
officers and others*

**229 Obstruction of enforcement officers or agents of local authority**

Every person commits an offence and is liable on summary conviction to the penalty specified in section 242(2) who intentionally—

- (a) prevents the following persons from carrying out their statutory functions or duties:
  - (i) an enforcement officer; or
  - (ii) a member of the Fire Service established under the Fire Service Act 1975; or
  - (iii) a person authorised or employed to carry out the provisions of this Act; or
- (b) obstructs or impedes a person—
  - (i) from carrying out the provisions of this Act; or
  - (ii) from exercising or attempting to exercise a power of entry conferred by this Act; or
- (c) refuses to give information when directed to do so by an enforcement officer under section 178, or knowingly misstates information; or
- (d) incites any other person to do any act referred to in paragraph (a) or paragraph (b) or paragraph (c).

Compare: 1974 No 66 s 693(1)

Section 229(a)(iii): amended, on 27 November 2010, by section 36 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

*Offences by occupiers or owners*

**230 Offences by occupiers**

- (1) Every occupier of premises commits an offence and is liable on summary conviction to the penalty specified in section 242(2) who—

- (a) refuses or wilfully omits to disclose or wilfully misstates the name or address of the owner of the premises when requested to do so by an officer of the local authority or by a person acting under the authority of the local authority for the purpose of giving effect to the provisions of this Act or of any other enactment in relation to the premises; or

- (b) refuses or neglects to allow the owner of the premises to give effect to the provisions of this Act or of any other enactment in respect of the premises.
- (2) The owner is not liable to a fine for a default for which he or she might otherwise be liable if he or she proves that the default was due to the refusal or neglect of the occupier.

Compare: 1974 No 66 s 671

**231 Offences in relation to notices sent to occupiers or owners**

Every person who fails to comply with a notice referred to in section 184(1) commits an offence and is liable on summary conviction to the penalty set out in section 242(2).

*Offences relating to property damage*

**232 Damage to local authority works or property**

- (1) This section applies in relation to the following works or property that are vested in, or under the control of, the local authority:
  - (a) a protective work; or
  - (b) a waterwork; or
  - (c) a water race; or
  - (d) a drainage work; or
  - (e) anything forming part of, or connected with, any works or property not referred to in paragraphs (a) to (d).
- (2) Every person commits an offence who wilfully or maliciously destroys, damages, stops, obstructs, or interferes with the works or property referred to in subsection (1) and is liable on conviction on indictment to the penalty set out in section 242(3).
- (3) Every person commits an offence who negligently destroys, damages, stops, obstructs, or interferes with the works or property referred to in subsection (1) and is liable on summary conviction to the penalty set out in section 242(1).

Compare: 1974 No 66 s 694

Section 232(1)(d): substituted, on 28 June 2006, by section 24 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 232(1)(e): added, on 28 June 2006, by section 24 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

*Miscellaneous offences***233 Offence relating to advertising**

Every person who wilfully contravenes clause 58 of Schedule 3 (which relates to the authorisation of advertising) commits an offence and is liable on summary conviction to the penalty specified in section 242(2).

Compare: 1974 No 66 s 37ZZZIF(2)

**234 Unauthorised use of coat of arms**

Every person commits an offence and is liable on summary conviction to the penalty specified in section 242(2) who, without prior written authority of the relevant local authority,—

- (a) for the purposes of sale, applies or permits to be applied to an article the coat of arms of the local authority or an imitation of that coat of arms; or
- (b) sells or offers the article for sale, or permits it to be sold or offered for sale, knowing that the coat of arms or an imitation of it has been applied to the article.

Compare: 1974 No 66 s 696

*Offences committed by members and officers of  
local authorities***235 Offences by members of local authorities**

- (1) Every person who contravenes clause 1(3), clause 2(6), or clause 14(1) of Schedule 7 commits an offence and is liable on summary conviction to the penalty set out in section 242(2).
- (2) Fines recovered by the Secretary in proceedings instituted under clause 1(3), clause 2(6), or clause 14(1) of Schedule 7 must be paid into a Crown Bank Account.
- (3) Despite subsection (1), a person does not commit an offence if the person contravenes clause 1(3) of Schedule 7 while detained in a hospital under the Mental Health (Compulsory Assessment Treatment) Act 1992.

Compare: 1974 No 66 ss 101X(3), 101Y(6), 101Z(2), 114U(3)

Section 235(2): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).



**236 Penalty for acting without warrant**

Every person commits an offence and is liable on summary conviction to the penalty set out in section 242(2) who—

- (a) does not have a warrant of the kind referred to in section 174, but represents himself or herself to be the holder of a warrant under that section; or
- (b) acts under a warrant after the termination, as the case may be, of—
  - (i) his or her appointment as an officer of the local authority; or
  - (ii) his or her authority to act on behalf of the local authority.

Compare: 1974 No 66 s 711

*Offences committed by members and officers of  
Remuneration Authority*

**237 Offence by member or officer of Remuneration Authority**

Every person who wilfully contravenes clause 11(2) of Schedule 7—

- (a) commits an offence; and
- (b) is liable on summary conviction to the penalty set out in section 242(2).

*Offences against Act*

**238 Offence of failing to comply with Act**

- (1) Every person who acts contrary to, or fails to comply with, a direction or prohibition given under this Act, or under an authority given to a local authority or to a member or officer of a local authority, commits an offence and is liable on summary conviction to the penalty specified in section 242(2).
- (2) An offence or penalty prescribed by this Act, or by regulations or bylaws made under this Act, must not be treated as repealing or otherwise affecting the provisions of any other Act under which the same act or default is also prescribed as an offence or for which a penalty is prescribed.
- (3) A person to whom subsections (1) and (2) apply may be proceeded against—

- (a) under this Act, or the bylaw or regulation made under this Act; or
  - (b) under any other Act; but
  - (c) must not be punished both under this Act, or under any bylaw or regulation made under this Act, and also under any other Act in respect of the same act or failure.
- (4) In this section **direction** includes a request by a constable under section 169(2)(d).

Compare: 1974 No 66 s 697

Section 238(4): added, on 7 July 2004, by section 21 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Section 238(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

### *Offences against bylaws*

#### **239 Offences punishable on summary conviction**

- (1) Every person commits an offence and is liable on summary conviction to the penalty set out in section 242(4) or (5), as the case may be, who breaches a bylaw made under Part 8.
- (2) A District Court presided over by 2 or more Justices has jurisdiction in respect of any summary offence that is a breach of a bylaw made under section 147.

Section 239(2): added, on 28 June 2006, by section 25 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

### *Defences*

#### **240 Defence to offences under this Act**

It is a defence to any offence under this Act or under bylaws made under this Act if the court is satisfied—

- (a) that—
  - (i) the act giving rise to the offence was necessary—
    - (A) to save or protect life or health or prevent injury; or
    - (B) to prevent serious damage to property; or
    - (C) to avoid actual or likely damage to the environment; and
  - (ii) the conduct of the defendant was reasonable in the circumstances; and

- (iii) the effects of the act or omission were adequately remedied or mitigated by the defendant after the offence occurred; or
- (b) the act or omission giving rise to the offence was due to an action or event beyond the control of the defendant, and, in each case,—
  - (i) the action or event could not reasonably have been foreseen or prevented by the defendant; and
  - (ii) the effects of the act or omission of the defendant were adequately remedied or mitigated by the defendant after the offence occurred.

*Information laid by local authority*

**241 Laying of information**

Despite the provisions of the Summary Proceedings Act 1957, a local authority may lay an information for a summary offence under this Act within 6 months after the time when the matter giving rise to the information first became known, or should have become known, to the local authority.

**Subpart 2—Penalties**

**242 Penalties for offences**

- (1) A person who is convicted of an offence under section 225, section 227, section 228, or section 232(3), is liable to a fine not exceeding \$20,000.
- (2) A person who is convicted of an offence under section 224, sections 229 to 231, or sections 233 to 238 is liable to a fine not exceeding \$5,000.
- (3) A person who is convicted of an offence under section 232(2) is liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$20,000 or both.
- (4) A person who is convicted of an offence against a bylaw made under Part 8 (other than a bylaw made under Part 8 referred to in subsection (5)) is liable to a fine not exceeding \$20,000.
- (5) A person who is convicted of an offence against a bylaw made under section 146(a)(iii) (which relates to trade wastes) is liable to a fine not exceeding \$200,000.

Compare: 1974 No 66 ss 683(1), 698

Section 242(1): amended, on 20 September 2007, by section 8(1) of the Local Government Act 2002 Amendment Act 2007 (2007 No 69).

Section 242(3): amended, on 20 September 2007, by section 8(2) of the Local Government Act 2002 Amendment Act 2007 (2007 No 69).

### Subpart 3—Infringement offences

#### 243 Interpretation

In this subpart,—

**infringement fee**, in relation to an infringement offence, means the amount prescribed by regulations made under section 259(b) as the infringement fee for the offence

**infringement offence** means an offence specified as such in regulations made under section 259(a).

#### 244 Proceedings for infringement offences

A person who is alleged to have committed an infringement offence may either—

- (a) be proceeded against under the Summary Proceedings Act 1957; or
- (b) be served with an infringement notice under section 245.

Compare: 1974 No 66 s 699B

#### 245 Issue of infringement notices

- (1) An infringement notice may be served on a person if an enforcement officer—

- (a) observes a person committing an infringement offence; or
- (b) has reasonable cause to believe that an infringement offence is being or has been committed by that person.

- (2) An infringement notice may be served—

- (a) by an enforcement officer (not necessarily the person who issued the notice) personally delivering it (or a copy of it) to the person alleged to have committed the infringement offence; or
- (b) by post addressed to that person's last known place of residence or business.

- (3) For the purposes of the Summary Proceedings Act 1957, an infringement notice sent to a person under subsection (2)(b) must be treated as having been served on that person when it was posted.
- (4) An infringement notice must be in the prescribed form and must contain the following particulars:
  - (a) details of the alleged infringement offence sufficient to inform fairly a person of the time, place, and nature of the alleged offence:
  - (b) the amount of the infringement fee specified for that offence:
  - (c) the time within which the infringement fee must be paid:
  - (d) the address of the place at which the infringement fee must be paid:
  - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:
  - (f) a statement that the person served with the notice has a right to request a hearing:
  - (g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:
  - (h) any other particulars that are prescribed.
- (5) If an infringement notice has been issued under this section,—
  - (a) proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957; and
  - (b) the provisions of that section apply with all necessary modifications.

Compare: 1974 No 66 s 699C

#### **246 Entitlement to infringement fees**

A local authority may retain the infringement fee received by it for an infringement offence if the infringement notice was issued by an enforcement officer appointed by that local authority.

Compare: 1974 No 66 s 699D

## Subpart 4—Legal proceedings

### *Procedure*

#### **247 Proceedings in District Court**

An application and appeal to the District Court under this Act must be made in accordance with the rules of the District Court.

Compare: 1974 No 66 s 701(1)

### *Judges not disqualified*

#### **248 Judges not disqualified for being ratepayers**

- (1) In this section, **Judge** means a Judge of the High Court or District Court, a Justice, or a Community Magistrate.
- (2) A Judge must not be treated as interested in a case in which he or she is acting judicially solely on the ground that he or she is a ratepayer or is normally resident in a district or region.

Compare: 1974 No 66 s 700

### *Representation*

#### **249 Representation of local authority in proceedings**

- (1) This section applies to proceedings involving a local authority—
  - (a) under the Local Government (Rating) Act 2002;
  - (b) under any enactment in relation to bankrupts;
  - (c) in all proceedings—
    - (i) in a District Court; or
    - (ii) before any Justice or Community Magistrate.
- (2) In the proceedings referred to in subsection (1), the local authority may be represented by the following persons acting on behalf of the local authority:
  - (a) a member of the local authority appointed for the purpose by resolution of the local authority; or
  - (b) any officer of the local authority or other person appointed in writing by the mayor or chairperson of the local authority, as the case may be, or the chief executive of the local authority.
- (3) A member of the local authority, and any officer or other person acting on behalf of the local authority, must be reimbursed

by the local authority for any damages, costs, charges, and expenses incurred by the member or person acting under subsection (2).

Compare: 1974 No 66 s 701(2), (3)

### *Service*

#### **250 Service of legal proceedings on local authority**

A document in legal proceedings that must be served on a local authority may be served by being left at the principal public office of the local authority or given personally to the mayor, chairperson, or chief executive of the local authority.

Compare: 1974 No 66 s 702

### *Evidence*

#### **251 Evidence of ownership, vesting, or control**

In legal proceedings commenced by, or on behalf of, a local authority to enforce a provision of this Act, or of a regulation or bylaw made under it,—

- (a) the production of the rating information database (within the meaning of the Local Government (Rating) Act 2002) is evidence that a person entered as the ratepayer of any rating unit is the owner unless the contrary is proved; and
- (b) an affidavit by the chief executive stating that specified works or property are vested in, or under the control of, the local authority is evidence of the matter unless the contrary is proved.

Compare: 1974 No 66 ss 703, 704

### *Recovery of debts*

#### **252 Recovery of debts**

Money payable by a person to the local authority for works, material, or things provided or done by the local authority is recoverable by the local authority as a debt.

Compare: 1974 No 66 s 705

## Part 10

### Powers of Minister to act in relation to local authorities

#### 253 Outline of Part

This Part—

- (a) confers powers on the Minister to institute reviews or appoint certain persons if local authorities cannot perform, or are not properly performing, their functions, duties, and responsibilities; and
- (b) authorises the Minister to appoint a Commissioner for Disaster Recovery for the district or region of a local authority.

#### *Powers if local authority not performing*

#### 254 Minister may appoint review authority

- (1) If the Minister considers that 1 or more of the grounds in subsection (2) exist, the Minister may, by notice in the *Gazette*, appoint a review authority to review, consider, and report on the performance of a local authority, either generally or in respect of any particular matter specified in the notice.
- (2) The grounds are that—
  - (a) there has been a significant or persistent failure by the local authority to meet its obligations under this Act or any other enactment; or
  - (b) there has been significant and identifiable mismanagement of the resources of the local authority; or
  - (c) there is a significant and identifiable deficiency in the management or decision-making processes of the local authority.
- (3) The Minister must send to the local authority a copy of a notice published under subsection (1).
- (4) Part 1 of Schedule 15 applies to the review authority and the review.

Compare: 1974 No 66 s 692M



**255 Minister may appoint Commissioner to perform and exercise powers and duties of local authority or call general election**

- (1) If the Minister considers that 1 or both of the grounds in subsection (2) exist, the Minister may, by notice in the *Gazette*,—
  - (a) appoint a Commissioner to perform and exercise a local authority's responsibilities, duties, and powers; or
  - (b) call a general election of the local authority; or
  - (c) both.
- (2) The grounds are that the local authority—
  - (a) is unable to perform and exercise its duties and powers under this Act or any other enactment because it cannot hold meetings owing to the lack of a quorum; or
  - (b) requests the appointment of a Commissioner to perform and exercise its duties and powers under this Act and any other enactment.
- (3) The Minister must send to the local authority a copy of a notice published under subsection (1).
- (4) The Minister may appoint a Commissioner on such terms and conditions as the Minister thinks fit.
- (5) Clauses 16 to 19 of Schedule 15 apply, with all necessary modifications, to a Commissioner appointed under this section as if the Commissioner were a commission appointed under clause 14 of that schedule.
- (6) Every reference in this Act and every other enactment to a local authority is to be read as including a Commissioner appointed under this section.

Compare: 1974 No 66 s 721

**256 Minister may appoint person to act on behalf of local authority, or initiate review**

- (1) If the Minister considers that the grounds in subsection (2) exist, the Minister may, by notice in the *Gazette*,—
  - (a) appoint a person to perform and exercise a local authority's responsibilities, duties, and powers either generally or to the extent specified in the notice; or

- (b) appoint a person to review, consider, and report on the performance of a local authority, either generally or in respect of any particular matter specified in the notice.
- (2) The grounds are—
  - (a) that the local authority is wilfully refusing or substantially refusing to perform and exercise its duties and powers under this Act or any other enactment; and
  - (b) the refusal—
    - (i) is impairing, or likely to impair, the good local government of the local authority's district or region; or
    - (ii) endangering, or likely to endanger, the public health or safety of the local authority's district or region.
- (3) Before exercising his or her powers under subsection (1), the Minister must—
  - (a) give the local authority notice in writing of his or her intention to do so, including the reasons; and
  - (b) give the local authority not less than 20 working days to satisfy the Minister—
    - (i) that the grounds do not exist; or
    - (ii) that steps have been taken to rectify the situation.
- (4) Clauses 16 to 19 of Schedule 15 apply, with all necessary modifications, to a person appointed under subsection (1)(a) as if the person were a commission appointed under clause 14 of that schedule.
- (5) Clauses 4 to 19 of Schedule 15 apply, with all necessary modifications, to a person appointed under subsection (1)(b) as if the person were a review authority appointed under section 254.

**257 Election called by Minister**

If the Minister calls an election under section 255(1)(b) or Schedule 15,—

- (a) the Local Electoral Act 2001 applies to the election; but
- (b) the Minister may set a date for the election that is different from the date for the triennial general election of members of local authorities.

*Powers in relation to disaster recovery*

**258 Appointment of Commissioner and Deputy Commissioners for Disaster Recovery**

- (1) The Minister may appoint a person to be a Commissioner for Disaster Recovery for the district or region of a local authority if—
  - (a) a state of emergency within the meaning of the Civil Defence Emergency Management Act 2002 is current, or has just expired, in relation to the local authority's district or region; and
  - (b) the local authority is unable to exercise adequately its responsibilities, duties, or powers.
- (2) The Minister may, at the same time as appointing a Commissioner for Disaster Recovery or subsequently, appoint 1 or more persons to be Deputy Commissioners of Disaster Recovery.
- (3) Part 2 of Schedule 15 applies to every Commissioner for Disaster Recovery and every Deputy Commissioner for Disaster Recovery appointed under this Part.

Compare: 1974 No 66 ss 692B, 692C

**Part 11**  
**Regulations, other Orders in Council, and rules**

Part 11 heading: amended, on 27 November 2010, by section 37 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

*Regulations*

Heading: inserted, on 27 November 2010, by section 38 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**259 Regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or more of the following purposes:
  - (a) prescribing breaches of bylaws that are infringement offences under this Act:

- (b) prescribing infringement fees (not exceeding \$1,000) for infringement offences:
  - (c) prescribing infringement notice forms:
  - (d) prescribing forms to be used—
    - (i) in polls on a reorganisation scheme:
    - (ii) for any other matter for which forms are required under this Act:
  - (da) prescribing matters, not inconsistent with generally accepted accounting practice, that must be specified in a financial statement and the manner in which they must be specified:
  - (db) prescribing forms for the funding impact statements to be included in the long-term plan, annual plan, and annual report:
  - (e) providing for such matters as are contemplated by, or necessary for giving full effect to, this Act and for its due administration.
- (2) Regulations made under subsection (1)(db) may specify in greater detail the information required to be included in a funding impact statement by Schedule 10.

Compare: 1974 No 66 s 37ZZZI

Section 259(1)(da): inserted, on 27 November 2010, by section 39(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 259(1)(db): inserted, on 27 November 2010, by section 39(1) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 259(2): added, on 27 November 2010, by section 39(2) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### **259A Levy to fund rules for performance measures**

- (1) Regulations may be made under section 259 providing for the imposition and collection of a levy on local authorities.
- (2) The purpose of the levy is to recover all or part of the reasonable cost of making rules specifying performance measures.
- (3) Regulations made for the purpose of this section may—
  - (a) specify the categories of local authorities that are liable to pay the levy:
  - (b) prescribe the amount or method of calculation of the levy:

- (c) prescribe different amounts or methods of calculation of the levy in relation to different categories of local authority;
  - (d) provide for the manner in which the levy is collected.
- (4) All levy money collected under this section must be paid into a Crown Bank Account.
- (5) Any levy—
  - (a) must be reasonable having regard to the expenses incurred or to be incurred by the Secretary in relation to the making of rules under section 261B; and
  - (b) is payable to the Secretary and recoverable in a court of competent jurisdiction as a debt due to the Secretary.
- (6) The Minister may recommend the making of regulations that impose a levy only if the Minister has first consulted the New Zealand Local Government Association Incorporated.

Section 259A: inserted, on 27 November 2010, by section 40 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **259B Power to refund levy**

The Secretary may refund the whole or any part of the levy if the Secretary is satisfied that the amount of levy money collected exceeds the amount necessary to fulfil the purpose of the levy stated in section 259A(2).

Section 259B: inserted, on 27 November 2010, by section 40 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### *Other Orders in Council*

Heading: inserted, on 27 November 2010, by section 41 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **260 Amendment of Schedule 2 by Order in Council**

- (1) This section applies if—
  - (a) a local authority named or specified in Part 1 or Part 2 of Schedule 2 is abolished, its name is altered, or a new local authority is created; or
  - (b) a district or region of a local authority described in Part 1 or Part 2 of Schedule 2 is altered; or
  - (c) the name of a district or region of a local authority described in Part 1 or Part 2 of Schedule 2 is altered under

section 11(2) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

- (2) The Governor-General may, by Order in Council, make any amendments to Schedule 2 that may be necessary to give effect to the abolition or alteration, or may include the name of the new local authority and a description of its district or region in Schedule 2.
- (3) Without limiting subsection (2), an Order in Council under that subsection may be combined with an Order in Council that gives effect to any reorganisation scheme, or any other matter, under this or any other Act.

Section 260(1)(b): amended, on 1 November 2008, by section 38 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 (2008 No 30).

Section 260(1)(c): added, on 1 November 2008, by section 38 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 (2008 No 30).

## **261 Circumstances when Order in Council may extend time or validate action taken**

The Governor-General may, by Order in Council, do 1 or more of the following:

- (a) extend the time for completing an action, step, or procedure that is required by or under this Act and that is not done or cannot be done by the time required:
- (b) validate an action, step, or procedure taken after the time required under or by this Act:
- (c) validate an irregularity of form in an action, step, or procedure required by or under this Act:
- (d) make provision for a situation for which sufficient provision is not made by or under this Act.

### *Rules for performance measures*

Heading: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **261A Purpose of rules specifying performance measures**

The purpose of rules made under section 261B is to provide standard performance measures that are applicable to local authorities so that the public may compare the level of service

provided in relation to a group of activities by different local authorities.

Section 261A: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**261B Secretary must make rules specifying performance measures**

- (1) The Secretary must, as soon as is reasonably practicable, make rules specifying performance measures in relation to the following groups of activities:
  - (a) water supply;
  - (b) sewerage and the treatment and disposal of sewage;
  - (c) stormwater drainage;
  - (d) flood protection and control works;
  - (e) the provision of roads and footpaths.
- (2) Before making a rule under subsection (1), the Secretary must—
  - (a) consider whether an existing performance measure is suitable for the purpose; and
  - (b) have regard to whether a performance measure—
    - (i) measures the level of service for a major aspect of the group of activities; and
    - (ii) addresses an aspect of the service that is of widespread interest in the communities to which a service in relation to the group of activities is provided; and
    - (iii) contributes to the effective and efficient management of the group of activities.
- (3) Before making a rule, the Secretary must—
  - (a) consult every local authority; and
  - (b) publish in the *Gazette*, and in all of the daily newspapers published in Auckland, Hamilton, Wellington, Christchurch, and Dunedin, a notice of his or her intention to make the rule; and
  - (c) give interested persons a reasonable time, which must be specified in the notice, to make submissions on the proposal; and
  - (d) consult any other persons or groups as the Secretary considers appropriate.

- (4) The Secretary must—
- (a) make copies of the rules available for purchase at a reasonable price; and
  - (b) make copies of the rules available free of charge, at all reasonable times, on an Internet site maintained by, or on behalf of, the Secretary; and
  - (c) give notice in the *Gazette* that—
    - (i) the rules have been made; and
    - (ii) copies of the rules may be purchased and the place at which they may be purchased; and
    - (iii) the rules are available on an Internet site, free of charge, and state the Internet site address.
- (5) A rule comes into force 28 days after the date of its notification in the *Gazette* or on such later date as may be specified in the rule.

Section 261B: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **261C Status of rules**

A rule made under section 261B is a regulation for the purposes of the Regulations (Disallowance) Act 1989 but not for the purposes of the Acts and Regulations Publication Act 1989.

Section 261C: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### *Incorporation by reference*

Heading: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

#### **261D Incorporation of documents by reference in rules**

- (1) The following written material may be incorporated by reference in a rule made under section 261B:
- (a) standards, requirements, or recommended practices of international or national organisations:
  - (b) standards, requirements, or recommended practices prescribed in any country or jurisdiction:



- (c) any other written material that deals with technical matters and that is too large or impractical to include in, or print as part of, the rule.
- (2) Material may be incorporated by reference in a rule—
  - (a) in whole or in part; and
  - (b) with modifications or additions specified in the rule.
- (3) Material incorporated by reference in a rule has legal effect as part of the rule.

Section 261D: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**261E Proof of material incorporated by reference**

- (1) A copy of material incorporated by reference in a rule, including any amendment to, or replacement of, the material, must be—
  - (a) certified by the Secretary as a correct copy of the material incorporated by reference; and
  - (b) retained by the Secretary.
- (2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence that the material is incorporated by reference in the rule.

Section 261E: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**261F Effect of change to, or expiry of, material incorporated by reference**

- (1) This section applies to—
  - (a) an amendment to, or a replacement of, material incorporated by reference in a rule;
  - (b) material incorporated by reference in a rule if the material expires, is revoked, or ceases to have effect.
- (2) The amendment or replacement has legal effect as part of the rule only if the rule is varied to state that the amendment or replacement has that effect.
- (3) The material described in subsection (1)(b) ceases to have legal effect as part of the rule only if the rule is varied to state that the material ceases to have effect.

Section 261F: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**261G Consultation on proposal to incorporate material by reference**

- (1) Before a rule is made under section 261B, the Secretary—
  - (a) must make copies of any material proposed to be incorporated by reference in the rule (or the proposed amendment to, or replacement of, material incorporated by reference in the rule) (the **proposed material**) available for inspection, free of charge, during working hours at the offices of the Secretary; and
  - (b) must make copies of the proposed material available for purchase at a reasonable price; and
  - (c) must make copies of the proposed material available, free of charge, on an Internet site maintained by or on behalf of the Secretary, unless doing so would infringe copyright; and
  - (d) may make copies of the proposed material available in any way that the Secretary considers appropriate in the circumstances; and
  - (e) must give notice in the *Gazette* stating—
    - (i) that the proposed material is available for inspection during working hours and free of charge, the place at which it can be inspected, and the period during which it can be inspected; and
    - (ii) that copies of the proposed material can be purchased and the place at which they can be purchased; and
    - (iii) if applicable, that the proposed material is available on the Internet free of charge and the Internet site address; and
  - (f) must allow a reasonable opportunity for persons to comment on the proposal to incorporate the proposed material by reference; and
  - (g) must consider any comments made.
- (2) The reference in subsection (1) to any material proposed to be incorporated by reference in a rule includes, if the material is

not in an official New Zealand language, an accurate translation of that material in an official New Zealand language.

- (3) A failure to comply with this section does not invalidate a rule that incorporates material by reference.

Section 261G: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

### **261H Access to material incorporated by reference**

- (1) The Secretary—
- (a) must make the material referred to in subsection (2) available for inspection during working hours, free of charge, at the offices of the Secretary; and
  - (b) must make copies of the incorporated material available for purchase at a reasonable price; and
  - (c) must make copies of the incorporated material available, free of charge, on an Internet site maintained by or on behalf of the Secretary, unless doing so would infringe copyright; and
  - (d) may make copies of the incorporated material available in any other way that the Secretary considers appropriate in the circumstances; and
  - (e) must give notice in the *Gazette* stating—
    - (i) that the material is incorporated in the rule and the date on which the rule was made; and
    - (ii) that the material is available for inspection during working hours free of charge and the place at which it can be inspected; and
    - (iii) that copies of the material can be purchased and the place at which they can be purchased; and
    - (iv) that the material is available on the Internet and free of charge, and the Internet site address; and
    - (v) if copies of the material are available under paragraph (d), how and where the copies may be obtained or accessed.
- (2) The material referred to in subsection (1) is—
- (a) material incorporated by reference in the rule;
  - (b) any amendment to, or replacement of, that material that is incorporated in the rule or the material referred to

- in paragraph (a) with the amendments or replacement material incorporated:
- (c) if the material referred to in paragraph (a) is not in an official New Zealand language, as well as the material itself, an accurate translation of that material in an official New Zealand language.
- (3) A failure to comply with this section does not invalidate a rule that incorporates material by reference.

Section 261H: inserted, on 27 November 2010, by section 42 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **Part 12**

### **Consequential amendments, repeals, revocations, transitional provisions, and savings**

#### *Consequential amendments, repeals, and revocations*

**262 Consequential amendments**

The Acts specified in Schedule 16 are consequentially amended in the manner indicated in that schedule.

**263 Water services**

*Amendment(s) incorporated in the Act(s).*

**264 Amendment to Personal Property Securities Act 1999**

*Amendment(s) incorporated in the Act(s).*

**265 New Schedule added to Receiverships Act 1993**

*Amendment(s) incorporated in the Act(s).*

**266 Repeals**

The enactments specified in Schedule 18 are repealed.

**267 Repeal of enactments relating to special consultative  
procedure**

*Amendment(s) incorporated in the Act(s).*

**268 Repeal of Local Government (Prohibition of Liquor in Public Places) Amendment Act 2001**

- (1) The Local Government (Prohibition of Liquor in Public Places) Amendment Act 2001 is repealed.
- (2) Without limiting the provisions of the Interpretation Act 1999, it is declared that the repeal of the Local Government (Prohibition of Liquor in Public Places) Amendment Act 2001 does not affect the amendments made to the Local Government Act 1974 by sections 8 and 9 of that Act.

**269 Repeal of spent local Acts**

The enactments specified in Schedule 19 are repealed.

**270 Repeal of provisions relating to regional parks of Wellington Regional Council**

*Amendment(s) incorporated in the Act(s).*

**271 Lake Taupo Regulations 1976**

- (1) Unless sooner revoked, the Lake Taupo Regulations 1976 (SR 1976/330) continue in force until the close of 30 June 2003, or such later date (not being later than 30 June 2004) as may be specified by Order in Council, as if the Harbours Act 1950 had not been repealed by section 10 of the Local Government Amendment Act (No 2) 1999.
- (2) The Governor-General may from time to time, by Order in Council, make regulations—
  - (a) amending the regulations specified in subsection (1) by providing for any purpose for which navigation bylaws may be made or for which maritime rules may be made:
  - (b) revoking the regulations specified in subsection (1), in whole or in part.
- (3) *Amendment(s) incorporated in the Act(s).*
- (4) This section has effect despite anything in section 12 of the Local Government Amendment Act (No 2) 1999.

**272 Revocations**

The Orders in Council specified in Schedule 20 are revoked.

*Transitional provisions***273 First triennial agreement**

All local authorities within a region on 1 July 2003 must, before the close of 31 December 2003, enter into an agreement under section 15, which agreement must contain protocols for communication and co-ordination among them during the period until the next triennial general election of members.

**274 First local governance statement**

Every local authority that is in existence on 1 July 2003 must, before the close of 31 December 2003, prepare and make publicly available a local governance statement that includes the information required by section 40(1).

**275 First policy on appointment of directors**

Every local authority that is in existence on the passing of this Act must, before the close of 30 June 2003, adopt a policy in accordance with section 57(1) (which relates to the appointment of directors).

**276 First statement of intent and report and accounts of existing local authority trading enterprises**

- (1) Every council-controlled organisation that is, immediately before 1 July 2003, a local authority trading enterprise within the meaning of section 594B of the Local Government Act 1974—
  - (a) must, subject to section 64(2) of this Act, have in respect of the financial year beginning on 1 July 2003, a statement of intent in accordance with section 64(1) of this Act; and
  - (b) must, despite the repeal of sections 594Z to 594ZC of the Local Government Act 1974, comply with those sections in respect of the financial year ending on 30 June 2003.
- (2) For the purposes of subsection (1)(b), sections 594Z to 594ZC of the Local Government Act 1974 apply with all necessary modifications as if those sections were still in force.

**277 First statement of intent of other council-controlled organisations**

Every council-controlled organisation (other than one to which section 276 applies) that is in existence on 1 July 2003 must, subject to section 64(2), have, in respect of the financial year beginning on 1 July 2004, a statement of intent in accordance with section 64(1).

**278 First policy on significance**

Every local authority that is in existence at the commencement of section 90 must, before the close of 30 June 2003, adopt under section 90(1) a policy on determining significance.

**279 Long-term council community plan**

*[Repealed]*

Section 279: repealed, on 27 November 2010, by section 43 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**280 Long-term plan for period beginning on 1 July 2006**

Every local authority must adopt under section 93 a long-term plan for a period beginning on 1 July 2006.

Section 280 heading: amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 280: amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**281 Annual plan**

*[Repealed]*

Section 281: repealed, on 27 November 2010, by section 44 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**282 Certain decisions to be taken only if provided for in annual plan or special consultative procedure used**

*[Repealed]*

Section 282: repealed, on 27 November 2010, by section 44 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**283 Annual reports**

- (1) If a local authority has prepared and adopted a report under section 223D of the Local Government Act 1974 for any year, whether before or after the commencement of this section, the local authority must prepare an annual report under section 223E of that Act in respect of that year, and that section and Part 7A of that Act apply to that annual report as if they had not been repealed.
- (2) For the avoidance of doubt, sections 98 and 99 do not apply to the preparation and adoption, in accordance with subsection (1), of a report under section 223E of the Local Government Act 1974.
- (3) This section applies to the Chatham Islands Council—
  - (a) as if, in subsection (1), for the words “section 223D of the Local Government Act 1974”, there were substituted the words “section 10 of the Chatham Islands Council Act 1995”; and
  - (b) as if, in subsection (1), for the expression “section 223E”, there were substituted the expression “section 11”; and
  - (c) as if, in subsection (1), for the words “Part 7A of that Act”, there were substituted the words “Part 7A of the Local Government Act 1974”; and
  - (d) as if, in subsection (2), for the words “section 223E of the Local Government Act 1974” there were substituted the words “section 11 of the Chatham Islands Council Act 1995”.

**284 First annual plan**

A local authority in existence at the commencement of section 95 must prepare and adopt its first annual plan under section 95 for the second financial year to which its first long-term plan under section 93 relates.

Section 284: amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**285 First assessment of water and sanitary services**

Every territorial authority must, not later than the close of 30 June 2005, make its first assessment under section 125



(which imposes a requirement to assess water and sanitary services).

**286 Waste management plan**

If, at the commencement of this section, a territorial authority does not have in force in respect of its district a waste management plan adopted under section 539 of the Local Government Act 1974, that territorial authority must, in the period beginning with the passing of this Act and ending with the close of 30 June 2005, adopt a waste management plan under that section.

**287 Special consultative procedure**

- (1) This section applies to any requirement under any Act that a local authority use or adopt the special consultative procedure in relation to any plan or proposal.
- (2) A special consultative procedure commenced by a local authority under section 716A of the Local Government Act 1974 before the commencement of section 83 must be treated as complying with a requirement referred to in subsection (1) if the consultative procedure followed by the local authority was substantially in accordance with the requirements of section 83, whether or not that section was in force for any part of that procedure.

**288 Decision-making processes commenced before enactment**  
*[Repealed]*

Section 288: repealed, on 27 November 2010, by section 45 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**289 Special orders**

- (1) This section applies in relation to any power given to a local authority by the Local Government Act 1974 or any other Act to do anything by special order.
- (2) If, in relation to the exercise of any power to which this section applies, a local authority has, before 1 July 2003, begun proceedings under section 716B of the Local Government Act 1974, that local authority may complete those proceedings and

any special order made in those proceedings in accordance with that section has effect according to its tenor.

### **289A Special orders on or after 1 July 2003**

- (1) This section applies—
  - (a) to any power that a local authority is required to exercise by special order under the Local Government Act 1974; and
  - (b) to an exercise of the power on or after 1 July 2003, and before the commencement of the Local Government Act 1974 Amendment Act 2004.
- (2) A power is to be treated as having been exercised lawfully, and as having always been exercised lawfully, if subsection (3) or subsection (4) is complied with.
- (3) This subsection is complied with if—
  - (a) the power has been exercised in accordance with the special order procedure in the Local Government Act 1974 as if the Local Government Act 2002 had not been passed; and
  - (b) the decision to exercise the power was made in accordance with sections 76 to 83 of the Local Government Act 2002.
- (4) This subsection is complied with if—
  - (a) the power has been exercised in accordance with the special consultative procedure in the Local Government Act 2002; and
  - (b) the decision to exercise the power was made in accordance with sections 76 to 83 of the Local Government Act 2002.

Section 289A: inserted, on 7 July 2004, by section 23 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

### **290 Development contributions**

The power that a local authority has, under section 198, to require a development contribution to be made to the local authority may be exercised only if—

- (a) the requirement is made in respect of the granting, on or after 1 July 2003, of—
  - (i) a resource consent; or

- (ii) a building consent; or
  - (iii) an authorisation for a service connection; and
- (b) the application for the resource consent, building, consent, or authorisation—
  - (i) is made on or after 1 July 2003; or
  - (ii) was made in the period beginning on 19 December 2001 and ending with the close of 30 June 2003.

**291 Reorganisation proposals**

- (1) If, at the commencement of this section, any proceedings relating to—
  - (a) a reorganisation proposal filed before the commencement of this section under section 37ZP of the Local Government Act 1974; or
  - (b) any draft reorganisation scheme, appeal, review, or other matter arising from the filing of a proposal of the kind described in paragraph (a),—have not been determined or completed, those proceedings may be continued and completed and are to be dealt with under the Local Government Act 1974 as if this Act had not been passed, and any reorganisation scheme that results from those proceedings may proceed under Part 2BB of that Act and be implemented under Part 2BC of that Act.
- (2) Any person who, if this Act had not been enacted, would have had—
  - (a) a right of appeal to the Commission or the High Court; or
  - (b) a right to make any application for review,—in respect of any proceedings to which subsection (1) applies will continue to have that right and that right may be exercised as if the enactments repealed by this Act had continued in force.
- (3) Nothing in this section limits the right of any person to withdraw an application, notice, or proposal.

**292 Existing charges**

- (1) This section applies to any security interest that, immediately before the commencement of this section, was registered under section 122ZH of the Local Government Act 1974.
- (2) Every security interest to which this section applies must be treated as a prior security interest for the purposes of Part 12 of the Personal Property Securities Act 1999, and that Part applies, in relation to every such security interest, as if—
  - (a) every reference in that Part to prior registration law were a reference to section 122ZH of the Local Government Act 1974; and
  - (b) the transitional period were the period of 6 months commencing on the commencement of this section.

**293 Bylaws**

- (1) Bylaws made or having effect under provisions of the Local Government Act 1974 that are repealed by this Act, being bylaws that were in force immediately before the commencement of this section, are deemed to be validly made under this Act and continue in force accordingly if validly made under the Local Government Act 1974.
- (2) Legal proceedings in relation to bylaws continued by subsection (1) that are pending by or against a council on the commencement of this section may be carried on, completed, enforced, or defended by or against the council as if this Act had not been passed.
- (3) Every bylaw to which this section applies that is not revoked or that does not expire before 1 July 2008, is revoked on that date.

Section 293(3): added, on 28 June 2006, by section 26 of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**294 Standing orders**

- (1) Local authority bylaws, and rules made by resolution of a local authority that constitute the standing orders of a local authority when Schedule 7 comes into force, are standing orders of the local authority as if they had been adopted in the manner provided in clause 27 of Schedule 7.

- (2) Standing orders established under the Local Government Act 1974 and in force immediately before the commencement of Schedule 7 continue in existence until replaced or altered in accordance with Schedule 7.

**295 Communities and community boards**

A community constituted under section 101ZG of the Local Government Act 1974, and in existence immediately before 1 July 2003, and the community board established for any such community, and in existence immediately before 1 July 2003, continue in existence for all purposes as fully and effectually as if they had originated under the corresponding provisions of this Act, and are, where necessary, deemed to have so originated.

**296 Chief executive**

- (1) A person who, immediately before the commencement of this section, holds office under section 119C(1)(a) of the Local Government Act 1974 as the chief executive officer of a local authority is, without further appointment, the chief executive of that local authority and is deemed to have been appointed as chief executive under section 42 for the unexpired portion of his or her term of office as the chief executive officer and on the same terms and conditions as those on which that person was employed immediately before that commencement.
- (2) Nothing in subsection (1) prevents any terms or conditions of employment continued in force by that subsection from being varied or superseded by agreement.

**297 Members of Commission**

- (1) A person who, immediately before the commencement of this section, holds office, under section 37Y of the Local Government Act 1974, as a member of the Commission or, under section 37ZA of that Act, as a deputy of a member of the Commission or, under section 37ZB of that Act, as a temporary member of the Commission is deemed to have been appointed, and to hold office, under the corresponding provision of Schedule 4 of this Act.

- (2) The term of office of a person deemed by subsection (1) to have been appointed under clause 2 of Schedule 4 as a member of the Commission is, unless he or she sooner vacates office under clause 3 of Schedule 4, to expire on the date on which, but for the passing of this Act, his or her term would have expired under the provisions of the Local Government Act 1974.

## **298 Community trusts**

- (1) This section applies to any community trust which is established under section 225D of the Local Government Act 1974 and which is in existence immediately before the commencement of this section.
- (2) Subject to the trust deed establishing a community trust to which this section applies, such a community trust continues in existence, and the provisions of subsections (3) and (4) of section 225D and of sections 225E to 225M of the Local Government Act 1974 continue to apply to that community trust as if they had not been repealed.
- (3) Where any local authority or council-controlled organisation or subsidiary of a council-controlled organisation sells any shares or equity securities in any port company established under the Port Companies Act 1988 or where a local authority receives from a council-controlled organisation or a subsidiary of a council-controlled organisation any part of the proceeds of the sale of any such shares or equity securities, the local authority may apply any of the proceeds of the sale (including any income or capital gain arising on those proceeds) to—
- (a) the payment of costs related to the sale; and
  - (b) the performance of any functions of that local authority; and
  - (c) a payment to a community trust to which this section applies.

## **299 Borrowing from sinking fund**

- (1) Despite the repeal of section 122ZAA of the Local Government Act 1974 by this Act, a local authority may—
- (a) borrow from the Commissioners of any sinking fund established by the local authority under the Local Authorities Loans Act 1956 or any former enactment; and

- (b) meet the costs of the borrowing (including interest and principal) from the proceeds of any rate.
- (2) Section 86(6) of the Local Authorities Loans Act 1956 does not limit subsection (1)(a).

**300 Cancellation of part of loan in respect of which sinking fund is held**

If a local authority has, before the commencement of this section, established a sinking fund to provide for the repayment of any loan, and if, after the commencement of this section, it repurchases and cancels or redeems or otherwise repays in part any loan in respect of which the sinking fund is held before its stated maturity, the local authority may, with the consent in writing of the Auditor-General, require the release to the local authority of such amount of the sinking fund as will leave it (with probable accumulations of interest) sufficient to repay the balance of the loan at maturity.

Compare: 1974 No 66 s 122ZR(1)

**301 Consent required for release of sinking fund**

- (1) If a sinking fund established by a local authority for the repayment of any loan is in existence immediately before the commencement of this section, the local authority may, if consent is given in accordance with subsection (2), require the release to the local authority within 4 months of all amounts standing to the credit of that sinking fund or the transfer of the securities in which those amounts are invested.
- (2) Consent is given in accordance with this subsection if—
  - (a) consent is given in writing; and
  - (b) consent is given by the Commissioners of the sinking fund; and
  - (c) consent is given by—
    - (i) the creditor of the relevant loan; or
    - (ii) if there are 2 or more creditors of the relevant loan,—
      - (A) all creditors of the relevant loan; or
      - (B) some creditors of the relevant loan, if the sinking fund is sufficient to repay the balance of the loan on maturity in respect of

amounts owed to creditors who do not consent.

- (3) Before a local authority makes a request for the release of a sinking fund under subsection (1), it must ensure that the local authority will have available, in easily realisable funds, such amounts as may be required to repay the principal or interest of the loan when the principal or interest becomes payable.

Compare: 1974 No 66 s 122ZR(2), (2A), (3)

### **302 Provisions relating to Public Trust and Board of Trustees of National Provident Fund**

In the case of any appointment of the Public Trust or the Board of Trustees of the National Provident Fund (referred to in this section as **the retiring Commissioner**) as sole Commissioner of the sinking fund of any loan in respect of which a local authority is liable, then, despite any other enactment, any rule of law, or the terms of the appointment,—

- (a) the retiring Commissioner may, with the consent of the Governor-General in Council and of the proposed replacement Commissioner, revoke that appointment and appoint any person otherwise entitled to be a Commissioner in the retiring Commissioner's place; and
- (b) the retiring Commissioner must, immediately after the revocation of the retiring Commissioner's appointment, transfer the money or assets representing the sinking fund to the replacement Commissioner; and
- (c) no liability will be incurred by the retiring Commissioner in respect of any sinking fund after completion of the transfer of the money or assets representing that fund.

Compare: 1974 No 66 s 122ZR(4)

### **303 Public Bodies Leases Act 1969**

- (1) Every territorial authority and regional council ceases, as from the commencement of this section, to be a leasing authority for the purposes of the Public Bodies Leases Act 1969.
- (2) Despite subsection (1) and section 262, nothing in this Act limits the application of the Public Bodies Leases Act 1969 with respect to—



- (a) any lease or tenancy granted by a territorial authority or regional council before the commencement of this section and current at the commencement of this section; or
- (b) any lease or tenancy granted after the commencement of this section in renewal of a lease or tenancy to which the Public Bodies Leases Act 1969 applies.

**304 Sale of land purchased for commercial or industrial purposes**

Despite the repeal by this Act of section 572 of the Local Government Act 1974, subsection (6) of that section continues to have effect in relation to the sale of any land to which that section applies (being land that the local authority has purchased for commercial or industrial purposes before the repeal of that section).

**305 Local Authorities (Employment Protection) Act 1963**

Section 55(3) of the Local Government Amendment Act (No 2) 1989 continues to have effect.

**306 Local Authorities Loans Act 1956**

- (1) Sections 21 and 22 of the Local Government Amendment Act (No 3) 1996 continue to have effect.
- (2) Despite subsection (1) and clauses 60(1) and 61 of Schedule 3, if a local authority repays, before its maturity, any loan that is secured by a rate to which clause 60(1) of Schedule 3 refers or any loan in respect of which a rate has been made and levied pursuant to clause 61 of Schedule 3, the provisions of clause 60(1) of Schedule 3 or of clause 61 of Schedule 3 or of both, as the case may require, cease to apply to the rate or the area of land upon which the rate is charged.

**307 Existing proceedings**

All applications, actions, appeals, proceedings, and other matters under any Act which, before the commencement of this section, have been made or referred under any provision of the Local Government Act 1974 that is repealed by this Act

or any provision of any other Act amended or repealed by that Act or by this Act to any court or the Commission and which have not been determined or completed at the commencement of this section are to be determined or completed by the court or the Commission, as the case may require, as if this Act had not been passed.

**308 Existing causes of action**

- (1) Subject to the applicable period of limitation, the repeal by this Act of any existing Act or provision does not extinguish any existing cause of action.
- (2) If any cause of action has arisen before the commencement of this section under any of the provisions repealed by this Act and, at commencement of this section, no proceedings have been initiated in respect of that cause of action under those provisions, those provisions continue to apply to any proceedings commenced in respect of any such cause of action as if this Act had not been passed.

*Savings*

**309 Saving**

- (1) The repeal of any provision by this Act does not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, is to continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.
- (2) Subsection (1) does not limit the provisions of the Interpretation Act 1999.

**310 Saving in respect of bylaws of Transit New Zealand**

The repeal of section 684(1)(38) to (40) and of section 684(2) of the Local Government Act 1974 by this Act does not affect any bylaws made by Transit New Zealand under section 61(3) of the Transit New Zealand Act 1989 or the power of the New

Zealand Transport Agency to make further bylaws under section 61(3) of Government Rounding Powers Act 1989.

Section 310: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

**311 Savings in respect of bylaws made in respect of government roads**

The repeal of section 684(1)(38) to (40) and of section 684(2) of the Local Government Act 1974 by this Act does not affect any bylaws made by the Minister of Transport under section 48(2) of the Transit New Zealand Act 1989 or the power of the Minister of Transport to make further bylaws under section 48(2) of that Act.

**312 Savings and validation in respect of remuneration, allowances, and expenses of elected members**

- (1) Every determination, resolution, or other document which was in force under Part 4C of the Local Government Act 1974 immediately before the commencement of section 4 of the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001—
  - (a) is deemed to have continued in force until the commencement of this section; and
  - (b) is to continue in force after the commencement of this section until it is superseded or revoked by a determination made by the Remuneration Authority under—
    - (i) Part 4C of the Local Government Act 1974 (as amended by section 4 of the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001); or
    - (ii) this Act.
- (2) In relation to the period beginning with the commencement of section 4 of the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001 and ending with the commencement of this section, the provisions of Part 4C of the Local Government Act 1974 are deemed to have had effect as if that section had not been enacted.
- (3) The provisions of Part 4C of the Local Government Act 1974 (in the form of which they were immediately before the com-

mencement of section 4 of the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001) continue to have effect in relation to any determination, resolution, or other document to which subsection (1) of this section applies until the determination, resolution, or document is superseded or revoked by a determination made by the Remuneration Authority under—

- (a) Part 4C of the Local Government Act 1974 (as amended by section 4 of the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001); or
  - (b) this Act.
- (4) A determination made by the Remuneration Authority under Part 4C of the Local Government Act 1974 (as amended by section 4 of the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001) or this Act may revoke any determination, resolution, or other document to which subsection (1) of this section applies.
- (5) Despite subsections (1) to (4) and the provisions of sections 4 and 5 of the Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001, the provision made by section 14(aa) of the Greytown District Trust Lands Act 1979 for the payment of a fee to members of the trust board within the meaning of that Act—
- (a) is deemed to have continued in force until the commencement of this section; and
  - (b) continues in force after the commencement of this section until the earlier of—
    - (i) the date on which the rate of the remuneration payable to members of that trust board is first approved after the commencement of this section under the Fees and Travelling Allowances Act 1951; or
    - (ii) the close of 30 April 2003.

### **313 Saving in respect of Infrastructure Auckland**

*[Repealed]*

Section 313: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

**314 Prohibition of vehicles and consumption or possession of intoxicating liquor in public place**

- (1) Every prohibition that, on the commencement of this section, is in force under any provision of sections 709A to 709H of the Local Government Act 1974 is, unless it is sooner revoked or sooner expires, to continue in force for the period of 12 months beginning with the date on which this section comes into force.
  - (2) A territorial authority may, by bylaw made under section 146(b), revoke any prohibition that is continued in force by subsection (1) and is in force within the whole or any part of the territorial authority's district.
  - (3) Every prohibition continued in force by subsection (1) is deemed,—
    - (a) for the purposes of sections 169, 239, and 240, to be a bylaw made under Part 8; and
    - (b) for the purpose of section 170, to be a bylaw made under section 147.
-

**Schedule 1**

ss 18, 19

**Acts under which responsibilities, powers,  
and duties are conferred or imposed  
on Minister of Local Government and  
Secretary for Local Government****Bylaws Act 1910 (1910 No 28)****Land Drainage Act 1908 (1908 No 96)****Litter Act 1979 (1979 No 41)****Local Electoral Act 2001 (2001 No 35)****Local Government Act 1974 (1974 No 66)****Public Bodies Leases Act 1969 (1969 No 141)****Rangitaiki Land Drainage Act 1956 (1956 No 34)****Rates Rebate Act 1973 (1973 No 5)****River Boards Act 1908 (1908 No 165)**  

---

**Schedule 2**      ss 5(1), 21(3), 25(5), 27(4)  
**Local authorities**

**Part 1**  
**Regional councils**

<b>Regional councils</b>	<b>Constituted by</b>
Bay of Plenty Regional Council	Local Government (Bay of Plenty Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2275
Canterbury Regional Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
Hawke's Bay Regional Council	Local Government (Hawke's Bay Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2334
Manawatu–Wanganui Regional Council	Local Government (Manawatu-Wanganui Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2351
Northland Regional Council	Local Government (Northland Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2391
Otago Regional Council	Local Government (Otago Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2408
Southland Regional Council	Local Government (Southland Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2430
Taranaki Regional Council	Local Government (Taranaki Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2445
Waikato Regional Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Wellington Regional Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
West Coast Regional Council	Local Government (West Coast Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2517

Schedule 2 Part 1: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

**Part 2**  
**Territorial authorities**

<b>City and District Councils</b>	<b>Constituted by</b>
Ashburton District Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296

Part 2—*continued*

<b>City and District Councils</b>	<b>Constituted by</b>
Auckland Council	section 6(1) of the Local Government (Auckland Council) Act 2009
Banks Peninsula District Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
Buller District Council	Local Government (West Coast Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2517
Carterton District Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
Central Hawke's Bay District Council	Local Government (Hawke's Bay Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2334
Central Otago District Council	Local Government (Otago Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2408
Chatham Islands Council	Chatham Islands Council Act 1995
Christchurch City Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
Clutha District Council	Local Government (Otago Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2408
Dunedin City Council	Local Government (Otago Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2408
Far North District Council	Local Government (Northland Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2391
Gisborne District Council	Local Government (Gisborne Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2328
Gore District Council	Local Government (Southland Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2430
Grey District Council	Local Government (West Coast Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2517
Hamilton City Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Hastings District Council	Local Government (Hawke's Bay Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2334
Hauraki District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Horowhenua District Council	Local Government (Manawatu–Wanganui Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2351



Part 2—*continued*

<b>City and District Councils</b>	<b>Constituted by</b>
Hurunui District Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
Hutt City Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
Invercargill City Council	Local Government (Invercargill City) Reorganisation Order 1990, <i>Gazette</i> 1990, p 2326
Kaikoura District Council	Local Government (Nelson–Marlborough Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2375
Kaipara District Council	Local Government (Northland Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2391
Kapiti Coast District Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
Kawerau District Council	Local Government (Bay of Plenty Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2275
Mackenzie District Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
Manawatu District Council	Local Government (Manawatu–Wanganui Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2351
Marlborough District Council	Local Government (Nelson–Marlborough Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2375
Masterton District Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
Matamata-Piako District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Napier City Council	Local Government (Hawke’s Bay Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2334
Nelson City Council	Local Government (Nelson–Marlborough Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2375
New Plymouth District Council	Local Government (Taranaki Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2445
Opotiki District Council	Local Government (Bay of Plenty Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2275

Part 2—*continued*

<b>City and District Councils</b>	<b>Constituted by</b>
Otorohanga District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Palmerston North City Council	Local Government (Manawatu-Wanganui Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2351
Porirua City Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
Queenstown-Lakes District Council	Local Government (Otago Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2408
Rangitikei District Council	Local Government (Manawatu-Wanganui Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2351
Rotorua District Council	Local Government (Bay of Plenty Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2275
Ruapehu District Council	Local Government (Manawatu-Wanganui Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2351
Selwyn District Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
South Wairarapa District Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
South Taranaki District Council	Local Government (Taranaki Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2445
South Waikato District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Southland District Council	Local Government (Southland Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2430
Stratford District Council	Local Government (Taranaki Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2445
Tararua District Council	Local Government (Manawatu-Wanganui Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2351
Tasman District Council	Local Government (Nelson-Marlborough Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2375
Taupo District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460

**Part 2—continued**

<b>City and District Councils</b>	<b>Constituted by</b>
Tauranga City Council	Local Government (Bay of Plenty Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2275
Thames-Coromandel District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Timaru District Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
Upper Hutt City Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
Waikato District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Waimakariri District Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
Waimate District Council	Local Government (Canterbury Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2296
Waipa District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Wairoa District Council	Local Government (Hawke's Bay Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2334
Waitaki District Council	Local Government (Otago Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2408
Waitomo District Council	Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2460
Wanganui District Council	Local Government (Manawatu–Wanganui Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2351
Wellington City Council	Local Government (Wellington Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2491
Western Bay of Plenty District Council	Local Government (Bay of Plenty Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2275
Westland District Council	Local Government (West Coast Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2517
Whakatane District Council	Local Government (Bay of Plenty Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2275
Whangarei District Council	Local Government (Northland Region) Reorganisation Order 1989, <i>Gazette</i> 1989, p 2391

Schedule 2 Part 2: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Part 2—*continued*

Schedule 2 Part 2: amended, on 1 March 2004, by clause 5 of the Local Government (Tauranga City Council) Order 2003 (SR 2003/275).

## Part 3

### Boundaries

#### 1 Boundaries of regions

- (1) If any part of the boundary of a region is the sea, that boundary is the outer limits of the territorial sea of New Zealand.
- (2) A region must be defined, as far as practicable, so that it does not contain a fraction of the district of a territorial authority.
- (3) If the boundaries of a district that are the same as the boundaries of part of any region are altered,—
  - (a) the alteration also has effect with respect to the region; and
  - (b) the boundaries of the region are altered accordingly.
- (4) Subclause (3) applies subject to the Order in Council giving effect to a reorganisation scheme.

Compare: 1974 No 66 s 370

#### 2 Boundaries of districts

- (1) If any part of the boundary of a district is the sea, that boundary may be between the mean high-water mark and the outer limit of the territorial sea of New Zealand as determined by the Order in Council defining the district.
- (2) If a river or stream runs between 2 or more districts, wholly or in part, the boundaries of the relevant districts, for the purposes of this Act, extend to the middle line of the river or stream and follow its natural course.
- (3) If the boundaries of a district are altered and all or part of the boundaries concerned were the same as the boundaries of any region,—
  - (a) the alteration also has effect with respect to the boundaries of that part of the region; and
  - (b) the boundaries of the region are altered accordingly.

Part 3—*continued*

- (4) Subclause (3) applies subject to the Order in Council giving effect to a reorganisation scheme.

Compare: 1974 No 66 s 37P

**3 Unitary authorities**

- (1) A territorial authority that is a unitary authority has—
- (a) the responsibilities, duties, and powers of a territorial authority in respect of the district for which it was constituted; and
  - (b) the responsibilities, duties, and powers of a regional council in respect of the region over which it has control.
- (2) If a territorial authority is a unitary authority, the boundaries of the district of the territorial authority and those of the region over which it has control, except the seaward boundaries, are the same.

**4 Savings provisions for unitary authorities**

If, immediately before the commencement of this Act, a territorial authority has, under section 37N of the Local Government Act 1974, the responsibilities, duties, and powers of a regional council as well as its own responsibilities, duties, and powers, then the territorial authority—

- (a) continues to have the responsibilities, duties, and powers of the regional council; and
- (b) is a unitary authority for the purposes of this Act.

**5 Adjustments to boundaries**

- (1) The Minister may, by notice in the *Gazette*, alter the boundaries of a district or region to include or exclude—
- (a) land reclaimed from the sea adjacent to the district or region; or
  - (b) land, including any island, that in the Minister's opinion should be included in or excluded from the district or region and in respect of which there are no electors.
- (2) Despite subclause (1),—

Part 3—*continued*

- (a) land reclaimed from the sea (whether lawfully or unlawfully) adjoining a district or region forms part of that district or region; and
  - (b) if the reclaimed land forms part of 2 or more districts or regions, the boundary or boundaries between those districts or regions must be determined by the Minister by notice in the *Gazette*.
-

## Schedule 3

ss 5(1), 24(2), 25(3)–(4),  
26(3), 27(2)

### Reorganisation of local authorities

#### Part 1

#### Reorganisation proposals

#### *Subpart 1—Initiation of reorganisation proposals*

#### Initiation

#### **1 Who may make reorganisation proposal**

- (1) A reorganisation proposal that involves the alteration of a boundary or the transfer of a responsibility may be made—
  - (a) by an affected local authority; or
  - (b) by the Minister; or
  - (c) by a petition signed by at least 10% of the electors of the area subject to the proposed reorganisation.
- (2) A reorganisation proposal that involves the constitution of a new district or region may be made—
  - (a) by resolution by 1 or more of the affected local authorities that has the consent of each of the affected local authorities; or
  - (b) by the Minister; or
  - (c) in the case of a proposed new district with a population of not fewer than 10 000 persons, by a petition signed by at least 10% of the electors of each of the affected districts; or
  - (d) in the case of a proposed new region with a separately elected regional council and population of not fewer than 50 000 persons, by a petition signed by at least 10% of the electors of each of the affected regions.
- (3) A reorganisation proposal that involves the abolition of a district or region and its inclusion in 1 or more adjoining districts or regions, or the union of districts or regions, may be made—
  - (a) by resolution by 1 or more affected local authorities and with the consent of each of the affected local authorities; or
  - (b) by the Minister; or

Part 1—*continued*

- (c) by petition signed by at least 10% of the electors of each district or region that is proposed to be abolished; or
  - (d) by petition signed by at least 10% of the electors of each of the districts or regions proposed to be united.
- (4) A reorganisation proposal that involves a territorial authority becoming a unitary authority may be made by—
  - (a) resolution of 1 or more of the affected local authorities that has the consent of each of the affected local authorities; or
  - (b) the Minister; or
  - (c) a petition signed by at least 10% of the electors of each of the affected districts or regions.

Compare: 1974 No 66 s 37ZO

**2 Contents of proposal**

- (1) If a proposal is a proposal to which clause 1(1)(c), (2)(c) or (d), (3)(c) or (d), or (4)(c) applies,—
  - (a) each signatory to the proposal must state, against his or her signature, the person's name and address with sufficient particularity to enable that person to be identified as an elector; and
  - (b) the proposal must include the name and address of a representative of the proposers.
- (2) A proposal involving a boundary change or the definition of boundaries must be accompanied by a plan or other description sufficient to identify the area or areas concerned.

Compare: 1974 No 66 ss 37ZP, 37ZQ

*Subpart 2—Criteria to be considered***3 Promotion of good local government**

- (1) When considering a reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or the Commission must satisfy itself that the proposal or scheme will—
  - (a) promote good local government of the districts or regions concerned; and



Part 1—*continued*

- (b) ensure that each local authority provided for under the proposal will—
  - (i) have the resources necessary to enable it to carry out its responsibilities, duties, and powers; and
  - (ii) have a district or region that is appropriate for the efficient and effective performance of its role as specified in section 11; and
  - (iii) contain within its district or region a sufficiently distinct community of interest or sufficiently distinct communities of interests; and
  - (iv) be able to meet the requirements of section 76.
- (2) When considering the matters specified in subclause (1) in relation to any reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or the Commission must have regard to—
  - (a) the area of impact of the responsibilities, duties, and powers of the local authorities concerned; and
  - (b) the area of benefit of services provided; and
  - (c) the likely effects on a local authority of the exclusion of any area from its district or region; and
  - (d) any other matters that it considers appropriate.

Compare: 1974 No 66 s 37ZQA

**4 Appropriate boundaries**

In determining boundaries under any reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or the Commission must ensure that,—

- (a) if practicable, the boundaries of regions conform with catchment boundaries; and
- (b) if practicable, the boundaries of districts conform with the boundaries of regions; and
- (c) the boundaries of regions and the boundaries of districts conform with the boundaries of statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.

Compare: 1974 No 66 s 37ZR

Part 1—*continued***5 Representation**

If a joint committee of the affected local authorities or the appointed local authority or the Commission is required to determine the membership of a local authority as a consequence of any reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or the Commission must—

- (a) provide fair and effective representation for individuals and communities of that local authority; and
- (b) comply with the requirements of the Local Electoral Act 2001; and
- (c) take into account the responsibilities, duties, and powers of that local authority.

Compare: 1974 No 66 s 37ZRA

**6 Minimum populations of districts and regions**

A reorganisation proposal may not proceed if the implementation of that proposal would result in the constitution of—

- (a) a district with a population of less than 10 000 persons; or
- (b) a region having both a separately elected regional council and a population of less than 50 000 persons.

Compare: 1974 No 66 s 37ZZP

**7 Cities**

A reorganisation scheme issued under subpart 4 may not provide that a territorial authority is to be called a city council unless the scheme provides for the constitution of a new district and the district—

- (a) has a population of not less than 50 000 persons; and
- (b) is predominantly urban; and
- (c) is a distinct entity and a major centre of activity within the region.

Compare: 1974 No 66 s 37M

Part 1—*continued*

*Subpart 3—Proposals for boundary  
alterations and transfer of responsibilities*

**8 Application of this subpart**

Reorganisation proposals for the alteration of the boundaries of a district or region, or the transfer of any responsibility from one local authority to another must be dealt with under this subpart.

**9 Reorganisation proposal initiated when filed with affected local authorities**

A reorganisation proposal is initiated if a copy of the proposal is filed at the principal office of each affected local authority.

Compare: 1974 No 66 s 37ZP(1)

Procedure for proposals

**10 Action required by local authorities for proposals relating to boundary changes or transfer of responsibilities**

- (1) A local authority that receives a reorganisation proposal under this subpart must—
  - (a) give notice of that proposal to both the Secretary and the Commission; and
  - (b) consult with the other affected local authorities for the purpose of determining—
    - (i) whether it should be dealt with by a joint committee of the affected local authorities appointed in accordance with clause 11; or
    - (ii) whether it should be dealt with under this Part by a local authority that the affected local authorities have agreed should be the appointed local authority; or
    - (iii) whether it should be referred to the Commission under subclause (2); and
  - (c) make the determination under paragraph (b) within 60 days of receiving the reorganisation proposal.
- (2) If the affected local authorities agree to refer the reorganisation proposal to the Commission, that proposal must be considered

Part 1—*continued*

by the Commission under subpart 4 (excluding clauses 40 and 49 to 58).

- (3) If the affected local authorities fail to agree to establish a joint committee of the affected local authorities or to appoint a local authority to be the appointed local authority within 60 days of receiving the reorganisation proposal, that proposal must be—
- (a) referred to the Commission; and
  - (b) considered by the Commission under subpart 4 (excluding clauses 40 and 49 to 58).

Compare: 1974 No 66 ss 37ZT, 37ZV

Schedule 3 clause 10(1)(c): amended, on 28 June 2006, by section 27(1) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**11 Joint committee of affected local authorities**

- (1) A joint committee of the affected local authorities must decide to accept or reject a proposal without referring the matter back to the affected local authorities.
- (2) However, the affected local authorities may—
- (a) make submissions on the proposal to the joint committee of the affected local authorities; and
  - (b) appeal the decisions made by the joint committee of the affected local authorities.
- (3) Despite anything in clause 30 of Schedule 7, the joint committee of the affected local authorities may not appoint a subcommittee.
- (4) The membership of the joint committee of the affected local authorities must comprise an equal number of persons from each affected local authority.
- (5) The members of the joint committee of the affected local authorities may not participate in the preparation of submissions or appeals by the affected local authorities.
- (6) The chairperson of the joint committee of the affected local authorities—
- (a) must be appointed from the membership of the joint committee; and
  - (b) has a deliberative vote but not a casting vote.

Part 1—*continued*

- (7) If a joint committee of the affected local authorities cannot reach a decision on a proposal, the proposal must be referred to the Commission for a decision.
- (8) If the proposal is referred to the Commission, the Commission—
  - (a) is not required to call for new submissions; but
  - (b) is required to—
    - (i) consider the submissions received by the joint committee of the affected local authorities; and
    - (ii) provide an opportunity to the persons who made those submissions to be heard by the Commission.

**12 Duties of joint committee of affected local authorities or appointed local authority in relation to proposal**

- (1) The joint committee of the affected local authorities or appointed local authority must prepare a draft reorganisation scheme based on the reorganisation proposal, including the matters specified in clause 59 that are appropriate.
- (2) In preparing the draft reorganisation scheme, the joint committee of the affected local authorities or the appointed local authority must—
  - (a) incorporate any other matters that the joint committee of the affected local authorities or the appointed local authority considers necessary or appropriate to give effect to the reorganisation proposal; and
  - (b) make consequential changes to the reorganisation proposal that it considers necessary or desirable.
- (3) The joint committee of the affected local authorities or the appointed local authority must—
  - (a) give public notice of the draft reorganisation scheme; and
  - (b) send a copy of the draft reorganisation scheme to—
    - (i) the Commission; and
    - (ii) the affected local authorities; and
    - (iii) the Auditor-General; and

Part 1—*continued*

- (iv) the Parliamentary Commissioner for the Environment; and
  - (v) the Secretary; and
  - (vi) the Secretary for the Environment; and
  - (vii) the Chief Executive of Te Puni Kōkiri; and
  - (viii) any affected Māori organisations identified by Te Puni Kōkiri; and
  - (ix) any other organisations that the joint committee of the affected local authorities, the appointed local authority, or the Commission considers appropriate; and
- (c) invite submissions in relation to the draft reorganisation scheme.

Compare: 1974 No 66 s 37ZW

**13 Withdrawal of proposals**

- (1) The joint committee of affected local authorities or the appointed local authority must provide a copy of the submissions it receives on the proposal to the proposer as soon as practicable after the closing date for submissions on that proposal.
- (2) When providing a copy of the submissions on the proposal, or written notice of the absence of submissions, to the proposer, the joint committee of affected local authorities, or the appointed local authority, must give the proposer an opportunity to withdraw the proposal.
- (3) The proposer may withdraw the proposal by providing written notice to the joint committee of affected local authorities, or the appointed local authority, within 20 working days of the date on which the joint committee of affected local authorities, or the appointed local authority, provided the opportunity to withdraw the proposal to the proposer.
- (4) If notice of withdrawal is given by post,—
  - (a) it must be given by registered letter; and
  - (b) is deemed, in the absence of proof to the contrary, to be received on the fifth day after the day on which it was posted.

Compare: 1974 No 66 ss 37ZZD(3), 37ZZD

Part 1—*continued*

**14 Power to decline to consider reorganisation proposal**

- (1) An affected local authority may request the Commission to direct the joint committee of the affected local authorities or the appointed local authority not to consider a reorganisation proposal on the grounds that it is the same as, or substantially similar to, a proposal that has been considered, declined, or abandoned within the previous 3 years, and the Commission may give a determination accordingly.
- (2) The Commission may consider a request under subclause (1) on the basis of the reorganisation proposals that it has received and is not obliged to hear an affected local authority or other person in relation to the request.
- (3) If the joint committee of the affected local authorities or the appointed local authority is directed not to consider a reorganisation proposal, it must immediately notify—
  - (a) the Secretary; and
  - (b) the proposer; and
  - (c) each affected local authority.
- (4) If appropriate, notice given for the purposes of subclause (3)(b) may be given generally by public notice.

Compare: 1974 No 66 s 37ZZNA

Submissions

**15 Submissions in relation to draft reorganisation scheme**

- (1) An interested person or body (including the Secretary) has a right to make submissions on a draft reorganisation scheme.
- (2) A submission must be made in writing to the joint committee of the affected local authorities or the appointed local authority—
  - (a) within 2 months after the first public notification of the draft reorganisation scheme; or
  - (b) within a further time that may be allowed by the joint committee of the affected local authorities or the appointed local authority.

Compare: 1974 No 66 s 37ZX

Part 1—*continued***16 Appointment of committee to consider submissions**

- (1) An appointed local authority may, if it thinks fit, appoint a committee consisting of 2 or more of its members to—
- (a) consider the submissions on the draft reorganisation scheme; and
  - (b) make recommendations to the appointed local authority in respect of the submissions made on the draft reorganisation scheme.
- (2) If a committee appointed under subclause (1) is discharged, or if any member of the committee ceases to hold office or is removed from office by operation of law or otherwise before the committee has fully performed its responsibilities under this clause, the appointed local authority may alter or reconstitute the membership of the committee and the committee, as so altered or reconstituted or reappointed, must make its own recommendations or convey those of the previously existing committee to the appointed local authority.
- (3) Despite subclause (2), an altered or reconstituted committee must not vary any recommendation of the previous committee that considered or heard the submissions unless all the members of the altered or reconstituted committee—
- (a) have considered them; or
  - (b) if a person making a submission was heard in support of his or her submission, have heard that person in support of his or her submission.

Compare: 1974 No 66 s 37ZY

**17 Consideration and hearing of submissions**

- (1) The joint committee of the affected local authorities or the appointed local authority or a committee appointed under clause 16—
- (a) must, as soon as practicable, consider all the submissions on the draft reorganisation scheme; and
  - (b) for that purpose, may—
    - (i) convene meetings (either jointly or separately) with—



Part 1—*continued*

- (A) all or any of the persons making submissions:
    - (B) all or any of the affected local authorities:
    - (C) any other persons or bodies that the joint committee of the affected local authorities or the appointed local authority or committee thinks fit:
  - (ii) hold discussions with any persons and bodies that the joint committee of the affected local authorities or the appointed local authority or committee thinks fit:
  - (iii) at any such meeting or discussions, hear the representations submitted that the joint committee of the affected local authorities or the appointed local authority or committee considers relevant or likely to be relevant to the matters being inquired into:
  - (iv) make any further inquiries that it considers necessary or desirable.
- (2) A person who has made a submission must be given the opportunity to be heard in support of his or her submission.
- (3) At a meeting or discussion at which a submission is being considered or any representations are being received, no cross-examination is allowed except with the consent of the joint committee of the affected local authorities or the appointed local authority or committee, but members of the joint committee of the affected local authorities or the appointed local authority or committee (or a barrister or solicitor on its behalf) may ask questions relating to the submission or the representations.

Compare: 1974 No 66 s 37ZZ

Decisions

**18 Decisions in relation to draft reorganisation scheme**

- (1) After the joint committee of the affected local authorities or the appointed local authority has considered either the submissions on the draft reorganisation scheme or the recommen-

Part 1—*continued*

dations made in respect of those submissions by a committee appointed under clause 16, the joint committee of the affected local authorities or the appointed local authority may—

- (a) adopt the draft reorganisation scheme; or
  - (b) adopt the draft reorganisation scheme with amendments to take account of recommendations, submissions, relevant material, representations, or comments received by it; or
  - (c) decide that the draft reorganisation scheme should not proceed.
- (2) The joint committee of the affected local authorities or the appointed local authority must—
- (a) give notice of the decision to—
    - (i) each affected local authority; and
    - (ii) the Secretary; and
    - (iii) the Commission; and
    - (iv) each person who made a submission; and
    - (v) the proposer or his or her representative; and
  - (b) give public notice of the decision.
- (3) If the draft reorganisation scheme is adopted under subclause (1)(a) or (b), and no notice of appeal has been lodged within the time allowed for the lodging of appeals under clause 21, the draft reorganisation scheme becomes a reorganisation scheme and the joint committee of the affected local authorities or the appointed local authority must refer it to the Minister for the preparation of an Order in Council to give effect to it.
- (4) A joint committee of the affected local authorities or the appointed local authority must not approve a reorganisation scheme that does not comply with the criteria specified in clauses 3 to 7.
- (5) Notice given for the purposes of subclause (2)(a)(iv) may be given generally by public notice if the joint committee of the affected local authorities or the appointed local authority considers it appropriate.

Compare: 1974 No 66 s 37ZZA

Part 1—*continued*

**19 Procedure if no submissions received**

If a draft reorganisation scheme has been publicly notified under clause 12(3)(a), and no submissions have been received within the period allowed for submissions, the draft reorganisation scheme becomes a reorganisation scheme and the joint committee of the affected local authorities or the appointed local authority must refer it to the Minister for the preparation of an Order in Council to give effect to it.

Compare: 1974 No 66 s 37ZZB

Appeals

**20 Appeal to Commission against decision of joint committee of the affected local authorities or appointed local authority**

If a person who is given notice under clause 18(2)(a) is dissatisfied with the decision to which the notice relates, that person may appeal to the Commission against the decision.

Compare: 1974 No 66 s 37ZZC

**21 Notice of appeal**

- (1) An appeal under clause 20 must be instituted by the person lodging a notice of appeal (the **appellant**) within 1 month after the date of the decision with—
  - (a) the Chief Executive Officer of the Commission; and
  - (b) the chairperson of the joint committee of the affected local authorities or chief executive of the appointed local authority.
- (2) Either before or immediately after the lodging of the notice of appeal, the appellant must serve a copy of the notice of appeal, either personally or by post, on every other person who was given notice under clause 18(2)(a) of the decision to which the notice of appeal relates.
- (3) Service under subclause (2), if by post, must be by registered letter and, for the purposes of this clause, is deemed, in the absence of proof to the contrary, as being effected on the fifth day after the day on which it was posted.

Part 1—*continued*

- (4) A notice of appeal must specify—
  - (a) the decision, or the part of the decision, appealed from; and
  - (b) the grounds of the appeal, which must be specified with sufficient particularity to give full advice of the issues involved to both the Commission and to the other parties.
- (5) The chairperson of the joint committee of the affected local authorities or the chief executive of the appointed local authority must, as soon as is practicable after receiving a copy of the notice of appeal, send to the Chief Executive Officer of the Commission—
  - (a) a copy of the whole of the decision appealed from; and
  - (b) a copy of the draft reorganisation scheme; and
  - (c) a copy of the submissions received on the draft reorganisation scheme; and
  - (d) if the draft reorganisation scheme has been adopted with amendments as a reorganisation scheme, a copy of the reorganisation scheme.

Compare: 1974 No 66 s 37ZZD

**22 Right to appear and be heard on appeals**

- (1) A person who is served under clause 21(2) with a copy of the notice of appeal and who wishes to appear and be heard on the hearing of the appeal must, within 10 days after the date of the service on that person of a copy of the notice of appeal, lodge with the Chief Executive Officer of the Commission a notice of that person's intention to appear and be heard.
- (2) The parties to an appeal are—
  - (a) the person who gives notice of his or her intention to appear and be heard;
  - (b) the appellant;
  - (c) the joint committee of the affected local authorities;
  - (d) the appointed local authority.
- (3) Each party to the appeal is entitled to receive—

Part 1—*continued*

- (a) a copy of each document filed or lodged with the Chief Executive Officer of the Commission that relates to the appeal; and
- (b) a notice of the date set down for the hearing of the appeal.

Compare: 1974 No 66 s 37ZZE

**23 Commission may seek further information**

- (1) The Commission may, of its own motion or on the application of a party to the appeal, make all or any of the following orders:
  - (a) an order directing the joint committee of the affected local authorities or the appointed local authority to lodge with the Chief Executive Officer of the Commission a document or other written material or an exhibit in the possession or custody of the joint committee of the affected local authorities or the appointed local authority;
  - (b) an order directing the joint committee of the affected local authorities or the appointed local authority to lodge with the Chief Executive Officer of the Commission a report recording, in respect of any matter or issue that the joint committee of the affected local authorities or the appointed local authority may specify, any of the findings of fact of the joint committee of the affected local authorities or the appointed local authority that are not set out nor fully set out in its decision;
  - (c) an order directing the joint committee of the affected local authorities or the appointed local authority to lodge with the Chief Executive Officer of the Commission a report setting out, in respect of any matter or issue that the Commission may specify, any reasons or considerations of the joint committee of the affected local authorities or the appointed local authority to which the joint committee of the affected local authorities or the appointed local authority had regard but that are not set out in its decision.
- (2) An application under subclause (1) must,—

Part 1—*continued*

- (a) in the case of the appellant, be made within 1 month after the date of the lodging of the notice of appeal; or
  - (b) in the case of any other party to the appeal, within 1 month after the date of service on that party of a copy of the notice of appeal.
- (3) The Commission may make an order under subclause (1) only if it is satisfied that a proper determination of the appeal requires it, and the order may be made subject to the conditions that the Commission thinks fit.
- (4) In addition to making any order under subclause (1), the Commission may, if it considers it desirable, make the inquiries, and seek further information from any person, that it considers relevant to the appeal, whether or not that person is a party to the appeal.

Compare: 1974 No 66 s 37ZZF

**24 Dismissal of appeal**

The Commission may dismiss any appeal made under clause 20—

- (a) if the appellant does not appear at the time appointed for the hearing of the appeal; or
- (b) if the appellant does not prosecute the appeal with all due diligence and if a party applies to the Commission for the dismissal of the appeal.

Compare: 1974 No 66 s 37ZZG

**25 Appeal in respect of additional matters**

- (1) If a party to an appeal under clause 20, other than the appellant, wishes to contend, on grounds other than those set out in the notice of appeal, that the decision appealed from is erroneous, that party must, within 1 month after the date of the service on that party of a copy of the notice of appeal, lodge a notice to that effect with the Chief Executive Officer of the Commission.

Part 1—*continued*

- (2) The provisions of clauses 20, 21(2) to (4), 23, 24, 26, and 27 apply, with any modifications that may be necessary, to a notice lodged under this clause as if it were a notice of appeal.

Compare: 1974 No 66 s 37ZZH

**26 Extension of time**

On the application of the appellant or intending appellant or any other party, the Commission may, if it thinks fit, extend any time prescribed or allowed under any of the provisions of clauses 21 to 25 for the lodging of any notice, application, or other document.

Compare: 1974 No 66 s 37ZZI

**27 Date of hearing**

When the appeal is, in all respects, ready for hearing, the Chief Executive Officer of the Commission must arrange a date for the hearing as soon as practicable if a party to the appeal notifies the Chief Executive Officer of the Commission—

- (a) that the notice of appeal has been served on all parties to the proceedings; and
- (b) either—
  - (i) that no application has been lodged under clause 23 and that no order has been made under that clause; or
  - (ii) that any application lodged under clause 23 has been heard and that any order under that clause has been complied with.

Compare: 1974 No 66 s 37ZZJ

**28 Hearing and determination of appeal**

- (1) At the hearing of an appeal under clause 20, the Commission must hear and consider all evidence tendered and representations made by, or on behalf of, the appellant and any other party to the proceedings.
- (2) After hearing the evidence and representations in accordance with subclause (1), the Commission may confirm, discharge, or vary the decision of the joint committee of the affected local

Part 1—*continued*

authorities or the appointed local authority and generally make the decisions that it considers just and equitable in the circumstances of the case, having regard to the evidence and representations received by it.

- (3) A decision under subclause (2) takes effect from the date of the decision or from any later date that may be specified in the decision.

Compare: 1974 No 66 s 37ZZK

**29 Power to refer appeal back for reconsideration**

- (1) Despite clause 28, the Commission may, in any case, before determining an appeal or instead of determining an appeal, direct the joint committee of the affected local authorities or the appointed local authority to reconsider, either generally or in respect of any specified matters, the whole or any specified part of the matter to which the appeal relates.
- (2) In giving any direction under this clause, the Commission must—
- (a) advise the joint committee of the affected local authorities or the appointed local authority of its reasons for so doing; and
  - (b) give to the joint committee of the affected local authorities or the appointed local authority the directions that it thinks just concerning the rehearing or reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.
- (3) In reconsidering a matter referred back under this clause, the joint committee of the affected local authorities or the appointed local authority must have regard to the Commission's reasons for giving a direction under subclause (1) and to the Commission's directions under subclause (2).
- (4) If the Commission, before determining any appeal, gives a direction under subclause (1) for reconsideration, that direction has the effect of staying the proceedings on the appeal until the reconsideration of the matter by the joint committee of the



Part 1—*continued*

affected local authorities or the appointed local authority has been completed.

Compare: 1974 No 66 s 37ZZL

**30 Notice of decision on appeal**

- (1) The determination of the Commission on the appeal must be communicated by its Chief Executive Officer to the appellant and to all other parties to the appeal.
- (2) The Chief Executive Officer must also give public notice of the Commission's decision together with all other relevant particulars.

Compare: 1974 No 66 s 37ZZM

**31 Procedure after appeal**

If, after considering the appeal, the Commission determines that a draft reorganisation scheme is to become a reorganisation scheme, the Commission must refer it to the Minister for the preparation of an Order in Council to give effect to it.

Compare: 1974 No 66 s 37ZZMA

**32 Provisions pending determination of appeal**

Pending the determination of an appeal under clause 20, the decision to which the appeal relates is deemed to have no effect.

Compare: 1974 No 66 s 37ZZN

*Subpart 4—Proposals for union,  
constitution, and abolition of districts and  
regions, and creation of unitary authorities*

**33 Application of this subpart**

This subpart applies to any reorganisation proposal for any of the matters listed in section 24(1)(a), (b), (c), and (f).

Part 1—*continued*

## Initiation of proposal

**34 Procedure for initiation of reorganisation proposal**

- (1) A reorganisation proposal to which this subpart applies must be initiated by the filing of the proposal with the Chief Executive Officer of the Commission, who must notify the affected local authorities.
- (2) If a proposal has been initiated under clause 1 by the electors of a local authority, the Chief Executive Officer of the Commission must send a copy of the proposal to the electoral officer of each affected local authority.
- (3) The electoral officers must—
  - (a) check whether or not the proposal has been made by the required number of electors; and
  - (b) not later than 1 month after receiving the proposal, forward to the Commission a certificate to that effect.

## Initial action by Commission

**35 Commission may decline proposal**

- (1) The Commission may decline to proceed with a reorganisation proposal on the grounds that it is the same or substantially similar to a proposal that has been considered, declined, or abandoned within the previous 3 years other than on the grounds of an insufficient number of electors.
- (2) The Commission may make a decision under subclause (1) on the basis of the reorganisation proposal as it is received and is not obliged to hear an affected local authority or other person on the proposal.
- (3) If the Commission makes a decision under subclause (1), the Commission must give notice of that decision to—
  - (a) the proposer; and
  - (b) each affected local authority.
- (4) Notice to the proposer under subclause (3)(a) may be given by public notice if the Commission considers it appropriate.

Compare: 1974 No 66 s 37ZZSA

Part 1—*continued*

**36 Representative of electors**

- (1) If the Commission receives a valid reorganisation proposal that has been initiated under clause 1 by the electors of a local authority, the Commission must, after consultation with those electors that it considers appropriate, determine a person or organisation to be, in relation to that proposal, the representative of those electors for the purposes of this subpart.
- (2) If the Commission has, under subclause (1), determined that a person or organisation is to be the representative of those electors, each reference in clauses 35 and 37 to 56 to the proposer must, in relation to that proposal, be read as a reference to that person or organisation.

Compare: 1974 No 66 s 37ZZQA

Consideration of proposals

**37 Consultation on proposal by Commission**

- (1) As soon as practicable after receiving a reorganisation proposal, the Commission must—
  - (a) take the action that it considers necessary to ensure that the persons or organisations who may be interested in a reorganisation proposal are informed of the proposal; and
  - (b) give public notice of the proposal, which must—
    - (i) advise the location where the proposal may be inspected or how a copy of the proposal may be obtained; and
    - (ii) invite submissions on the proposal; and
  - (c) seek the views of—
    - (i) the affected local authorities; and
    - (ii) the proposer; and
    - (iii) the Auditor-General; and
    - (iv) the Parliamentary Commissioner for the Environment; and
    - (v) the Secretary; and
    - (vi) the Secretary for the Environment; and
    - (vii) the Chief Executive of Te Puni Kōkiri; and

Part 1—*continued*

- (viii) any affected Māori organisations identified by Te Puni Kōkiri; and
  - (ix) any other persons or organisations that the Commission considers appropriate.
- (2) Any body or person that wishes to make a submission on a proposal must make the submission to the Commission within 60 days after the first public notification of the proposal or within any further time that the Commission may allow.
- (3) The Commission must grant the opportunity to meet with, and be heard by, the Commission on the proposal to—
  - (a) the affected local authorities; and
  - (b) each local authority whose district or region adjoins or is coterminous with an affected local authority; and
  - (c) the proposer.
- (4) The Commission may also undertake, in a manner that it thinks fit, inquiries and consultations in relation to the proposal with whomever it considers appropriate.

**38 Withdrawal of proposals**

- (1) The Commission must provide a copy of the submissions and views it receives on the proposal to the proposer as soon as practicable after the closing date for submissions on that proposal.
- (2) When providing a copy of the submissions or views on the proposal, or written notice of the absence of submissions or views, to the proposer, the Commission must give the proposer an opportunity to withdraw the proposal.
- (3) The proposer may withdraw the proposal by providing written notice to the Commission within 20 working days of the date on which the Commission provided the opportunity to withdraw the proposal to the proposer.
- (4) If notice of withdrawal is given by post,—
  - (a) it must be given by registered letter; and

Part 1—*continued*

- (b) is deemed, in the absence of proof to the contrary, to be received on the fifth day after the day on which it was posted.

Compare: 1974 No 66 ss 37ZZD(3), 37ZZZD

**39 Decisions on proposals**

After the Commission has complied with clause 37(1), and conducted any inquiries and consultations it considers appropriate under clause 37(4), it must—

- (a) prepare a draft reorganisation scheme based on the proposal or on some modification or variation of the proposal resulting from the consideration of submissions, consultations, or inquiries, and the consideration of matters under clause 40; or
- (b) decide not to proceed with the proposal and give public notice accordingly.

**40 Commission may consider wider issues**

- (1) In considering a reorganisation proposal, the Commission may consider how that proposal affects the system of local government of any district or region affected by the reorganisation proposal.
- (2) In particular, the Commission may consider under subclause (1)—
  - (a) which system of local government in the district or region best meets the criteria set out in subpart 2;
  - (b) whether or not good local government would be promoted by the inclusion of any part of the district or region in the district or region of another local authority (whether by the constitution of a new district or region or by the alteration of boundaries);
  - (c) whether or not the system of representation in the district or region best meets the criteria in clause 5;
  - (d) whether or not good local government of the district or region would be best promoted by—

Part 1—*continued*

- (i) the system of communities (if any) and the responsibilities, duties, and powers of the community boards in the district or region; or
  - (ii) an alternative system of communities; or
  - (iii) a change in the responsibilities, duties, and powers of the community boards in the district or region:
- (e) any other matters that the Commission considers appropriate.
- (3) The Commission may consider a reorganisation proposal together or in conjunction with any other reorganisation proposal or proposals.

Compare: 1974 No 66 s 37ZZTB

## Draft reorganisation schemes

**41 Draft reorganisation scheme**

- (1) If the Commission has resolved to issue a draft reorganisation scheme, it must include in that scheme any of the matters appropriate to the scheme that are specified in clause 59.
- (2) In preparing a draft reorganisation scheme, the Commission may consult or make inquiries of any persons or organisations that it thinks fit.

Compare: 1974 No 66 s 37ZZV

**42 Explanatory statement**

- (1) The Commission must attach to a draft reorganisation scheme an explanatory statement of the advantages and disadvantages of the proposal (as proposed to be given effect to in the draft reorganisation scheme).
- (2) The explanatory statement must outline the advantages and disadvantages of the proposal in respect of—
  - (a) a proposed new district; and
  - (b) any remaining area of a district affected by the proposal; and

Part 1—*continued*

- (c) if appropriate, the responsibilities that would belong to the affected local authorities.

Compare: 1974 No 66 s 37ZZW

**43 Notification of draft reorganisation scheme**

The Commission must, as soon as practicable after issuing a draft reorganisation scheme,—

- (a) give public notice of the draft reorganisation scheme and, in that notice, invite submissions on the scheme and advise where copies of the scheme may be inspected; and
- (b) take any other action that it considers necessary to ensure that the persons and organisations listed in clause 37(1)(c) are informed of the scheme.

Compare: 1974 No 66 s 37ZZX

**44 Submissions on draft reorganisation scheme**

A person or body that is interested in a draft reorganisation scheme may, within 2 months after the first public notification of the draft reorganisation scheme or within a further time that the Commission may allow, make submissions to the Commission on that draft reorganisation scheme.

Compare: 1974 No 66 s 37ZZY

**45 Consideration of submissions**

- (1) The Commission must consider each submission received and may hold hearings of submissions or meet with the persons making submissions or their representatives.
- (2) Nothing in this clause obliges the Commission to hold a hearing or to meet with a person.

Compare: 1974 No 66 s 37ZZZ

**46 Reorganisation scheme**

- (1) After all the submissions on a draft reorganisation scheme have been considered and any further inquiries or consultations considered by the Commission to be necessary or desirable have been made or carried out, or if no submissions on

Part 1—*continued*

a draft reorganisation scheme have been received, the Commission may, subject to subclause (2),—

- (a) approve the scheme—
    - (i) in the form in which it was publicly notified; or
    - (ii) with the modifications that the Commission thinks fit, being modifications that result from the submissions made on the draft reorganisation scheme or from any inquiries or consultations made or carried out in relation to that scheme; or
  - (b) decline to proceed with the scheme.
- (2) The Commission must not approve a draft reorganisation scheme that does not comply with the criteria specified in clauses 3 to 7.
- (3) If the Commission approves a draft reorganisation scheme,—
- (a) it becomes a reorganisation scheme; and
  - (b) the Commission must give public notice of the reorganisation scheme.

Compare: 1974 No 66 ss 37ZZZA, 37ZZZC

**47 Confirmation or substitution of explanatory statement**

If a draft reorganisation scheme becomes a reorganisation scheme, the Commission must either—

- (a) confirm the explanatory statement issued with the draft reorganisation scheme; or
- (b) prepare and publish a new explanatory statement that complies with clause 42.

Compare: 1974 No 66 s 37ZZB

**48 Commission may abandon draft reorganisation scheme**

At any time before approving a draft reorganisation scheme, the Commission may, on the basis of its consideration of the matters listed in clauses 3 to 7, abandon a draft reorganisation scheme.

Compare: 1974 No 66 s 37ZZDA



Part 1—*continued*

Polls

**49 Polls must be held**

- (1) If a draft reorganisation scheme has been approved under clause 46, a poll of electors on the proposal that the reorganisation scheme proceed must be held in each district or region that is directly affected by the scheme.
- (2) Despite subclause (1), no poll of electors must be held on a reorganisation scheme that deals solely with 1 or more of the matters listed in clause 40(2)(b), (c), or (d).
- (3) Except as otherwise provided in this Part, a poll under this clause must be held under the Local Electoral Act 2001 and the provisions of that Act apply, with any necessary modifications, to the conduct of the poll.
- (4) For the purposes of subclause (1), a district or region is directly affected by a reorganisation scheme if—
  - (a) the scheme provides for the abolition of that district or region; or
  - (b) the scheme provides for the union of the whole of that district or region with all or part of another or other districts or regions; or
  - (c) the scheme provides for the constitution of a new local authority whose district or region will include the whole of that district or region; or
  - (d) the scheme provides for the constitution of a new local authority whose district or region will include part of that district or region; or
  - (e) the scheme provides for the exclusion of an area from that district or region.

Compare: 1974 No 66 s 37ZZZE

**50 Timing of poll**

- (1) A poll required by clause 49 on a proposal that a reorganisation scheme proceed must be held on a date determined by the Commission in accordance with this clause.

Part 1—*continued*

- (2) In determining the date on which a poll is to be held, the Commission must consult with each electoral officer required to conduct the poll on the reorganisation scheme.
- (3) The Commission must give written notice in accordance with subclause (4) of the date determined under subclause (1) to the Secretary and to the chief executive and to the electoral officer of each territorial authority in whose district the poll is to be held.
- (4) Written notification under subclause (3) must be given,—
  - (a) if public notification of the reorganisation scheme under clause 46(3) occurs after 24 November in any year and before 10 February in the following year, not later than 10 March in that following year; and
  - (b) in any other case, within 1 month after the public notification of the reorganisation scheme.
- (5) Each electoral officer who receives written notification under subclause (4) must, within 7 days after receipt of that notification, give public notice of the poll and of the place or places at which the reorganisation scheme and the explanatory statement may be inspected.
- (6) The date determined under subclause (1) for the conduct of the poll must,—
  - (a) if written notice under subclause (3) is given on or after 5 October and before 19 November in any year, be a day not earlier than 14 February and not later than 21 February in the following year; and
  - (b) if written notice under subclause (3) is given on or after 19 November in any year and before 8 January in the following year, be a day not earlier than 17 March and not later than 24 March in that following year; and
  - (c) in any other case, be a day not later than 82 days after the day on which written notice under subclause (3) is given to the electoral officer.

Compare: 1974 No 66 s 37ZZZF

Part 1—*continued*

**51 Official result of poll**

In addition to complying with section 86 of the Local Electoral Act 2001, the electoral officer must,—

- (a) when declaring the official result of the poll, state the total number of electors on the roll or rolls compiled for the purpose of the poll; and
- (b) as soon as practicable after declaring the result, notify the Secretary and the Commission of that result.

Compare: 1974 No 66 s 37ZZZG

**52 Fate of proposal after poll**

- (1) If more than 50% of the valid votes cast in each poll are for a reorganisation scheme, that scheme must be given effect.
- (2) In every other case, the reorganisation scheme must not proceed.
- (3) Whether or not effect is to be given to a reorganisation scheme, the Commission must give notice of the result of the poll to—
  - (a) the local authorities concerned; and
  - (b) the public by public notice.

Compare: 1974 No 66 s 37ZZZH

**53 Regulations**

The Governor-General may, by Order in Council, make regulations under section 259 that prescribe the forms to be used in polls under this subpart.

Compare: 1974 No 66 s 37ZZZI

Expenditure limits

**54 Interpretation**

- (1) In clauses 55 to 58, unless the context otherwise requires,—

**advertising** includes—

  - (a) advertising or publications of any kind or statements in any publication; or
  - (b) paid announcements on radio or television broadcasting; or

Part 1—*continued*

- (c) publishing, issuing, distributing, or displaying any poster, pamphlet, or letter

**poll period**, in relation to a poll under clause 49, means the period commencing on the day after the date on which public notice of the reorganisation scheme is first given and ending with the close of the day on which the poll is held.

- (2) For the purposes of clause 55, a reference to **population**, in relation to a district or a region, is a reference to—
  - (a) the greater of—
    - (i) the population of the district or the region as shown by the last census of population for which results have been published;
    - (ii) the population of the district or the region as assessed by the Government Statistician on a date subsequent to the date of that census; or
  - (b) if the district or the region was not constituted on the date of the last census of population for which results have been published or has had its boundaries altered by the inclusion of additional land since the date of that census, the population of the district or of the region as assessed by the Government Statistician as at the date of its constitution or the date of the boundary alteration.

Compare: 1974 No 66 ss 37ZZZ1A, 37ZZZ1B

**55 Advertising in relation to polls**

- (1) A local authority affected by a reorganisation scheme may not, at any time in a poll period, publish, broadcast, issue, distribute, or display, or cause to be published, broadcast, issued, distributed, or displayed, other than in accordance with this clause, any advertising that promotes or opposes the implementation of the reorganisation scheme or a provision of that scheme.
- (2) Each local authority affected by a reorganisation scheme must, in the period of 20 working days beginning with the first working day after the date on which public notice of the reorganisation scheme is first given, determine, by resolution, the amount of money it proposes to spend on advertising that—

Part 1—*continued*

- (a) promotes or opposes the implementation of that scheme or of any provision of that scheme; and
  - (b) is to be published, broadcast, issued, distributed, or displayed in the poll period.
- (3) The amount determined under subclause (2) by a territorial authority affected by a reorganisation scheme and the amount that that territorial authority may spend on advertising to which the determination relates must not exceed,—
  - (a) if the population of the district of the territorial authority does not exceed 50 000, the sum of \$10,000;
  - (b) if the population of the district of the territorial authority exceeds 50 000 but does not exceed 150 000, the sum of \$20,000;
  - (c) if the population of the district of the territorial authority exceeds 150 000, the sum of \$30,000.
- (4) The amount determined under subclause (2) by a regional council affected by a reorganisation scheme and the amount that that regional council may spend on advertising to which the determination relates must not exceed,—
  - (a) if the population of its region does not exceed 100 000, the sum of \$20,000;
  - (b) if the population of its region exceeds 100 000 but does not exceed 200 000, the sum of \$40,000;
  - (c) if the population of its region exceeds 200 000 but does not exceed 500 000, the sum of \$50,000;
  - (d) if the population of its region exceeds 500 000, the sum of \$60,000.
- (5) The sums referred to in subclauses (3) and (4) are inclusive of goods and services tax.
- (6) Nothing in this clause applies to—
  - (a) the cost of any investigations or research undertaken by, or on behalf of, the local authority that relate to the reorganisation proposal or its effects; or
  - (b) the making of submissions or other representations to the Commission by the local authority; or
  - (c) the cost of the labour of any person employed by a local authority; or

Part 1—*continued*

- (d) the publication of any news or comment relating to the reorganisation proposal or the poll in a newspaper or other periodical or in a radio or television broadcast by any person other than the local authority; or
- (e) any costs that would have been incurred by the local authority whether or not the reorganisation scheme had been proposed.

Compare: 1974 No 66 s 37ZZZIC

**56 Provision of funding to proposer**

- (1) A local authority affected by a reorganisation scheme must meet, up to the amount specified in subclause (2), the costs incurred by the representative determined under clause 36 in publishing, broadcasting, issuing, distributing, or displaying, in a poll period, advertising that promotes or opposes the implementation of the reorganisation scheme or a provision of that scheme.
- (2) The maximum amount of the costs that may be met under subclause (1) is an amount equal to the amount determined under clause 55(2) by the local authority.
- (3) Costs met by a local authority under subclause (1) must, as requested by the representative determined under clause 36, be met either directly or by way of reimbursement.
- (4) This clause does not apply to a reorganisation scheme that is based on a reorganisation proposal initiated by a local authority or by the Minister.

Compare: 1974 No 66 s 37ZZZID

**57 Returns of expenditure**

- (1) If a poll under clause 49 is held in the district or region of a local authority, the chief executive of that local authority must, within 1 month after the date of that poll, make a return to the Auditor-General that specifies—
  - (a) all advertising that—

Part 1—*continued*

- (i) promoted or opposed the implementation of the reorganisation scheme or a provision of that scheme; and
  - (ii) was published, broadcast, issued, distributed, or displayed by the local authority in the poll period or that was caused by the local authority to be published, broadcast, issued, distributed, or displayed in the poll period; and
- (b) the cost of the advertising specified under paragraph (a).
- (2) The Auditor-General must audit the return made under subsection (1).
- (3) If the amount spent by a local authority on advertising to which a resolution made under clause 55(2) relates is in excess of the amount specified in that resolution, the entire amount so spent is to be regarded as a loss that has been incurred by that local authority, and the provisions of sections 44 to 46 apply accordingly.

Compare: 1974 No 66 s 37ZZZIE

Schedule 3 clause 57(3): amended, on 7 July 2004, by section 24 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**58 Authorisation of advertising**

- (1) A person may not publish, broadcast, issue, distribute, or display advertising that promotes or opposes the implementation of the reorganisation scheme or a provision of that scheme unless that advertising contains a statement setting out the name of the person for whom, or at whose direction, that advertising is published, broadcast, issued, distributed, or displayed and the address of that person's place of residence or business.
- (2) To avoid doubt, for the purposes of this clause, **person** includes a local authority affected by the reorganisation scheme or a representative determined under clause 36.

Compare: 1974 No 66 s 37ZZZIF

## Part 2

### Content of reorganisation schemes

#### **59 Provisions for inclusion in reorganisation schemes**

- (1) In preparing a reorganisation scheme, a joint committee of the affected local authorities or the appointed local authority or the Commission—
- (a) must include the provisions that are necessary to give effect to the scheme and, in particular, must—
    - (i) include those provisions specified in clause 66 that are considered necessary or desirable as a consequence of the scheme; and
    - (ii) include any provisions that are considered necessary for the purposes of a proposed new district or any other affected district, or for the discharge of the responsibilities of the local authority of any such district, or for any other matter rendered necessary or desirable through the carrying into effect of the provisions; and
  - (b) may provide that the provisions of clause 67—
    - (i) are amended in their application to the scheme; or
    - (ii) do not apply; and
  - (c) may provide for the application, with the modifications that may be necessary or desirable, of any provisions of any Act for the time being in force that are considered appropriate to the particular matter; and
  - (d) may include, in respect of a scheme providing for the constitution of a new district or region, provision for the establishment of committees to assist in the transition to the new local authority; and
  - (e) may incorporate any other matters that it considers necessary or appropriate to give effect to the proposal; and
  - (f) notwithstanding the provisions of section 19V of the Local Electoral Act 2001, may provide that, for a period of not more than 3 years,—
    - (i) the boundaries of a ward or constituency of a district or region constituted by the scheme must be the same as the boundaries of any region or district abolished by the scheme; or



Part 2—*continued*

- (ii) the membership of any ward or constituency to which subparagraph (i) applies need not comply with section 19V of the Local Electoral Act 2001.
- (2) In preparing a reorganisation scheme, the Commission may also provide for the constitution of any community under Schedule 6.

Compare: 1974 No 66 s 37ZZV(2), (3), (4)

Schedule 3 clause 59(2): substituted, on 28 June 2006, by section 27(2) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Part 3

Implementation of reorganisation schemes

**60 Effect of Orders in Council giving effect to reorganisation schemes**

- (1) An Order in Council giving effect to a reorganisation scheme does not affect—
  - (a) any separate rate or special rate, and every such rate continues to be charged on the whole of the area of land on which it was charged before the making of the order and does not, for that reason, become a charge on any additional area; and
  - (b) the area within which, and the purposes for which, any unexpended loan money may be expended.
- (2) An Order in Council giving effect to a reorganisation scheme is not invalid on the ground that it is inconsistent with the provisions of the scheme if the inconsistency relates solely to matters of a verbal or formal nature or the correction of clerical or typographical errors.

Compare: 1974 No 66 s 37ZZM

**61 Power to amend basis of certain rates**

- (1) Despite clause 60, a local authority constituted by an Order in Council giving effect to a reorganisation scheme may, with the approval of the Commission, make and levy a rate for the purpose of meeting the annual charges for a special loan (within the meaning of the Local Authorities Loans Act 1956) raised by any of the former authorities.

Part 3—*continued*

- (2) A rate made and levied under subclause (1) may be made and levied only over the area of the district of the local authority (being an area different from that over which the loan is secured) that the Commission agrees is benefiting or will benefit from the undertaking or amenity for which the special loan was raised.
  - (3) Nothing in this clause authorises any alteration to the area over which any special loan is secured.
- Compare: 1974 No 66 s 37ZZZN

## Miscellaneous

**62 No compensation payable if responsibility transferred**

Unless clause 63 or clause 69 applies, if provision is made in a reorganisation scheme for a responsibility to be transferred to, or assumed by, a local authority, provision may not be made for the payment of compensation to the local authority from which that responsibility is transferred or assumed.

Compare: 1974 No 66 s 37ZZZP

**63 Payment if undertaking transfer**

- (1) If a reorganisation scheme provides for the transfer of a trading undertaking from a local authority (the **transferor**) to any other local authority (the **transferee**), the transferor may request the Commission to determine whether or not any payment for the transfer of that trading undertaking should be made by the transferee to the transferor, and if so the amount of the payment.
- (2) The Commission may, in considering a request under subclause (1), require the local authorities to each appoint an independent person as an assessor to report to the Commission on whether any payment should be made.
- (3) The costs incurred by assessors must be met jointly by the local authorities appointing the assessors.
- (4) In making a determination under this clause, the Commission may attach the conditions that it considers desirable.

Part 3—*continued*

**64 Certain matters not affected by transfer of responsibilities, duties, or powers**

Nothing effected or authorised by an Order in Council giving effect to a reorganisation scheme—

- (a) is to be regarded as placing a local authority or other person in breach of contract or confidence or as otherwise making the local authority or other person guilty of a civil wrong; or
- (b) is to be regarded as giving rise to a right for a person to terminate or cancel any contract or arrangement, or to accelerate the performance of an obligation; or
- (c) is to be regarded as placing a local authority or other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of property or the disclosure of information; or
- (d) releases a surety wholly or in part from an obligation; or
- (e) invalidates or discharges a contract or security.

Compare: 1974 No 66 s 37ZZZQ

**65 Registers**

- (1) A Registrar of Deeds or District Land Registrar, or other person charged with the keeping of books or registers, is not obliged solely by reason of an Order in Council giving effect to a reorganisation scheme to change the name of the transferor to that of the transferee in those books or registers or other documents.
- (2) The presentation to a Registrar or other person of an instrument, whether or not comprising an instrument of transfer by the transferee, is, in the absence of proof to the contrary, sufficient evidence that the property is vested in the transferee if it—
  - (a) is executed, or purports to be executed, by the transferee; and
  - (b) is related to property held by the transferor; and

Part 3—*continued*

- (c) contains a recital that the property has become vested in the transferee by virtue of an Order in Council giving effect to a reorganisation scheme under this Act or the Local Government Act 1974.
- (3) Except as provided in this clause, nothing in this Act derogates from the provisions of the Land Transfer Act 1952.  
Compare: 1974 No 66 s 37ZZZR

## Part 4

## Provisions for giving effect to reorganisation schemes

## Provisions to be included in reorganisation scheme if necessary or desirable

**66 Provisions to be included if necessary or desirable**

If considered necessary or desirable, the following provisions may be included in a reorganisation scheme:

- (a) provisions determining the nature or constitution of a new local authority:
- (b) provisions necessary for the first or any election or appointment of members of a local authority affected by the scheme:
- (c) provisions dealing with the division of a district or region into wards or constituencies:
- (d) provisions that are necessary for the effective transition and future carrying out of responsibilities that are to be transferred from one local authority to another local authority:
- (e) provisions dealing with the administration of an existing, proposed, or operative district plan or regional plan under the Resource Management Act 1991:
- (f) if a local authority is constituted or a responsibility is assumed by, or transferred to, a local authority, provisions for—
  - (i) the committee structure of that local authority:

Part 4—*continued*

- (ii) the membership and responsibilities of a committee of that local authority for a period not exceeding 3 years:
- (g) provisions dealing with the apportionment or disposition of the assets and liabilities of all or any of the local authorities affected by the scheme, which provisions may include the date on which any of the apportionment or disposition takes place or may be treated as having taken place:
- (h) if a new district or region is constituted,—
  - (i) provisions for the discharge of the responsibilities of the local authority pending the first election of members of the local authority; and
  - (ii) provisions dealing with the convening of the first meeting of the local authority if the boundaries of an existing district or region are altered by the inclusion in that district or region of the whole part of another district or region (the **enlarged district or region**):
- (i) provisions determining the system of rating to be in force in a new district or region, or enlarged district or region, which provisions may provide that, for a specified period, different rating systems apply to all rates, or to the kinds of rates that are specified in the scheme, made and levied in those parts of the new district or region, or enlarged district or region, that were, or formed part of, separate districts or regions:
- (j) despite paragraph (i), if the Commission agrees, provisions that provide that, for a specified period (not exceeding 5 years), different rating systems may be applied to all rates in a district or region, or to the kinds of rates that are specified in the order, made and levied in those parts of the new district or region, or enlarged district or region, at the time the order takes effect:
- (k) if a district or region is abolished and the whole or any part of it is included in the district or region of another local authority, provisions for the representation of that first-mentioned district or region or part of it on that

Part 4—*continued*

local authority until the next triennial general election of members of that local authority.

Compare: 1974 No 66 Schedule 3B Part 1

Provisions that apply to each reorganisation scheme

**67 Provisions that apply to each reorganisation scheme**

The following provisions apply to each reorganisation scheme unless amended or declared not to apply by a reorganisation scheme:

- (a) the local authority that assumes, under the scheme, jurisdiction over an area formerly comprising or forming part of a separate district or region, or that takes over the responsibilities of a local authority, has, and may exercise, and is responsible for,—
  - (i) all the powers, duties, acts of authority, and responsibilities that were previously exercised by the former local authority, or that would have been exercised by it if it had remained in existence or in control of that area:
  - (ii) all the liabilities, obligations, engagements, and contracts that were previously the responsibility of the former local authority, or that would have been its responsibility if it had remained in existence or in control of that area:
  - (iii) all the actions, suits, and proceedings pending by or against the former local authority, or that would have been its responsibility if it had remained in existence or in control of that area:
- (b) the responsibilities, duties, and powers of the chairperson and chief executive of the former local authority must be exercised by the chairperson and chief executive of its successor:
- (c) all real and personal property vested in an abolished local authority vests in its successor, subject to all existing encumbrances:

Part 4—*continued*

- (d) a local authority that assumes jurisdiction over an area that was formerly part of a separate district or region has, subject to all existing encumbrances, vested in it all the land situated in that area that was vested in the local authority that formerly had jurisdiction over that area:
- (e) all bylaws in force in the district or region of an abolished local authority, or in the part of a district or region included in another district or region, that are applicable to the altered circumstances of the new controlling local authority are deemed the bylaws of that local authority, and those bylaws remain, until revoked or altered by that local authority, in force in the area in which they were in force immediately before the abolition or the alteration of boundaries, and, if those bylaws cannot be restricted to that area, they must be treated as inapplicable and revoked by the abolition or alteration of boundaries:
- (f) all rates or levies and other money payable in respect of an abolished local authority, or of an area of land included in the district or region of another local authority, are due and payable to the new local authority:
- (g) if the area of an abolished district or region comprises part only of another district or region, any money to the credit of the abolished local authority's accounts must, after all liabilities have been provided for, be expended to the benefit of the residents of that area, and any money required to be paid into the accounts of the abolished local authority to meet any deficiency must be raised within the area of the abolished local authority:
- (h) the rights or interests of creditors of a district or region must not be affected:
- (i) the valuation rolls, electoral rolls, and rate records in force in the district or region of an abolished local authority, or in relation to any part of the district or region of a local authority included in the district or region of another local authority, continue in force in the district or region of the new controlling local authority

Part 4—*continued*

until those rolls or records are made by that local authority, and, until that time, the Local Government (Rating) Act 2002 applies:

- (j) except in the circumstances specified in clause 1, clause 2, clause 3, or clause 4, if part of a district or region is excluded from that district or region and included in another district or region, the members of the local authority of the first-mentioned district or region continue to be members of that district or region as if that part had not been excluded from the district or region:
- (k) if an area is included in the district of another territorial authority, the civil defence emergency management group plan for the district in which the area is included applies to the area so included and is the only operative local civil defence plan to apply in that area:
- (l) if a new district or region is constituted, every civil defence emergency management group plan that is in force in respect of any area included in that district or region continues in force until a new plan is prepared and approved for the district under the Civil Defence Emergency Management Act 2002.

Compare: 1974 No 66 Schedule 3B Part 2

Provisions consequential on coming into  
force of Order in Council giving effect to  
reorganisation scheme

**68 General**

- (1) This clause applies if, under a reorganisation scheme, a local authority assumes jurisdiction over an area formerly comprising a separate district or region, or formerly constituting a defined part of the district or region from which it was excluded.
- (2) If this clause applies, the local authority—
  - (a) has and may exercise, unless the Order in Council states otherwise, all the powers to raise a loan, or the part of the loan that has not already been raised, that could have been exercised by the local authority that had resolved to raise the loan if it had remained in existence or in



Part 4—*continued*

- control of the part excluded from its district or region;  
and
- (b) is subject to the same duties, obligations, and liabilities that were, or would have been, imposed on the local authority that had resolved to raise the loan if it had remained in existence or in control of the part excluded from its district or region if, under the scheme,—
    - (i) 2 or more districts or regions are united, whether or not of the same kind; or
    - (ii) a district or region is included in another district or region, or is abolished; or
    - (iii) a part of a district or region that is or includes a part of the district or region that is separately defined for the purposes of the loan is excluded from the district or region and is constituted as a new district or included in another district or region; and
  - (c) before the union, inclusion, abolition, or exclusion, the local authority of an area formerly comprising a separate district, or of the district or region from which the part was excluded, had resolved to raise a loan, being a loan for the benefit of that defined part, but had not raised the loan, or had raised only part of the loan, and the resolution has not lapsed.
- (3) If, on the addition of an area to a district of a territorial authority, a liability is imposed on the local authority, a special rate made and levied as security for a loan raised under subclause (2) may be made and levied over the whole district or, if the special order to raise the loan so provides, over the added area.
  - (4) If part of a district or region is excluded from that district or region and included in another district or region, the remaining part of the first-mentioned district or region continues to be the same district or region.

Compare: 1974 No 66 Schedule 3B cls 24–26

Part 4—*continued***69 Apportionment of assets and liabilities**

- (1) If an Order in Council does not make provision for the apportionment of the assets and liabilities of the local authorities affected by the order, those local authorities may, by agreement, determine the manner in which those assets and liabilities must be apportioned.
- (2) If an agreement is not entered into by the local authorities concerned within 3 months after the date of the coming into force of the order, a local authority directly affected may apply to the Commission for an order apportioning assets and liabilities, and the Commission must make an order directing the manner in which assets and liabilities must be apportioned among the local authorities concerned.
- (3) For the purpose of deciding an application to the Commission under subclause (2), the Commission must consult with the Auditor-General and with the local authorities directly affected, may make the enquiries that it thinks fit, and may obtain advice from any other person who, in the opinion of the Commission, has expert knowledge concerning any aspect of the matter to be decided.
- (4) In the exercise of its powers under subclause (2), the Commission may identify the assets and liabilities to be transferred, which assets and liabilities must include all amounts and items that properly ought to be treated as being of the same character irrespective of how they may be described in the accounts or records of any local authority.
- (5) An order of the Commission under subclause (2) may be enforced as if it were an agreement between the local authorities concerned.
- (6) For the purposes of the Income Tax Act 2007, the Goods and Services Tax Act 1985, and the Injury Prevention, Rehabilitation, and Compensation Act 2001, a local authority constituted under a reorganisation scheme is deemed to be the same local authority as each of the local authorities whose

Part 4—*continued*

district, region, or functions are wholly transferred to that local authority.

Compare: 1974 No 66 s 37E, Schedule 3B Part 3 cls 27–31; 1989 No 1 s 29A  
Schedule 3 clause 69(6): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Payment on transfer of trading undertaking

**70 Apportionment of fuel tax revenue**

- (1) This clause applies if, under an Order in Council giving effect to a proposal in a final reorganisation scheme under this Act,—
- (a) any proceeds of a fuel tax levied under Part 11 of the Local Government Act 1974 are distributed among the component authorities affected by the proposal in accordance with Part 11 of that Act; and
  - (b) either—
    - (i) a new district of a component authority is constituted comprising or including only part of another such district then existing; or
    - (ii) the boundaries of the district of a component authority are altered by the inclusion of an area of land forming part of another such district.
- (2) Despite the requirement of Part 11 of the Local Government Act 1974 that those proceeds must be distributed according to the proportion that the total rate revenue of each such component authority for the immediately preceding financial year bears to the total rate revenue of all the component authorities within the meaning of Part 11 of that Act for the preceding financial year, the component authorities whose districts have respectively been increased and decreased in area and the component authority for the newly constituted district may, by agreement, determine the basis on which those proceeds are distributed among them until the expiration of the year commencing on 1 July on or after the day on which the Order in Council comes into force.

Part 4—*continued*

- (3) Clauses 69(3) to (5) apply as if an order of the Commission under clause 69(2) were an order determining an issue under subclause (2) of this clause.
- (4) Nothing in this clause has the effect of altering the provisions of Part 11 of the Local Government Act 1974 in respect of the proportion of the proceeds of any tax distributed under that Part to any constituent authorities whose districts are not altered by the Order in Council or other instrument.

Compare: 1974 No 66 s 37G; 1977 No 109 s 2, Schedule 3B cl 59

Schedule 3 clause 70 heading: amended, on 1 October 2008, by section 17 of the Energy (Fuels, Levies, and References) Amendment Act 2008 (2008 No 60).

Schedule 3 clause 70(1)(a): amended, on 1 October 2008, by section 17 of the Energy (Fuels, Levies, and References) Amendment Act 2008 (2008 No 60).

---

## Schedule 4

s 36

### Provisions relating to Local Government Commission and its proceedings

#### 1 Interpretation

In this schedule, unless the context otherwise requires,—

**member** means a member of the Commission appointed under section 33

**transaction** means a matter referred to in clause 17(2).

#### Members

#### 2 Terms and conditions of appointment

- (1) A member (including the member appointed as the chairperson) is to be appointed for the term, not exceeding 5 years, that is specified in his or her appointment.

- (2) A member is eligible for reappointment.

Compare: 1974 No 66 s 37Z(1), (2)

#### 3 Vacation of office

- (1) A member who is in office at the end of his or her term of appointment continues to hold office until—

- (a) the member is reappointed; or
- (b) the member's successor is appointed; or
- (c) the member is informed in writing by the Minister that he or she is not to be reappointed; or
- (d) the member resigns his or her office by sending a written notice to the Minister.

- (2) A member may, at any time, be removed from office by written notice from the Minister for inability to perform the functions of office, legal incapacity, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.

- (3) If a member dies, resigns, or is removed from office, his or her office becomes vacant.

- (4) A vacancy under this clause is an extraordinary vacancy, and must be filled in the manner in which the appointment to the vacant office was made.

- (5) A person appointed to fill an extraordinary vacancy must be appointed for the residue of the term for which the vacating member was appointed.

Compare: 1974 No 66 s 37Z(3), Schedule 3A cl 1

#### **4 Deputies of members**

- (1) If a member is, or is likely to be, unable to perform his or her duties because of illness, absence, or any other reason, and the Minister considers that the inability to perform the duties is likely to continue for a period of more than 14 days, the Minister may appoint a deputy to perform—
- (a) all the functions, responsibilities, duties, and powers of the member; or
  - (b) the functions, responsibilities, duties, and powers that are specified in the document appointing the deputy.
- (2) If the Commission is considering a proposal affecting a local authority and a member of the Commission is also a member of the local authority, the member of the Commission is to be treated as unable to perform the duties of his or her office in respect of the proposal.
- (3) A person appointed by the Minister under subclause (1) is, while acting in terms of the appointment, to be treated as a member of the Commission, and no acts done by the Commission while any person is so acting are to be questioned in any proceedings on the grounds that the occasion for the appointment of the person had not arisen or had ceased.

Compare: 1974 No 66 s 37ZA

#### **5 Temporary members**

- (1) The Minister may, at the request of the Commission, appoint a person or persons to be a temporary member or members for the purposes of any function of the Commission under any Act.
- (2) An appointment may be made under subclause (1) even though there may already be 3 members of the Commission, and any person so appointed is, subject to the terms of his or her appointment, to be treated for all purposes as a member of the Commission, and no acts done by the Commission while a person is so acting are to be questioned in any proceedings on the

grounds that the occasion for the appointment had not arisen or had ceased.

Compare: 1974 No 66 s 37ZB

## **6 Duties of members**

- (1) A member, when exercising powers or performing duties as a member, must act—
  - (a) in good faith; and
  - (b) with reasonable care, diligence, and skill; and
  - (c) with honesty and integrity.
- (2) The Commission must ensure that—
  - (a) it acts in a manner consistent with its functions; and
  - (b) its activities are conducted efficiently and effectively; and
  - (c) it operates in a financially responsible manner.

## **7 Remuneration**

The members are to be paid remuneration by way of fees, allowances, or expenses (as determined by the Minister) out of money appropriated by Parliament for the purpose.

### Meetings of members

## **8 Meetings**

- (1) Meetings of the Commission are to be held at the times and places that the Commission or its chairperson appoints.
- (2) At every meeting of the Commission, the quorum is—
  - (a) half of the members if the number of members is even; and
  - (b) a majority of the members if the number of members is odd; but
  - (c) in no case, to be fewer than 2 members.

Compare: 1974 No 66 Schedule 3A cl 3(1), (2)

## **9 Chairperson to preside**

- (1) The chairperson must preside at all meetings of the Commission at which he or she is present.

- (2) The members present must appoint one of their number (not being a temporary member) to be the chairperson for the meeting if—
  - (a) the chairperson is not present; or
  - (b) there is no chairperson.
- (3) The appointed person has and may exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.

#### **10 Voting**

- (1) A matter to be decided by the Commission must be decided by a majority of the votes cast.
- (2) The presiding member has—
  - (a) a deliberative vote; and
  - (b) a casting vote if there are more than 2 members voting and there is an equality of votes.

Compare: 1974 No 66 Schedule 3A cl 3(5)

#### **11 Resolution assented to by all members**

- (1) A resolution in writing signed or assented to by letter, facsimile message, or electronic message by all members is as valid and effectual as if it had been passed at a meeting of the Commission duly called and constituted.
- (2) The resolution may consist of several documents in the same form, each signed or appearing to have been sent by 1 or more members.

#### **12 Methods of holding meetings**

A meeting of the Commission may be held either—

- (a) by a number of the members constituting a quorum assembling together at the place, date, and time appointed for the meeting; or
- (b) by means of audio, or audio and visual, or electronic communication by which all members participating and constituting a quorum can simultaneously communicate with each other throughout the meeting.



## Procedure

### **13 Procedure generally**

Except as otherwise provided in this Act, the Commission may regulate its own procedure.

### **14 Ordinary meetings**

The Commission must appoint the times and places for all its ordinary meetings.

### **15 Special meetings**

- (1) The chairperson or any 2 members may at any time call a special meeting of the Commission by giving each member for the time being in New Zealand a written notice stating—
  - (a) the time and place of the meeting; and
  - (b) the business to be transacted at it.
- (2) The members must be given—
  - (a) at least 7 days' notice of the meeting; or
  - (b) if they are satisfied that the business to be transacted is urgent, any shorter period of notice to which all members entitled to be notified agree.
- (3) The notice must be either given to a member or sent to the member's last known address in New Zealand.
- (4) Only the business stated in the notice may be transacted at the meeting.

### **16 Specialist advice**

- (1) The Commission may invite any officer of the Public Service or any other person or a representative of any body who or that, in the opinion of the Commission, has specialist knowledge that is likely to be of assistance to the Commission to attend any meeting or discussion held by the Commission and to take part in the proceedings.
- (2) The Commission may engage any consultants that it thinks necessary or desirable to assist it to carry out its functions.
- (3) The Commission may pay to a person engaged under subclause (2), for services rendered by the person, the fees or commissions or both that it thinks fit, and may reimburse the

person for expenses reasonably incurred in rendering services for the Commission.

Compare: 1974 No 66 Schedule 3A cls 5, 6

### Interested members

#### **17 Obligation to disclose interest**

- (1) A member who (otherwise than as a member) is interested, directly or indirectly, in any of the matters listed in subclause (2) must, as soon as practicable after the member knows about the relevant facts, disclose the nature of the interest in accordance with clause 19.
- (2) The matters are—
  - (a) the Commission's performance of its functions or exercise of its powers:
  - (b) an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Commission.

#### **18 Meaning of interested**

A member is **interested** in a transaction to which the Commission is a party if, and only if, the member—

- (a) is a party to, or will or may derive a material financial benefit from, the transaction; or
- (b) has a material financial interest in another party to the transaction; or
- (c) is a director, officer, member, or trustee of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (d) is the parent, child, or spouse of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (e) is otherwise directly or indirectly materially interested in the transaction.

#### **19 Disclosure of interest**

- (1) A member must, immediately after becoming aware of his or her interest in a transaction or proposed transaction with the

Commission, cause to be entered in an interests register maintained by the Commission, and disclose to the Commission,—

- (a) the nature and monetary value of the member's interest, if the monetary value can be quantified; or
  - (b) the nature and extent of the member's interest, if the monetary value cannot be quantified.
- (2) A general notice entered in the interests register or disclosed to the Commission to the effect that a member is a shareholder, director, officer, member, or trustee of a named company or other person and is to be regarded as interested in any transaction that may, after the date of the entry or disclosure, be entered into with that company or person, is a sufficient disclosure of interest in relation to that transaction.

## **20 Consequences of disclosure**

- (1) A member who discloses his or her interest under clause 19—
- (a) must not take part in any deliberation or decision of the Commission relating to the matter; and
  - (b) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the Commission during which a deliberation or decision relating to the matter occurs or is made.
- (2) Subclause (1) is subject to clause 22.

## **21 Matters to be delegated to committee**

- (1) The Commission must delegate a deliberation or decision to a committee if the effect of clause 19 is that there is not a quorum of members able to take part in the deliberation or decision, or to form a quorum.
- (2) The committee must consist of a majority of persons—
- (a) who are not interested in the transaction; and
  - (b) in the case of members of the committee who are not members of the Commission, who are appointed by the Commission with the agreement of the Minister.
- (3) Subclause (1) is subject to clause 22.

## **22 Exceptions**

- (1) Clause 20 does not apply—

- (a) to any deliberation or decision of the Commission that is made in accordance with any existing contract that governs the way in which the deliberation or decision is to be made; or
  - (b) to any deliberation or decision of the Commission to establish a committee, and to delegate the matter to a committee of the Commission, under clause 21.
- (2) In this clause, **existing contract** means a contract—
  - (a) that was entered into by or on behalf of the Commission; and
  - (b) in respect of which the person, or a majority of the persons, making the decision by or on behalf of the Commission were not interested in the transaction.

### **23 Effect of non-compliance**

The validity of a transaction entered into by the Commission is not affected by the fact that a member fails to comply with the disclosure requirements in clauses 17 to 22.

## Delegations

### **24 Committees**

- (1) The Commission may, from time to time, appoint, discharge, alter, continue, or reconstitute committees comprising 2 or more members of the Commission, 1 of whom must be appointed as chairperson of the committee.
- (2) The Commission may refer to a committee appointed by it under this clause any proposal or matter for investigation or inquiry, and may delegate to the committee any of the functions, responsibilities, powers, or duties conferred or imposed upon the Commission by this or any other enactment in accordance with clauses 25 to 28.
- (3) A committee may regulate its own procedure, subject to any direction from the Commission.
- (4) Clauses 8 to 23 apply to a committee with all necessary modifications.

Compare: 1974 No 66 Schedule 3A cl 2(1), (2), (3)

**25 Delegations**

- (1) The Commission may by writing, either generally or specifically, delegate any of its functions or powers to a committee of the Commission.
- (2) However, the Commission may not delegate its power to delegate.

**26 Effect of delegation**

- (1) A committee to whom any functions or powers are delegated may carry out the functions or exercise the powers in the same manner and with the same effect as if they had been conferred on the committee directly by this Act and not by delegation.
- (2) Subclause (1) applies subject to any direction given or condition imposed by the Commission.

**27 Presumption of acting in accordance with delegation**

A committee that appears to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

**28 Other matters relating to delegation**

A delegation—

- (a) is revocable at will, but the revocation does not take effect until it is communicated to the delegate; and
- (b) continues in force according to its terms until it is revoked; and
- (c) does not prevent the Commission from performing a function or exercising a delegated power.

Miscellaneous provisions

**29 Chief Executive Officer**

- (1) There may from time to time be appointed under the State Sector Act 1988 a Chief Executive Officer of the Commission to enable the Commission to carry out and exercise its functions, responsibilities, duties, and powers.
- (2) A person may hold office under this clause in conjunction with any other office in the Public Service.

Compare: 1974 No 66 Schedule 3A cl 7

**30 Liability of members**

- (1) A member is not personally liable, in an action taken against him or her by the Commission, for any liability of the Commission, or for any act done or omitted to be done by the Commission or by any person acting under a delegation of the Commission's functions and powers, if the member acted in good faith in pursuance or intended pursuance of the functions or powers of the Commission.
- (2) Every member is indemnified by the Commission—
  - (a) for costs and damages for any civil liability arising from any action brought by a third party, if the member was acting in good faith and in pursuance or intended pursuance of the functions or powers of the Commission; and
  - (b) for costs arising from any successfully defended criminal action relating to actions or omissions in his or her capacity as a member.
- (3) The Crown must meet any costs and damages arising from this indemnity out of money appropriated by Parliament.
- (4) References in this clause to members include references to members of any committee of the Commission.

**31 Annual report**

- (1) The Commission must provide to the Minister a report of its proceedings and operations during each year ending with 30 June as soon as practicable after the end of that year.
- (2) A copy of the report must be presented to the House of Representatives as soon as practicable after its receipt by the Minister.

Compare: 1974 No 66 Schedule 3A cl 10

---

## Schedule 5

s 37

### Appeals against decisions of Local Government Commission

#### 1 Restrictions on appeals

- (1) Proceedings before the Commission are not invalid for want of form and, except as provided in this schedule, no appeal lies from any decision of the Commission.
- (2) Nothing in subclause (1)—
  - (a) prohibits or restricts the High Court from exercising a supervisory jurisdiction over the Commission on questions of law; or
  - (b) restricts the power of the Commission to refer any disputed question of law to the High Court for decision under section 10 of the Commissions of Inquiry Act 1908.

Compare: 1974 No 66 s 37ZM

#### 2 Appeal to High Court

- (1) If a party to proceedings before the Commission or the Minister is dissatisfied with a decision of the Commission in the proceedings as being erroneous in point of law, the party or the Minister may appeal to the High Court on the question of law.
- (2) The decision of the High Court on the appeal is final.
- (3) Subject to clauses 4 to 9, an appeal under this clause must be dealt with in accordance with rules of court.
- (4) For the purposes of this clause and clauses 4 to 9, a local authority affected by the decision, and a person who has made submissions to the Commission in the proceedings, is to be treated as a party to the proceedings before the Commission.

Compare: 1974 No 66 s 37ZE

#### 3 Appeal in respect of additional points of law

- (1) If a party to an appeal under clause 2, other than the appellant, wishes to contend at the hearing of the appeal that the decision appealed from is erroneous in point of law, other than those set out in the notice of appeal, the party may, within 1 month after the date of the service on the party of a copy of the notice of

appeal, lodge a notice to that effect with the Registrar of the High Court in Wellington.

- (2) Clauses 2, 4(2) to (4), 5, 6, 8, and 9 apply, with any modifications that may be necessary, to any notice lodged under this section as if it were a notice of appeal.

Compare: 1974 No 66 s 37ZJ

#### **4 Procedure for appeal**

- (1) An appeal under clause 2 must be instituted by the appellant lodging a notice of appeal within 1 month after the date of the decision with—
- (a) the Registrar of the High Court in Wellington; and
  - (b) the Chief Executive Officer of the Commission.
- (2) Either before or immediately after the lodging of the notice of appeal, the appellant must serve a copy of the notice of appeal, either personally or by post, on every other party to the proceedings before the Commission.
- (3) Service under subclause (2), if by post, must be by registered letter and, for the purposes of this clause, is deemed, in the absence of proof to the contrary, to be effected at the time when the letter would be delivered in the ordinary course of post.
- (4) A notice of appeal must specify—
- (a) the decision or the part of the decision appealed from; and
  - (b) the error of law alleged by the appellant; and
  - (c) the question of law to be resolved; and
  - (d) the grounds of the appeal, specified with such reasonable particularity as to give full advice to both the court and the other parties of the issues involved.
- (5) The Chief Executive Officer of the Commission must, as soon as practicable after receiving a copy of the notice of appeal, send a copy of the whole of the decision appealed from to the Registrar of the High Court in Wellington.

Compare: 1974 No 66 s 37ZF

#### **5 Preliminary orders**

- (1) The High Court may, of its own motion or on the application of a party to the appeal, make 1 or more of the following orders:



- (a) an order directing the Commission to lodge with the Registrar of the High Court in Wellington a document or other written material or an exhibit in the possession or custody of the Commission:
    - (b) an order directing the Commission to lodge with the Registrar a report recording, in respect of any matter or issue that the court may specify, any of the findings of fact of the Commission that are not set out or fully set out in its decision:
    - (c) an order directing the Commission to lodge with the Registrar a report setting out, in respect of a matter or issue that the court may specify, any reasons or considerations of the Commission to which the Commission had regard but which are not set out in its decision.
  - (2) An application under subclause (1) must,—
    - (a) in the case of the appellant, be made within 1 month after the date of the lodging of the notice of appeal; or
    - (b) in the case of any other party to the appeal, within 1 month after the date of the service on that party of a copy of the notice of appeal.
  - (3) The High Court may make an order under subclause (1)—
    - (a) only if it is satisfied that a proper determination of the point of law in issue so requires; and
    - (b) subject to any conditions that the High Court thinks fit.
- Compare: 1974 No 66 s 37ZH

## **6 Hearing**

An appeal is, in all respects, ready for hearing and the Registrar must arrange a date for the hearing as soon as is practicable if a party to the appeal notifies the Registrar of the High Court in Wellington—

- (a) that the notice of appeal has been served on all parties to the proceedings; and
- (b) either—
  - (i) that no application has been lodged under clause 5 and that no order has been made under that clause; or

- (ii) that any application lodged under clause 5 has been heard and that any order under that clause has been complied with.

Compare: 1974 No 66 s 37ZL

## **7 Right to appear**

- (1) A party to the proceedings before the Commission who wishes to appear and be heard on the hearing of the appeal must, within 10 days after the date of the service on that party of a copy of the notice of appeal, lodge with the Registrar of the High Court in Wellington a notice of that party's intention to appear and be heard.
- (2) A party who gives a notice of intention to appear and be heard and the appellant are parties to the appeal and are entitled—
  - (a) to be served with every document filed or lodged with the Registrar relating to the appeal; and
  - (b) to receive a notice of the date set down for the hearing of the appeal.

Compare: 1974 No 66 s 37ZG

## **8 Dismissal of appeal**

The High Court may dismiss an appeal—

- (a) if the appellant does not appear at the time appointed for the hearing of the appeal; or
- (b) if the appellant does not prosecute the appeal with all due diligence and a party applies to the court for the dismissal of the appeal.

Compare: 1974 No 66 s 37ZI

## **9 Extension of time**

The High Court or a High Court Judge may, in its or the Judge's discretion, on the application of the appellant or intending appellant or any other party, extend any time provided under this schedule for the lodging of any notice, application, or other document.

Compare: 1974 No 66 s 37ZK

---

## **Schedule 6**

ss 5(1), 8(2)(b), 49(1)

### **Constitution of communities**

#### **1 Constitution of communities**

- (1) A community may be constituted in any part of a district in accordance with this schedule and must be wholly within 1 district.
- (2) A community may not be constituted for any part of a district if a community is already constituted for that part of that district.

#### **2 Matters pertaining to constitution of communities**

- (1) An Order in Council or resolution constituting a community must—
  - (a) fix the boundaries of the community and describe them in a manner that makes them readily capable of identification; and
  - (b) assign a name to the community; and
  - (c) fix the date of the first election of members of the board of the community, which may not be a date within 12 months before the date of the next triennial general election of members of the territorial authority in which the community is situated.
- (2) The boundaries of a community must coincide with the boundaries of the statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.
- (3) The community must come into existence on the day after the day on which the electoral officer declares the result of the first election of the members of the community board.

Compare: 1974 No 66 s 101ZH

#### **3 Proposals to establish community**

- (1) Not less than 10% of the electors of a continuous area, having a population of 1 500 persons or more and being within the district of a territorial authority, may propose that the area be constituted as a community.
- (2) Not fewer than 100 electors of a continuous area having a population of fewer than 1 500 persons and being within the district of a territorial authority, being electors present at a meeting called by public notice by any elector or electors and

being the majority of the electors present at that meeting, may propose that the area be constituted as a community.

Compare: 1974 No 66 s 101ZI

#### **4 Requirements for proposal**

- (1) A proposal to constitute a community must be accompanied by a plan or other description sufficient to identify the area.
- (2) Each signatory to the proposal must, against his or her signature, state his or her full name and the address in respect of which he or she possesses a qualification as an elector.
- (3) The proposal, or a copy of it, must be delivered or sent by post to the chief executive at the principal office of the territorial authority affected by the proposal.
- (4) The chief executive of the territorial authority must—
  - (a) check whether or not each signatory to the proposal possesses a qualification as an elector; and
  - (b) not later than 1 month after receiving the proposal, forward the proposal to the territorial authority, together with a certificate specifying the number of signatories to the proposal who are qualified as electors.
- (5) In the absence of proof to the contrary, the certificate of the chief executive is final.
- (6) The territorial authority must then consider the proposal and determine whether or not to constitute the community.

Compare: 1974 No 66 s 101ZJ

#### **5 Proposal seeking constitution of communities**

- (1) A proposal seeking the constitution of a community by means of a resolution must be—
  - (a) submitted to the territorial authority; and
  - (b) considered by the territorial authority at its next meeting or subsequent meeting.
- (2) If a territorial authority has considered a proposal, it must—
  - (a) resolve to give effect to the proposal and invite public submissions on it; or
  - (b) reject the proposal and give public notice of the rejection.

- (3) If a territorial authority has resolved to give effect to a proposal and to invite public submissions on it, it must give public notice of the intended resolution, and a copy of the proposal and a copy of the plan showing the boundaries of the proposed community must be prepared and deposited in the principal office of the territorial authority and in any other place or places that it considers necessary.
- (4) Each proposal and associated plan must be open for inspection by the public without fee for a period of 28 days following public notice of the proposal, and public notice must be given of the times and places where the proposal and plan are available.
- (5) A person or group of persons may make a written submission on the proposal within that period of 28 days or any further period that the territorial authority may allow, and each submission must be considered by the territorial authority, which must resolve to—
  - (a) adopt the proposal; or
  - (b) reject the proposal.

Compare: 1974 No 66 s 101ZK

Schedule 6 clause 5(1)(b): amended, on 7 July 2004, by section 25 of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

## **6 Matters to be considered when constituting community**

In deciding whether or not to constitute a community, the territorial authority or, if appropriate, the Commission must have regard to the criteria as set out in clause 3 of Schedule 3 that apply to reorganisation proposals that the territorial authority or Commission considers appropriate in the circumstances.

Compare: 1974 No 66 s 101ZL

## **7 Appeal against refusal to constitute community**

- (1) If, following a proposal to constitute a community, a territorial authority resolves not to constitute a community, a signatory to the proposal may appeal to the Commission.
- (2) The Commission has all the powers of the territorial authority in respect of the constitution of the community, and may determine the functions of the community board for a period of up to 3 years.

- (3) Nothing in subclause (2) prevents the territorial authority from conferring further responsibilities on the community board.

**8 Procedures relating to resolution to constitute community**

- (1) An Order in Council or resolution giving effect to a proposal to constitute a community or communities must contain a description of each community concerned.
- (2) A resolution constituting a community may not have effect unless—
  - (a) a description or plan of the community has been sent to the Surveyor-General of the land district within which the district is situated; and
  - (b) the Surveyor-General, or some person appointed by the Surveyor-General, certifies that the description or plan is sufficient to render the boundaries of each ward capable of identification.
- (3) If the description of a community to which subclause (2) applies is defective, but the Surveyor-General or person appointed by the Surveyor-General certifies that it may be amended and the defect overcome without making a change in what was evidently intended to be the area comprised in the description, the description may be so amended by resolution, and must have effect as if the provisions of subclause (2) had been complied with.
- (4) The following provisions apply to each resolution constituting a community or communities:
  - (a) a copy must be sent by the territorial authority to—
    - (i) the Secretary; and
    - (ii) the Surveyor-General; and
    - (iii) the Government Statistician; and
    - (iv) the Commission; and
    - (v) the Remuneration Authority; and
  - (b) a copy must be kept at the principal office of the territorial authority, and must be available for inspection without fee by any person during normal office hours.

Compare: 1974 No 66 s 101ZN

**9 Union, alteration, or abolition of communities**

- (1) A community may be abolished or united with another community, and the boundaries of a community may be altered, by—
  - (a) an Order in Council giving effect to a reorganisation scheme;
  - (b) the territorial authority or Commission as part of a review of the territorial authority's representation arrangements.
- (2) An Order in Council under this clause must fix the date on which the communities must be united or on which the boundaries are altered or on which the community or communities are abolished.
- (3) On the union of 2 communities under this clause, the former communities must be deemed to be abolished and the members of the boards of the communities must go out of office.
- (4) On the date on which a community is abolished under this clause, the community board is deemed to be dissolved.

Compare: 1974 No 66 s 101ZO

---

**Schedule 7**ss 5(1), 41(1), 42(1), 48,  
53(1), 54, 59(2)**Local authorities and community boards,  
and their members****Part 1****Provisions relating to local authorities and  
their members****Vacation of office by members****1 Disqualification of members**

- (1) A person's office as member of a local authority is vacated if the person, while holding office as a member of the local authority,—
- (a) ceases to be an elector or becomes disqualified for registration as an elector under the Electoral Act 1993; or
  - (b) is convicted of an offence punishable by a term of imprisonment of 2 years or more.
- (2) If subclause (1)(b) applies,—
- (a) the disqualification does not take effect—
    - (i) until the expiration of the time for appealing against the conviction or decision; or
    - (ii) if there is an appeal against the conviction or decision, until the appeal is determined; and
  - (b) the person is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a member during that time.
- (3) A person may not do an act as a member while disqualified under subclause (1) or while on leave of absence under subclause (2).

Compare: 1974 No 66 s 101X

**2 Ouster of office of member**

- (1) On proof by affidavit that a member of a local authority is, or has become, or was at the date of appointment or election, incapable of holding office under this Act, a District Court may call on that person to show cause why he or she should not be adjudged to be ousted from office.



*Part 1—continued*

- (2) If a District Court concludes that the member is or was incapable of holding office, the court may adjudge that person to be ousted from office and that member is ousted from office accordingly.
- (3) In proceedings under this clause, the District Court may exercise all the powers and authorities that it may exercise in its ordinary jurisdiction in civil cases, and the procedure of the court applies generally, so far as practicable.
- (4) No matter in relation to a disputed appointment or election is to be heard by a District Court under this clause.
- (5) If a District Court adjudges that a member be ousted from his or her office,—
  - (a) the decision is not to take effect—
    - (i) until the expiration of the time for appealing against the decision; or
    - (ii) if there is an appeal against the decision, until the appeal is determined; and
  - (b) the person is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a member during that time.
- (6) The person may not do an act as a member while on leave of absence under subclause (5).

Compare: 1974 No 66 s 101Y

**3 Secretary to institute proceedings**

- (1) The Secretary must institute proceedings against a person who fails to comply with the requirements of clause 1(3), clause 2(6), or clause 14(1).
- (2) Nothing in this clause prevents other persons from taking proceedings against a person who fails to comply with the requirements of clause 1(3), clause 2(6), or clause 14(1).

Compare: 1974 No 66 s 101Z

Part 1—*continued***4 Member's right to resign**

- (1) A member of a local authority may resign office by notice in writing addressed and delivered to the chief executive of the local authority.
- (2) The notice takes effect on the day on which it is delivered to the chief executive of the local authority.

Compare: 1974 No 66 s 101ZA

**4A Suspension of members**

- (1) A person's office as member of a local authority is suspended while the person is subject to a property order made under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders).
- (2) If subclause (1) applies,—
  - (a) the person is deemed to have been granted leave of absence and is not capable of acting as a member during the period of suspension; and
  - (b) the person may not do an act as a member while on leave of absence under paragraph (a).

Schedule 7 clause 4A: inserted, on 10 September 2008, by section 7(2) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

**5 Extraordinary vacancies**

- (1) The office of a member of a local authority becomes vacant, and the vacancy that is created is an extraordinary vacancy, if the member—
  - (a) dies; or
  - (b) becomes subject to a property order made under section 31 of the Protection of Personal and Property Rights Act 1988; or
  - (c) is disqualified from, or is ousted from, office; or
  - (d) is absent without leave of the local authority from 4 consecutive meetings (other than extraordinary meetings) of the local authority; or
  - (e) resigns under clause 4.

Part 1—*continued*

- (2) Sections 117 to 120 of the Local Electoral Act 2001 apply to extraordinary vacancies.

Compare: 1974 No 66 s 101ZB

Schedule 7 clause 5(1)(b): substituted, on 10 September 2008, by section 7(3) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

Schedule 7 clause 5(1)(d): amended, on 7 July 2004, by section 26(1) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Remuneration of members

**6 Remuneration Authority to determine remuneration**

- (1) The Remuneration Authority must determine the remuneration, allowances, and expenses payable to—
- (a) mayors, deputy mayors, chairpersons, deputy chairpersons, and members of local authorities:
  - (b) chairpersons of committees of local authorities:
  - (c) chairpersons and members of community boards:
  - (d) chairpersons of committees of community boards.
  - (e) chairpersons and members of local boards (as defined in section 4(1) of the Local Government (Auckland Council) Act 2009):
  - (f) chairpersons of committees of local boards (as defined in section 4(1) of the Local Government (Auckland Council) Act 2009).
- (2) The Remuneration Authority may do 1 or more of the following things under subclause (1):
- (a) fix—
    - (i) scales of salaries:
    - (ii) scales of allowances:
    - (iii) ranges of remuneration:
    - (iv) different forms of remuneration:
  - (b) prescribe—
    - (i) rules for the application of those scales, ranges, or different forms of remuneration:
    - (ii) rules for reimbursing expenses incurred by elected members:
  - (c) differentiate—

Part 1—*continued*

- (i) between persons occupying equivalent positions in different local authorities or community boards:
  - (ii) between persons occupying equivalent positions in the same local authorities or community boards:
- (d) make determinations that apply to individuals, or groups occupying equivalent positions.
- (3) To avoid doubt,—
  - (a) section 19 of the Remuneration Authority Act 1977 applies to determinations made under this clause; and
  - (b) a determination made under this Act or any other Act remains in force until it is superseded by a determination made under this Act.
- (4) A determination by the Remuneration Authority under this clause is a regulation under the Regulations (Disallowance) Act 1989.

Schedule 7 clause 6(1)(e): added, on 23 September 2009, by section 36 of the Local Government (Auckland Council) Act 2009 (2009 No 32).

Schedule 7 clause 6(1)(f): added, on 23 September 2009, by section 36 of the Local Government (Auckland Council) Act 2009 (2009 No 32).

**7 Mandatory criteria for Remuneration Authority**

- (1) In determining remuneration under clause 6, the Remuneration Authority must have regard to the need to—
  - (a) minimise the potential for certain types of remuneration to distort the behaviour of the persons listed in clause 6(1) in relation to their positions as listed in clause 6(1); and
  - (b) achieve and maintain fair relativity with the levels of remuneration received elsewhere; and
  - (c) be fair both—
    - (i) to the persons whose remuneration is being determined; and
    - (ii) to ratepayers; and
  - (d) attract and retain competent persons.

Part 1—*continued*

- (2) The criteria in subclause (1) do not prevent the Remuneration Authority from determining allowances additional to salary for attending meetings.

**8 Submissions to Remuneration Authority**

- (1) Any person or organisation may make a written submission to the Remuneration Authority about a determination to be made by the Remuneration Authority under clause 6.
- (2) The Remuneration Authority may, in its discretion, invite a person or organisation to make an oral submission about a determination to be made by the Remuneration Authority under clause 6.

**9 Publication of determinations**

The Remuneration Authority must—

- (a) deliver to the Minister a copy of every determination it makes under clause 6; and
- (b) publish each determination in the *Gazette* within 14 days of delivering it to the Minister.

**10 Levy regulations for Remuneration Authority costs**

- (1) The Governor-General may, by Order in Council (made on the recommendation of the Minister), make regulations prescribing the method by which the Minister responsible for the Remuneration Authority may levy local authorities an annual amount for the purpose of recovering the costs in the previous financial year of the Remuneration Authority, in making determinations under clause 6.
- (2) Regulations made under subclause (1)—
  - (a) must specify—
    - (i) the date by which the Minister responsible for the Remuneration Authority must set the levy; and
    - (ii) the basis on which the amount of the levy is to be calculated for each local authority; and
    - (iii) when the levy must be paid; and
    - (iv) how the levy is to be notified and collected; and
  - (b) may provide for—

Part 1—*continued*

- (i) the deduction of over-recoveries for a financial year from a levy payable in subsequent financial years; and
- (ii) the addition of under-recoveries for a financial year to a levy payable in a subsequent year.

Schedule 7 clause 10: substituted, on 7 July 2004, by section 26(2) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**10A Minister responsible for Remuneration Authority to set levy**

- (1) The Minister responsible for the Remuneration Authority may, in each financial year, set a levy on local authorities in accordance with any regulations made under clause 10.
- (2) The levy comes into effect on the 28th day after the date on which the Minister responsible for the Remuneration Authority notifies in the *Gazette*—
  - (a) his or her intention to set the levy; and
  - (b) the amount of levy payable by each local authority.
- (3) The Minister responsible for the Remuneration Authority must notify the Minister of the information required under subclause (2) prior to acting under that subsection.
- (4) A local authority must pay a levy set under this clause; and any amount of unpaid levy is recoverable in a court of competent jurisdiction by the Crown as a debt due.

Schedule 7 clause 10A: inserted, on 7 July 2004, by section 26(2) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**11 Members and officers of Remuneration Authority to maintain secrecy**

- (1) This section applies to—
  - (a) members of the Remuneration Authority; and
  - (b) persons engaged or employed by the Remuneration Authority in its work.
- (2) A person to whom this section applies—
  - (a) must keep secret all matters and information that come to the person's knowledge while performing or exercising his or her responsibilities, duties, or powers under

Part 1—*continued*

- this Act except the personal information specified in subsection (3); and
- (b) must not communicate those matters or information except—
    - (i) in performing or exercising those responsibilities, duties, and powers; or
    - (ii) under subsection (3).
  - (3) The Remuneration Authority is required to comply with information privacy principles 6, 7, and 11 of the Privacy Act 1993 and disclose personal information as necessary.

**12 Payments**

If a determination is made, a local authority must make payment to the person concerned in accordance with the conditions of the determination.

Compare: 1974 No 66 s 101ZZM

**13 Meaning of remuneration**

In clauses 6, 7, 8, and 9, **remuneration** includes—

- (a) salary, wages, and other payments in return for services; and
- (b) monetary and non-monetary benefits and emoluments in return for services.

Conduct of members

**14 Declaration by member**

- (1) A person may not act as a member of a local authority until—
  - (a) that person has, at a meeting of the local authority following the election of that person, made an oral declaration in the form set out in subclause (3); and
  - (b) a written version of the declaration has been attested as provided under subclause (2).
- (2) The written declaration must be signed by the member and witnessed by—
  - (a) the chairperson; or
  - (b) the mayor; or

Part 1—*continued*

- (c) a member of the local authority; or
  - (d) the chief executive of the local authority; or
  - (e) in the absence of the chief executive, some other officer appointed by the chief executive.
- (3) The form of the declaration must consist of the following elements:

**Declaration by mayor or chairperson or member**

“I, AB, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of [region or district], the powers, authorities, and duties vested in, or imposed upon, me as [mayor or chairperson or member] of the [local authority] by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act

Dated at: [place, date]

Signature:

Signed in the presence of:

CD, [mayor or chairperson or member or chief executive of local authority]”.

Compare: 1974 No 66 s 114U

**15 Code of conduct**

- (1) A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.
- (2) The code of conduct must set out—
- (a) understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including—
    - (i) behaviour toward one another, staff, and the public; and
    - (ii) disclosure of information, including (but not limited to) the provision of any document, to elected members that—
      - (A) is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and



Part 1—*continued*

- (B) relates to the ability of the local authority to give effect to any provision of this Act; and
- (b) a general explanation of—
  - (i) the Local Government Official Information and Meetings Act 1987; and
  - (ii) any other enactment or rule of law applicable to members.
- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.
- (4) A member of a local authority must comply with the code of conduct of that local authority.
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.
- (6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.
- (7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

**16 Members to abide by standing orders**

- (1) A member of a local authority must abide by the standing orders adopted under clause 27.
- (2) A constable, or an officer or employee of a local authority, may, at the request of the chairperson, remove or exclude a member from a meeting if that member is required to leave the meeting by a ruling made under the standing orders and that member—
  - (a) refuses or fails to leave the meeting; or
  - (b) having left the meeting, attempts to re-enter the meeting without the permission of the chairperson.

Compare: 1974 No 66 s 114V

Schedule 7 clause 16(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Part 1—*continued*Election and removal of chairperson, deputy  
chairperson, and deputy mayor**17 Election of deputy mayor or deputy chairperson**

- (1) A territorial authority must elect 1 of its members to be its deputy mayor in accordance with clause 25.
- (2) A regional council must elect 1 of its members to be its deputy chairperson in accordance with clause 25.
- (3) The deputy mayor or deputy chairperson must perform all the responsibilities and duties, and may exercise all the powers, of the mayor or chairperson,—
  - (a) with the consent of the mayor or chairperson, at any time during the temporary absence of the mayor or chairperson:
  - (b) without that consent, at any time while the mayor or chairperson is prevented by illness or other cause from performing the responsibilities and duties, or exercising the powers, of his or her office:
  - (c) while there is a vacancy in the office of the mayor or chairperson.
- (4) In the absence of proof to the contrary, a deputy mayor or deputy chairperson acting as mayor or chairperson is presumed to have the authority to do so.
- (5) A deputy mayor or deputy chairperson continues to hold his or her office as deputy mayor or deputy chairperson, so long as he or she continues to be a member of the territorial authority or regional council, until the election of his or her successor.

Compare: 1974 No 66 s 101U

**18 Power to remove chairperson, deputy chairperson, or deputy mayor**

- (1) At a meeting that is in accordance with this clause, a territorial authority or regional council may remove its chairperson, deputy chairperson, or deputy mayor from office.
- (2) If a chairperson, deputy chairperson, or deputy mayor is removed from office at that meeting, the territorial authority or

Part 1—*continued*

regional council may elect a new chairperson, deputy chairperson, or deputy mayor at that meeting.

- (3) A meeting to remove a chairperson, deputy chairperson, or deputy mayor may be called by—
  - (a) a resolution of the territorial authority or regional council; or
  - (b) a requisition in writing signed by the majority of the total membership of the territorial authority or regional council (excluding vacancies).
- (4) A resolution or requisition must—
  - (a) specify the day, time, and place at which the meeting is to be held and the business to be considered at the meeting; and
  - (b) indicate whether or not, if the chairperson, deputy chairperson, or deputy mayor is removed from office, a new chairperson, deputy chairperson, or deputy mayor is to be elected at the meeting if a majority of the total membership of the territorial authority or regional council (excluding vacancies) so resolves.
- (5) A resolution may not be made and a requisition may not be delivered less than 21 days before the day specified in the resolution or requisition for the meeting.
- (6) The chief executive must give each member notice in writing of the day, time, place, and business of any meeting called under this clause not less than 14 days before the day specified in the resolution or requisition for the meeting.
- (7) A resolution removing a chairperson, deputy chairperson, or deputy mayor carries if a majority of the total membership of the territorial authority or regional council (excluding vacancies) votes in favour of the resolution.

Compare: 1974 No 66 s 101V

Calling of meetings

**19 General provisions for meetings**

- (1) A local authority must hold the meetings that are necessary for the good government of its region or district.

Part 1—*continued*

- (2) A member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee.
- (3) A meeting of a local authority must be called and conducted in accordance with—
  - (a) this schedule; and
  - (b) Part 7 of the Local Government Official Information and Meetings Act 1987; and
  - (c) the standing orders of the local authority.
- (4) A local authority must hold meetings at the times and places that it appoints.
- (5) Unless clause 22 applies, the chief executive must give notice in writing to each member of the time and place of a meeting—
  - (a) not less than 14 days before the meeting; or
  - (b) if the local authority has adopted a schedule of meetings, not less than 14 days before the first meeting on the schedule.
- (6) If a local authority adopts a schedule of meetings,—
  - (a) the schedule—
    - (i) may cover any future period that the local authority considers appropriate; and
    - (ii) may be amended; and
  - (b) notification of the schedule or of any amendment to that schedule constitutes a notification of every meeting on the schedule or amendment.

Compare: 1974 No 66 ss 114C, 114E

Schedule 7 clause 19(4): amended, on 7 July 2004, by section 26(3) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 19(5): amended, on 7 July 2004, by section 26(4) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 19(6): amended, on 7 July 2004, by section 26(5) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**20 Meetings not invalid because notice not given**

- (1) A meeting of a local authority is not invalid if notice of that meeting was not received, or not received in due time, by a member of the local authority unless—

Part 1—*continued*

- (a) it is proved that the person responsible for giving notice of the meeting acted in bad faith or without reasonable care; and
    - (b) the member concerned did not attend the meeting.
  - (2) A member of a local authority may waive any requirement regarding the giving of notice of a meeting to that member.
- Compare: 1974 No 66 s 114H

**21 First meeting of local authority following triennial general election of members**

- (1) The first meeting of a local authority following a triennial general election of members must be called by the chief executive as soon as practicable after the results of the election are known.
- (2) The chief executive must give the persons elected to the local authority not less than 7 days' notice of the meeting.
- (3) Despite subclause (2), if an emergency exists, the chief executive may give notice of the meeting as soon as practicable.
- (4) The chief executive (or, in the absence of the chief executive, a nominee of that officer) must chair the meeting until the mayor or chairperson has made and attested the declaration required under clause 14.
- (5) The business that must be conducted at the meeting must include—
  - (a) the making and attesting of the declarations required of the mayor (if any) and members under clause 14; and
  - (b) the election of the chairperson (if any) and the making and attesting of the declaration required of the chairperson under clause 14; and
  - (c) a general explanation, given or arranged by the chief executive, of—
    - (i) the Local Government Official Information and Meetings Act 1987; and
    - (ii) other laws affecting members, including—

Part 1—*continued*

- (A) the appropriate provisions of the Local Authorities (Members' Interests) Act 1968; and
- (B) sections 99, 105, and 105A of the Crimes Act 1961; and
- (C) the Secret Commissions Act 1910; and
- (D) the Securities Act 1978; and
- (d) the fixing of the date and time of the first meeting of the local authority, or the adoption of a schedule of meetings; and
- (e) the election of the deputy mayor or deputy chairperson in accordance with clause 17.

Compare: 1974 No 66 s 114D

Schedule 7 clause 21(5)(d): amended, on 7 July 2004, by section 26(6) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**22 Extraordinary meetings**

- (1) Despite clause 19(4) to (6), if a resolution or requisition specifies the time and place at which the meeting is to be held and the general nature of the business to be brought before the meeting, a meeting may be called by—
  - (a) a resolution of the local authority; or
  - (b) a requisition in writing delivered to the chief executive and signed by—
    - (i) the mayor or chairperson; or
    - (ii) not less than one-third of the total membership of the local authority (including vacancies).
- (2) Despite clause 19(4) to (6), if the business to be dealt with requires a meeting to be held at a time earlier than is allowed by the notice requirements specified in subclause (3), a meeting may be called by—
  - (a) the mayor or chairperson; or
  - (b) if the mayor or chairperson are unavailable, the chief executive.
- (3) Notice in writing of the time and place of the meeting called under subclause (1) and of the general nature of business must

Part 1—*continued*

be given by the chief executive to each member of the local authority—

- (a) at least 3 working days before the day appointed for the meeting; or
  - (b) if the meeting is called by a resolution, within a lesser period of notice that is specified in the resolution, being not less than 24 hours.
- (4) Notice of the time and place of a meeting called under subclause (2) and of the matters in respect of which the meeting is being called must be given by the person calling the meeting or by another person on that person's behalf, by whatever means is reasonable in the circumstances, to each member of the local authority and to the chief executive at least 24 hours before the time appointed for the meeting.

Compare: 1974 No 66 ss 114F, 114G

Conduct of meetings

**23 Quorum of councils and committees**

- (1) A meeting is duly constituted if a quorum is present, whether or not all of the members are voting or entitled to vote.
- (2) Business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted.
- (3) The quorum at a meeting of—
  - (a) a local authority consists of—
    - (i) half of the members if the number of members (including vacancies) is even; or
    - (ii) a majority of members if the number of members (including vacancies) is odd; and
  - (b) a committee—
    - (i) is not fewer than 2 members of the committee (as determined by the local authority or committee that appoints the committee); and

Part 1—*continued*

- (ii) in the case of a committee other than a subcommittee, must include at least 1 member of the local authority.

Compare: 1974 No 66 s 114I

**24 Voting**

- (1) The acts of a local authority must be done, and the questions before the local authority must be decided, at a meeting by—
  - (a) vote; and
  - (b) the majority of members that are present and voting.
- (2) For the purposes of subsection (1), the mayor or chairperson or other person presiding at the meeting—
  - (a) has a deliberative vote; and
  - (b) in the case of an equality of votes, does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved).
- (3) An act or question coming before the local authority must be done or decided by open voting.
- (4) Subsections (1) and (2) apply unless—
  - (a) this Act provides otherwise; or
  - (b) the standing orders of the local authority expressly provide otherwise.

Schedule 7 clause 24: substituted, on 7 July 2004, by section 26(7) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**25 Voting systems for certain appointments**

- (1) This clause applies to—
  - (a) the election or appointment of the chairperson and deputy chairperson of a regional council; and
  - (b) the election or appointment of the deputy mayor; and
  - (c) the election or appointment of the chairperson and deputy chairperson of a committee; and
  - (d) the election or appointment of a representative of a local authority.
- (2) If this clause applies, a local authority or a committee (if the local authority has so directed) must determine by resolution



Part 1—*continued*

that a person be elected or appointed by using one of the following systems of voting:

- (a) the voting system in subclause (3) (**system A**);
  - (b) the voting system in subclause (4) (**system B**).
- (3) System A—
- (a) requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and
  - (b) has the following characteristics:
    - (i) there is a first round of voting for all candidates; and
    - (ii) if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
    - (iii) if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
    - (iv) in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.
- (4) System B—
- (a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
  - (b) has the following characteristics:
    - (i) there is only 1 round of voting; and
    - (ii) if 2 or more candidates tie for the most votes, the tie is resolved by lot.

Compare: 1974 No 66 s 114K

Schedule 7 clause 25(2): substituted, on 7 July 2004, by section 26(8) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 25(3): substituted, on 7 July 2004, by section 26(8) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 25(4): added, on 7 July 2004, by section 26(8) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Part 1—*continued***26 Chairperson of meetings**

- (1) The mayor or chairperson of the local authority must preside at each meeting of the local authority at which he or she is present unless the mayor or chairperson vacates the chair for a particular meeting.
- (2) The chairperson of a committee must preside at each meeting of the committee at which he or she is present unless the chairperson vacates the chair for a particular meeting.
- (3) The local authority may appoint a member of a committee to be the chairperson of that committee and, if the local authority, on the appointment of the committee, does not appoint a chairperson, that power may be exercised by the committee.
- (4) The local authority or the committee may appoint a deputy chairperson to act in the absence of the chairperson.
- (5) If the mayor or chairperson of a local authority or the chairperson of a committee is absent from a meeting, the deputy mayor or deputy chairperson (if any) of the local authority or committee must preside.
- (6) However, if a deputy mayor or deputy chairperson has not been appointed, or if the deputy mayor or deputy chairperson is also absent, the members of the local authority or of the committee that are present must elect 1 of their number to preside at that meeting, and that person may exercise at that meeting the responsibilities, duties, and powers of the mayor or chairperson.

Compare: 1974 No 66 s 114L

Schedule 7 clause 26(6): amended, on 7 July 2004, by section 26(9)(a) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 26(6): amended, on 7 July 2004, by section 26(9)(b) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

## Procedures at meetings

**27 Standing orders**

- (1) A local authority must adopt a set of standing orders for the conduct of its meetings and those of its committees.

Part 1—*continued*

- (2) The standing orders of a local authority must not contravene this Act, the Local Government Official Information and Meetings Act 1987, or any other Act.
- (3) After the adoption of the first standing orders of the local authority, an amendment of the standing orders or the adoption of a new set of standing orders requires, in every case, a vote of not less than 75% of the members present.
- (4) A local authority or committee may temporarily suspend standing orders during a meeting by a vote of not less than 75% of the members present and voting, and the reason for the suspension must be stated in the resolution of suspension.  
Compare: 1974 No 66 s 114M

**28 Minutes of proceedings**

- (1) A local authority must keep minutes of its proceedings.
- (2) Minutes of proceedings duly entered and authenticated as prescribed by a local authority are prima facie evidence of those proceedings.  
Compare: 1974 No 66 s 114N

**29 Proceedings not invalidated by vacancies, irregularities, etc**

An act or proceeding of a local authority or committee, or of a person acting as a member of a local authority or committee, is not invalidated by—

- (a) a vacancy in the membership of the local authority or committee at the time of that act or proceeding; or
- (b) the subsequent discovery—
  - (i) of some defect in the election or appointment of the person acting as a member of the local authority or committee; or
  - (ii) that that person was or is incapable of being a member.

Compare: 1974 No 66 s 114O

Part 1—*continued*

## Subordinate decision-making structures

**30 Power to appoint committees, subcommittees, other subordinate decision-making bodies, and joint committees**

- (1) A local authority may appoint—
  - (a) the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate; and
  - (b) a joint committee with another local authority or other public body.
- (2) A committee may appoint the subcommittees that it considers appropriate unless it is prohibited from doing so by the local authority.
- (3) A committee or other subordinate decision-making body is subject in all things to the control of the local authority, and must carry out all general and special directions of the local authority given in relation to the committee or other body or the affairs of the committee or other body.
- (4) A subcommittee is subject in all things to the control of the committee that appointed it, and must carry out all general and special directions of the committee given in relation to the subcommittee or its affairs.
- (5) Unless expressly provided otherwise in an Act,—
  - (a) a local authority may discharge or reconstitute a committee or subcommittee or other subordinate decision-making body; and
  - (b) a committee may discharge or reconstitute a subcommittee.
- (6) Nothing in this clause entitles a local authority or committee to rescind or amend a decision made under a delegation authorising the making of decision by a committee, a subcommittee, or another subordinate decision-making body.
- (7) A committee, subcommittee, or other subordinate decision-making body is, unless the local authority resolves otherwise, deemed to be discharged on the coming into office of the members of the local authority elected or appointed at, or following, the triennial general election of members next after the

Part 1—*continued*

appointment of the committee, subcommittee, or other subordinate decision-making body.

- (8) A joint committee appointed under this clause is deemed to be both a committee of the local authority and a committee of the other local authority or public body.
- (9) This Part applies to a joint committee except that—
  - (a) the powers to discharge any individual member and appoint another in his or her stead must be exercised by the local authority or public body that made the appointment; and
  - (b) the quorum at a meeting consists of—
    - (i) half of the members if the number of members (including vacancies) is even; or
    - (ii) a majority of members if the number of members (including vacancies) is odd; and
  - (c) the committee may appoint and remove its own chairperson or deputy chairperson.
- (10) For the purposes of a public body that is not a local authority, subclauses (8) and (9) apply to the extent that they are not inconsistent with the law applicable to committees of the public body.

Compare: 1974 No 66 ss 114P, 114R, 114S(3)–(5)

Schedule 7 clause 30(8): amended, on 7 July 2004, by section 26(10) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 30(9): substituted, on 7 July 2004, by section 26(11) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 30(10): substituted, on 7 July 2004, by section 26(11) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**31 Membership of committees and subcommittees**

- (1) A local authority may appoint or discharge any member of a committee or a subcommittee.
- (2) Unless directed otherwise by the local authority, a committee may appoint or discharge any member of a subcommittee appointed by the committee.
- (3) The members of a committee or subcommittee may, but need not be, elected members of the local authority, and a local au-

Part 1—*continued*

thority or committee may appoint to a committee or subcommittee a person who is not a member of the local authority or committee if, in the opinion of the local authority, that person has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee.

- (4) Despite subclause (3),—
  - (a) at least 1 member of a committee must be an elected member of the local authority; and
  - (b) an employee of a local authority acting in the course of his or her employment may not act as a member of any committee unless that committee is a subcommittee.
- (5) If a local authority resolves that a committee, subcommittee, or other decision-making body is not to be discharged under clause 30(7), the local authority may replace the members of that committee, subcommittee, or other subordinate decision-making body after the next triennial general election of members.
- (6) The minimum number of members—
  - (a) is 3 for a committee; and
  - (b) is 2 for a subcommittee.

Compare: 1974 No 66 s 114R

## Delegations

**32AA Meaning of officer**

For the purposes of clauses 32, 32A, and 32B, **officer** means—

- (a) a named person; or
- (b) the person who is for the time being the holder of a specified office.

Schedule 7 clause 32AA: inserted, on 28 June 2006, by section 28(1) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

**32 Delegations**

- (1) Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of

Part 1—*continued*

the local authority any of its responsibilities, duties, or powers except—

- (a) the power to make a rate; or
  - (b) the power to make a bylaw; or
  - (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or
  - (d) the power to adopt a long-term plan, annual plan, or annual report; or
  - (e) the power to appoint a chief executive; or
  - (f) the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement; or
  - (g) *[Repealed]*
- (2) Nothing in this clause restricts the power of a local authority to delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority the power to do anything precedent to the exercise by the local authority (after consultation with the committee or body or person) of any power or duty specified in subclause (1).
- (3) A committee or other subordinate decision-making body, community board, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local authority or by the committee or body or person that makes the original delegation.
- (4) A committee, subcommittee, other subordinate decision-making body, community board, or member or officer of the local authority to which or to whom any responsibilities, powers, or duties are delegated may, without confirmation by the local authority or committee or body or person that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them.

Part 1—*continued*

- (5) A local authority may delegate to any other local authority, organisation, or person the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters.
- (6) A territorial authority must consider whether or not to delegate to a community board if the delegation would enable the community board to best achieve its role.
- (7) To avoid doubt, no delegation relieves the local authority, member, or officer of the liability or legal responsibility to perform or ensure performance of any function or duty.
- (8) The delegation powers in this clause are in addition to any power of delegation a local authority has under any other enactment.

Compare: 1974 No 66 s 114Q

Schedule 7 clause 32(1)(c): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Schedule 7 clause 32(1)(d): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Schedule 7 clause 32(1)(f): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Schedule 7 clause 32(1)(g): repealed, on 7 July 2004, by section 26(12) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 32(3): amended, on 7 July 2004, by section 26(13) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

### **32A Delegation of power to issue warrants to enforcement officers**

- (1) A local authority may delegate to a committee or member or officer of the local authority the power to issue warrants to enforcement officers.
- (2) A delegation under subclause (1) may—
  - (a) limit or restrict the exercise of the power; or
  - (b) impose conditions on the exercise of the power; or
  - (c) prohibit, in specified circumstances, the exercise of the power.
- (3) The local authority must determine the matters in subclause (2) before acting under subclause (1).



Part 1—*continued*

- (4) Clause 32(2) to (8), with all necessary modifications, applies to a delegation made under this clause.

Schedule 7 clause 32A: inserted, on 7 July 2004, by section 26(14) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**32B Delegation of powers by officer**

- (1) An officer of a local authority may delegate to any other officer of the local authority 1 or more of his or her powers under this Act or any other enactment except—
- (a) the power to delegate under this clause; or
  - (b) any power delegated to the officer under clause 32 that is subject to a prohibition on delegation; or
  - (c) any power under an enactment where the enactment expressly prohibits the delegation of the power.
- (2) An officer acting under subclause (1) may include conditions, limitations, or prohibitions in the delegation.
- (3) An officer to whom any responsibilities, powers, or duties are delegated may, without confirmation by the officer that made the delegation, exercise or perform them in the like manner and with the same effect as if the officer who made the delegation could himself or herself have exercised or performed them.
- (4) To avoid doubt, no delegation relieves the officer of the liability or legal responsibility to perform or ensure performance of any function or duty.

Schedule 7 clause 32B: inserted, on 7 July 2004, by section 26(14) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 7 clause 32B(1)(a): amended, on 28 June 2006, by section 28(2) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Employment of staff

**33 Appointment of chief executive**

The local authority must, in making an appointment under section 42, have regard to the need to appoint a person who will—

- (a) discharge the specific responsibilities placed on the appointee; and
- (b) imbue the employees of the local authority with a spirit of service to the community; and

Part 1—*continued*

- (c) promote efficiency in the local authority; and
- (d) be a responsible manager; and
- (e) maintain appropriate standards of integrity and conduct among the employees of the local authority; and
- (f) ensure that the local authority is a good employer; and
- (g) promote equal employment opportunities.

Compare: 1974 No 66 s 119C

**34 Terms of employment of chief executive**

- (1) A chief executive appointed under section 42 may not be appointed for a term of more than 5 years.
- (2) The local authority and the chief executive must enter into a performance agreement.
- (3) When the term of appointment expires, a vacancy exists in the office of the chief executive, and that vacancy must be advertised.
- (4) Despite subclause (3), if the local authority has completed a review under clause 35, that local authority may, without advertising the vacancy, appoint the incumbent chief executive for a second term not exceeding 2 years on the expiry of the first term of appointment.
- (5) After completing a review under clause 35, but before the date on which the chief executive's contract of employment for the first term expires, the local authority must resolve whether or not to—
  - (a) appoint the chief executive for a second term under subclause (4); or
  - (b) advertise the vacancy.
- (6) If a vacancy is advertised,—
  - (a) the incumbent chief executive may apply for the position; and
  - (b) the local authority must give due consideration to any application for the position by the incumbent chief executive.

Part 1—*continued*

- (7) Despite the provisions of any other enactment or rule of law, a chief executive has no right or expectation of renewed employment at the end of any term.

**35 Performance review at end of first term of appointment**

- (1) A local authority must, not less than 6 months before the date on which the chief executive's contract of employment for the first term expires, conduct and complete a review of the employment of the chief executive.
- (2) The review must assess—
- (a) the performance of the chief executive; and
  - (b) the mix of skills and attributes possessed by the chief executive, and the degree to which they are consistent with the skills and attributes that the local authority considers necessary for the future; and
  - (c) any other factors that the local authority considers relevant.
- (3) To avoid doubt, responsibility for determining the degree to which any factors in subclause (2)(a) and (b) apply to a review, and the relevance of any additional factors under subclause (2)(c), rests solely with the local authority.
- (4) Subclause (1) does not apply if the incumbent chief executive declares in writing to the local authority that he or she does not wish to be considered for appointment to a second term.

Compare: 1974 No 66 s 119E

**36 Local authority to be good employer**

- (1) A local authority, and any other person having responsibility for the selection and management of employees of the local authority, must operate a personnel policy that complies with the principle of being a good employer.
- (2) For the purposes of this clause, a **good employer** means an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
- (a) good and safe working conditions; and

Part 1—*continued*

- (b) an equal employment opportunities programme; and
  - (c) the impartial selection of suitably qualified persons for appointment; and
  - (d) recognition of—
    - (i) the aims and aspirations of Māori; and
    - (ii) the employment requirements of Māori; and
    - (iii) the need for greater involvement of Māori in local government employment; and
  - (e) opportunities for the enhancement of the abilities of individual employees; and
  - (f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
  - (g) recognition of the employment requirements of women; and
  - (h) recognition of the employment requirements of persons with disabilities.
- (3) In addition to the requirements specified in subclauses (1) and (2), a local authority,—
- (a) when making an appointment, must give preference to the person who is best suited to the position; and
  - (b) must ensure that all employees maintain proper standards of integrity, conduct, and concern for the public interest.

Compare: 1974 No 66 s 119F

## Part 2

Provisions relating to community boards  
and their members**37 Chairpersons of community boards**

- (1) A community board must have a chairperson.
- (2) Clause 25 applies to the election of chairpersons of community boards.

Compare: 1974 No 66 s 101ZT

Part 2—*continued*

**38 Provision of administrative and other facilities for community boards**

A territorial authority within whose district the community of a community board is situated must provide the necessary administrative and other facilities for that community board.

Compare: 1974 No 66 s 101ZZB

**39 Expenses of community boards**

- (1) The expenses of the performance and exercise by a community board of its responsibilities, duties, and powers must be paid by the territorial authority within whose district the community is situated.
- (2) The territorial authority may fix a limit within which expenditure may be incurred under subclause (1), and no community board may incur expenditure in excess of any limit so fixed without the prior approval of the territorial authority.
- (3) This clause does not apply in respect of any expenditure for which any rate has been made and levied within the community.

Compare: 1974 No 66 s 101ZZC

Schedule 7 clause 39(1): amended, on 27 November 2010, by section 46 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

## **Schedule 8**

### **Statements of intent**

ss 64(1), (4), 65(2)

#### **1 Purpose of statement of intent**

The purpose of a statement of intent is to—

- (a) state publicly the activities and intentions of a council-controlled organisation for the year and the objectives to which those activities will contribute; and
- (b) provide an opportunity for shareholders to influence the direction of the organisation; and
- (c) provide a basis for the accountability of the directors to their shareholders for the performance of the organisation.

#### **2 Statements of intent for council-controlled organisations**

The board of a council-controlled organisation must deliver to its shareholders a draft statement of intent on or before 1 March each year.

Compare: 1974 No 66 s 594S

#### **3 Completion of statements of intent**

The board must—

- (a) consider any comments on the draft statement of intent that are made to it within 2 months of 1 March by the shareholders or by any of them; and
- (b) deliver the completed statement of intent to the shareholders on or before 30 June each year.

Compare: 1974 No 66 s 594U

#### **4 Modifications of statements of intent by board**

The board may, by written notice, modify a statement of intent at any time if the board has first—

- (a) given written notice to the shareholders of the proposed modification; and
- (b) considered any comments made on the proposed modification by the shareholders or by any of them within—
  - (i) 1 month after the date on which the notice under paragraph (a) was given; or

- (ii) any shorter period that the shareholders may agree.

Compare: 1974 No 66 s 594V(1)

**5 Modifications of statements of intent by resolution of shareholders**

- (1) Despite any other provision of the Act or of the constitution of any council-controlled organisation, the shareholders of a council-controlled organisation may, by resolution, require the board to modify the statement of intent by including or omitting any provision or provisions of the kind referred to in clause 9(1)(a) to (i), and any board to whom notice of the resolution is given must comply with the resolution.
- (2) Before giving notice of the resolution to the board, the shareholders must consult the board concerned as to the matters to be referred to in the notice.

Compare: 1974 No 66 s 594V(2)

**6 Statement of intent required if exemption granted under section 7 revoked**

If an exemption granted under section 7 is revoked, the council-controlled organisation must,—

- (a) if there is more than 6 months remaining in the financial year, prepare a statement of intent for that financial year; or
- (b) if there is not more than 6 months remaining in the financial year, prepare a statement of intent for the following financial year.

**7 Obligation to make statements of intent available**

A completed statement of intent and each modification that is adopted to a statement of intent must be made available to the public by the board within 1 month after the date on which it is delivered to the shareholders or adopted, as the case may be.

Compare: 1974 No 66 s 594W

**8 Savings of certain transactions**

A failure by a council-controlled organisation to comply with any provision of this schedule or with any provision in a state-

ment of intent does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by that organisation.

Compare: 1974 No 66 s 594Y

## **9 Contents of statements of intent**

- (1) A statement of intent must, to the extent that is appropriate given the organisational form of the council-controlled organisation, specify for the group comprising the council-controlled organisation and its subsidiaries (if any), and in respect of the financial year immediately following the financial year in which it is required by clause 3(b) to be delivered and each of the immediately following 2 financial years, the following information:
- (a) the objectives of the group; and
  - (b) a statement of the board's approach to governance of the group; and
  - (c) the nature and scope of the activities to be undertaken by the group; and
  - (d) the ratio of consolidated shareholders' funds to total assets, and the definitions of those terms; and
  - (e) the accounting policies of the group; and
  - (f) the performance targets and other measures by which the performance of the group may be judged in relation to its objectives; and
  - (g) an estimate of the amount or proportion of accumulated profits and capital reserves that is intended to be distributed to the shareholders; and
  - (h) the kind of information to be provided to the shareholders by the group during the course of those financial years, including the information to be included in each half-yearly report (and, in particular, what prospective financial information is required and how it is to be presented); and
  - (i) the procedures to be followed before any member or the group subscribes for, purchases, or otherwise acquires shares in any company or other organisation; and



- (j) any activities for which the board seeks compensation from any local authority (whether or not the local authority has agreed to provide the compensation); and
  - (k) the board's estimate of the commercial value of the shareholders' investment in the group and the manner in which, and the times at which, that value is to be re-assessed; and
  - (l) any other matters that are agreed by the shareholders and the board.
- (2) If a council-controlled organisation has undertaken to obtain or has obtained compensation from its shareholders in respect of any activity, this undertaking or the amount of compensation obtained must be recorded in—
  - (a) the annual report of the council-controlled organisation; and
  - (b) the annual report of the local authority.
- (3) Any financial information, including (but not limited to) forecast financial information, must be prepared in accordance with generally accepted accounting practice.

Compare: 1974 No 66 s 594T

## **10 Additional content of statements of intent**

- (1) This clause applies to a council-controlled organisation that provides services in relation to the following groups of activities:
  - (a) water supply;
  - (b) sewerage and the treatment and disposal of sewage;
  - (c) stormwater drainage;
  - (d) flood protection and control works;
  - (e) the provision of roads and footpaths.
- (2) The council-controlled organisation's statement of intent must, in relation to each group of activities described in subclause (1), include a statement of the intended levels of service provision that complies with clause 4(a) and (c) of Schedule 10 as if—
  - (a) the reference to a long-term plan were a reference to the statement of intent; and
  - (b) the reference to a local authority were a reference to a council-controlled organisation.

Schedule 8 clause 10: added, on 27 November 2010, by section 47 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

---

**Schedule 9**

s 73

**Council-controlled organisations and  
transfer of undertakings**

**1 Transfer of leases, licences, etc, to council-controlled organisations**

- (1) Despite anything in any enactment or rule of law, property that is fixed to, or under or over, any land may be transferred under this Act by a local authority to a council-controlled organisation in which it holds equity securities, whether or not any interest in the land is also transferred.
- (2) If any such property is so transferred, the property and the land must be regarded as separate property, each capable of separate ownership.

Compare: 1974 No 66 s 594ZE(2)

**2 Modification of provisions of Public Works Act 1981**

- (1) Nothing in sections 40 to 42 of the Public Works Act 1981 applies to the transfer of land to a council-controlled organisation under this Act.
- (2) However, after the transfer, sections 40 and 41 of that Act apply to that land as if the council-controlled organisation were a local authority and the land had not been transferred under this Act.

Compare: 1974 No 66 s 594ZF

**3 Obligation to lodge caveat**

- (1) The rights of persons from whom land was acquired and their successors to have land offered to them under section 40(2) of the Public Works Act 1981 are deemed interests in land for the purposes of section 137 of the Land Transfer Act 1952, and the local authority that transfers the land to a council-controlled organisation under this Act must lodge an appropriate caveat.
- (2) In stating the interest claimed by the caveator in a caveat lodged under subclause (1), it is sufficient, for the purposes of section 138 of the Land Transfer Act 1952, to refer to sections 40 to 42 of the Public Works Act 1981 and to this clause.

Compare: 1974 No 66 s 594ZG

**4 Transfer of liabilities in relation to undertakings**

- (1) A local authority may transfer its liabilities in relation to an undertaking to a council-controlled organisation if the transfer is agreed to by—
- (a) the local authority; and
  - (b) the council-controlled organisation; and
  - (c) any other affected parties.
- (2) If an agreement is reached, the council-controlled organisation assumes the liabilities in relation to the undertaking as if it had entered into the contract or agreement that gave rise to the undertaking.
- (3) If an agreement cannot be reached, the liabilities in relation to the undertaking remain with the local authority.

Compare: 1974 No 66 ss 594ZI, 594ZK

**5 Certain matters not affected by transfer of liabilities in relation to undertakings**

A transfer of liabilities in relation to an undertaking from a local authority to a council-controlled organisation—

- (a) does not constitute a breach of contract or agreement, or a civil wrong; and
- (b) does not abrogate the right of any person to cancel or amend any contract or agreement pertaining to the undertaking; and
- (c) does not release any surety or guarantor from any obligation with respect to the undertaking.

Compare: 1974 No 66 s 594ZJ

**6 Application of Income Tax Act 2007 and Goods and Services Tax Act 1985**

- (1) Nothing in sections CB 6 to CB 23 of the Income Tax Act 2007 applies to any land or asset disposed of by the local authority to a council-controlled organisation under this Act.
- (2) For the purposes of sections CB 6 to CB 23 of the Income Tax Act 2007, if any land or asset is acquired by a council-controlled organisation from a local authority, that land or asset is deemed to have been acquired by the council-controlled organisation on the date on which it was acquired by that local authority.

- (3) Nothing in sections EE 40(1) to (3) and EZ 12 of the Income Tax Act 2007 applies to any property acquired by a council-controlled organisation from a local authority under this schedule.
- (4) For the purposes of the Goods and Services Tax Act 1985, a transfer of an undertaking from a local authority to a council-controlled organisation under this schedule is deemed to be a transfer of a part of a taxable activity as a going concern that is capable of separate operation.

Compare: 1974 No 66 s 594ZM

Schedule 9 clause 6 heading: amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Schedule 9 clause 6(1): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Schedule 9 clause 6(2): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Schedule 9 clause 6(3): amended (with effect on 1 April 2008), on 7 September 2010 (applies for the 2008–09 and later income years), by section 211(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Schedule 9 clause 6(3): amended (with effect on 1 April 2005), on 7 September 2010 (applies for the 2005–06 and later income years), by section 211(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Schedule 9 clause 6(3): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

**Schedule 10**ss 5(2), 75(f), 85(2),  
93(7)(b), 95(6)(c), 98(1),  
99A(1)**Long-term plans, annual plans, and  
annual reports**

Schedule 10: substituted, on 27 November 2010, by section 48 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**Contents**

	Page
Part 1	
Information to be included in long-term plans	
1 Community outcomes	319
2 Groups of activities	319
3 Capital expenditure for groups of activities	320
4 Statement of service provision	320
5 Funding impact statement for groups of activities	321
6 Variation between territorial authority's long-term plan and assessment of water and sanitary services and waste management plans	321
7 Council-controlled organisations	322
8 Development of Māori capacity to contribute to decision-making processes	322
9 Financial strategy	322
10 Revenue and financing policy	322
11 Determining significance	322
12 Forecast financial statements	323
13 Financial statements for previous year	323
14 Statement concerning balancing of budget	323
15 Funding impact statement	323
16 Reserve funds	325
17 Significant forecasting assumptions	325
Part 2	
Information to be included in annual plan	
18 Forecast financial statements	326
19 Financial statements for previous year	326
20 Funding impact statement	327
21 Reserve funds	328
22 Annual plan and amendment of long-term plan	328

Part 3

Information to be included in annual reports

23	Groups of activities	329
24	Capital expenditure for groups of activities	329
25	Statement of service provision	329
26	Funding impact statement for groups of activities	330
27	Internal borrowing	330
28	Council-controlled organisations	331
29	Financial statements	331
30	Funding impact statement	332
31	Reserve funds	332
32	Remuneration issues	332
33	Severance payments	333
34	Statement of compliance	333
35	General	334

Part 4

Information to be included in pre-election report

36	Pre-election report	334
37	Substituted information for small local authorities	335

---

Part 1

Information to be included in long-term  
plans

**1 Community outcomes**

A long-term plan must, to the extent determined appropriate by the local authority, describe the community outcomes for the local authority's district or region.

**2 Groups of activities**

- (1) A long-term plan must, in relation to each group of activities of the local authority,—
- (a) identify the activities within the group of activities:
  - (b) identify the rationale for delivery of the group of activities (including the community outcomes to which the group of activities primarily contributes):
  - (c) outline any significant negative effects that any activity within the group of activities may have on the social,

Part 1—*continued*

economic, environmental, or cultural well-being of the local community:

- (d) include the information specified in clauses 4 and 5—
  - (i) in detail in relation to each of the first 3 financial years covered by the plan; and
  - (ii) in outline in relation to each of the subsequent financial years covered by the plan.
- (2) In this schedule, each of the following activities is a group of activities:
  - (a) water supply;
  - (b) sewerage and the treatment and disposal of sewage;
  - (c) stormwater drainage;
  - (d) flood protection and control works;
  - (e) the provision of roads and footpaths.
- (3) Despite subclause (2), a local authority may treat any other activities as a group of activities.

**3 Capital expenditure for groups of activities**

- (1) A long-term plan must, in relation to each group of activities of the local authority and for each financial year covered by the plan, include a statement of the amount of capital expenditure that the authority has budgeted to—
  - (a) meet additional demand for an activity; and
  - (b) improve the level of service; and
  - (c) replace existing assets.
- (2) For the purpose of this clause, capital expenditure budgeted for 2 or all of the purposes in subclause (1) must be treated as if it were made solely in relation to the primary purpose of the expenditure.

**4 Statement of service provision**

A long-term plan must, in relation to each group of activities of the local authority, include a statement of the intended levels of service provision that specifies—



Part 1—*continued*

- (a) any performance measures specified in a rule made under section 261B for a group of activities described in clause 2(2); and
- (b) the performance measures that the local authority considers will enable the public to assess the level of service for major aspects of groups of activities for which performance measures have not been specified under paragraph (a); and
- (c) the performance target or targets set by the local authority for each performance measure; and
- (d) any intended changes to the level of service that was provided in the year before the first year covered by the plan and the reasons for the changes; and
- (e) the reason for any material change to the cost of a service.

**5 Funding impact statement for groups of activities**

- (1) A long-term plan must, in relation to each year covered by the plan, include a funding impact statement in relation to each group of activities of the local authority.
- (2) The funding impact statement must be in the prescribed form and must identify—
  - (a) the sources of funding to be used by the local authority; and
  - (b) the amount of funds expected to be produced from each source; and
  - (c) how the funds are to be applied.

**6 Variation between territorial authority's long-term plan and assessment of water and sanitary services and waste management plans**

A long-term plan for a territorial authority must identify and explain any significant variation between the proposals outlined in the long-term plan and the territorial authority's—

- (a) assessment of water and other sanitary services under section 125:

Part 1—*continued*

- (b) waste management and minimisation plans adopted under section 43 of the Waste Minimisation Act 2008.

**7 Council-controlled organisations**

A long-term plan must, in relation to each council-controlled organisation,—

- (a) name the council-controlled organisation and any subsidiary of the council-controlled organisation; and
- (b) identify—
  - (i) the local authority's significant policies and objectives in relation to ownership and control of the organisation; and
  - (ii) the nature and scope of the activities to be provided by the council-controlled organisation; and
  - (iii) the key performance targets and other measures by which performance is to be judged.

**8 Development of Māori capacity to contribute to decision-making processes**

A long-term plan must set out any steps that the local authority intends to take, having undertaken the consideration required by section 81(1)(b), to foster the development of Māori capacity to contribute to the decision-making processes of the local authority over the period covered by that plan.

**9 Financial strategy**

A long-term plan must include a local authority's financial strategy adopted under section 101A.

**10 Revenue and financing policy**

A long-term plan must include a local authority's revenue and financing policy adopted under section 102(1).

**11 Determining significance**

A long-term plan must contain a summary of the local authority's policy on determining significance under the Act.

Part 1—*continued*

**12 Forecast financial statements**

- (1) A long-term plan must include, for each of the financial years covered by the plan, forecast financial statements for the local authority.
- (2) A long-term plan may include, for each of the financial years covered by the plan, or for any of those years, forecast financial statements for any council-controlled organisation or any other entity under the local authority's control.

**13 Financial statements for previous year**

- (1) A long-term plan must include the numerical information from the forecast financial statements referred to in clause 12(1) that were prepared for the financial year that is the year before the first year covered by the plan.
- (2) The numerical information must be presented in a way that allows the public to compare the information with the numerical information contained in the forecast financial statements for each of the financial years covered by the plan.

**14 Statement concerning balancing of budget**

If the local authority has resolved, under section 100(2), not to balance its operating budget in any year covered by the long-term plan, the plan must include—

- (a) a statement of the reasons for the resolution and any other matters taken into account; and
- (b) a statement of the implications of the decision.

**15 Funding impact statement**

- (1) A long-term plan must include a funding impact statement in relation to each year covered by the plan.
- (2) The funding impact statement must be in the prescribed form and must identify—
  - (a) the sources of funding to be used by the local authority; and
  - (b) the amount of funds expected to be produced from each source; and
  - (c) how the funds are to be applied.

Part 1—*continued*

- (3) If the sources of funding include a general rate, the funding impact statement must—
- (a) include particulars of the valuation system on which the general rate is to be assessed; and
  - (b) state whether a uniform annual general charge is to be included and, if so,—
    - (i) how the charge is to be calculated; and
    - (ii) the local authority's definition of a separately used or inhabited part of a rating unit, if the charge is to be calculated on that basis; and
  - (c) state whether the general rate is to be set differentially and, if so,—
    - (i) the categories of rateable land, within the meaning of section 14 of the Local Government (Rating) Act 2002, to be used; and
    - (ii) the objectives of the differential rate, in terms of the total revenue sought from each category of rateable land or the relationship between the rates set on rateable land in each category.
- (4) If the sources of funding include a targeted rate, the funding impact statement must—
- (a) specify the activities or groups of activities for which the targeted rate is to be set; and
  - (b) include particulars of the category, or categories, of rateable land, within the meaning of section 17 of the Local Government (Rating) Act 2002, to be used; and
  - (c) for each category, state—
    - (i) how liability for the targeted rate is to be calculated; and
    - (ii) the local authority's definition of a separately used or inhabited part of a rating unit, if the rate is to be calculated on that basis; and
  - (d) if the targeted rate is set differentially, state the total revenue sought from each category of rateable land or the relationship between the rates set on rateable land in each category; and

Part 1—*continued*

- (e) state whether lump sum contributions will be invited in respect of the targeted rate.
- (5) If the sources of funding include a general rate or a targeted rate, the funding impact statement must, for the first year covered by the long-term plan, include examples of the impact of the rating proposals in subclauses (3) and (4) on the rates assessed on different categories of rateable land with a range of property values.
- (6) If the same source of funding is to be used in more than 1 of the years covered by the long-term plan, in order to comply with subclauses (2)(a), (3), and (4) with respect to that source, it is sufficient—
  - (a) to comply with those subclauses in relation to 1 of those years; and
  - (b) for the funding impact statement to specify the other years in respect of which that source is to be used.

**16 Reserve funds**

A long-term plan must identify each reserve fund set aside by the local authority and, in relation to each fund, specify—

- (a) the purpose of the fund; and
- (b) the activities to which the fund relates; and
- (c) the amount expected to be in the fund at—
  - (i) the commencement of the first year to which the long-term plan relates; and
  - (ii) the end of the last year to which the long-term plan relates; and
- (d) the amount expected to be deposited in the fund in the period to which the long-term plan relates; and
- (e) the amount expected to be withdrawn from the fund in the period to which the long-term plan relates.

**17 Significant forecasting assumptions**

A long-term plan must clearly identify—

- (a) all the significant forecasting assumptions and risks underlying the financial estimates:

Part 1—*continued*

- (b) without limiting the generality of paragraph (a), the following assumptions on which the financial estimates are based:
  - (i) the assumptions of the local authority concerning the useful life of significant assets; and
  - (ii) the assumptions of the local authority concerning sources of funds for the future replacement of significant assets:
- (c) in any case where significant forecasting assumptions involve a high level of uncertainty,—
  - (i) the fact of that uncertainty; and
  - (ii) an estimate of the potential effects of that uncertainty on the financial estimates provided.

## Part 2

## Information to be included in annual plan

**18 Forecast financial statements**

- (1) An annual plan must include, for the financial year to which the plan relates, forecast financial statements for the local authority.
- (2) An annual plan may include, for the financial year to which the plan relates, forecast financial statements for any council-controlled organisation or any other entity under the local authority's control.

**19 Financial statements for previous year**

- (1) An annual plan must include the numerical information from the forecast financial statements referred to in clause 18(1) that were prepared for the financial year that is the year before the year covered by the plan.
- (2) The numerical information described in subclause (1) must be presented in a way that allows the public to compare the information with the numerical information contained in the forecast financial statements for the financial year covered by the plan.

Part 2—*continued*

**20 Funding impact statement**

- (1) An annual plan must include a funding impact statement for the year to which the plan relates.
- (2) The funding impact statement must be in the prescribed form and must identify—
  - (a) the sources of funding to be used by the local authority; and
  - (b) the amount of funds expected to be produced from each source; and
  - (c) how the funds are to be applied.
- (3) If the sources of funding include a general rate, the funding impact statement must—
  - (a) include particulars of the valuation system on which the general rate is to be assessed; and
  - (b) state whether a uniform annual general charge is to be included and, if so,—
    - (i) how the charge is to be calculated; and
    - (ii) the local authority's definition of a separately used or inhabited part of a rating unit, if the charge is to be calculated on that basis; and
  - (c) state whether the general rate is to be set differentially and, if so,—
    - (i) the categories of rateable land, within the meaning of section 14 of the Local Government (Rating) Act 2002, to be used; and
    - (ii) the objectives of the differential rate, in terms of the total revenue sought from each category of rateable land or the relationship between the rates set on rateable land in each category.
- (4) If the sources of funding include a targeted rate, the funding impact statement must—
  - (a) specify the activities or groups of activities for which the targeted rate is to be set; and
  - (b) include particulars of the category, or categories, of rateable land, within the meaning of section 17 of the Local Government (Rating) Act 2002, to be used; and
  - (c) for each category, state—

Part 2—*continued*

- (i) how liability for the targeted rate is to be calculated; and
    - (ii) the local authority's definition of a separately used or inhabited part of a rating unit, if the rate is to be calculated on that basis; and
  - (d) if the targeted rate is set differentially, state the total revenue sought from each category of rateable land or the relationship between the rates set on rateable land in each category; and
  - (e) state whether lump sum contributions will be invited in respect of the targeted rate.
- (5) If the sources of funding include a general rate or a targeted rate, the funding impact statement must include examples of the impact of the rating proposals in subclauses (3) and (4) on the rates assessed on different categories of rateable land with a range of property values.

**21 Reserve funds**

An annual plan must, for the year to which the plan relates, identify each reserve fund set aside by the local authority and, in relation to each fund, specify—

- (a) the purpose of the fund; and
- (b) the activities to which the fund relates; and
- (c) the amount expected to be in the fund at—
  - (i) the commencement of the year; and
  - (ii) the end of the year; and
- (d) the amount expected to be deposited in the fund during that year; and
- (e) the amount expected to be withdrawn from the fund during that year.

**22 Annual plan and amendment of long-term plan**

To avoid doubt, a local authority may prepare and adopt the annual plan at the same time as it amends the long-term plan.



### Part 3

#### Information to be included in annual reports

#### **23 Groups of activities**

An annual report must, in relation to each group of activities of the local authority,—

- (a) identify the activities within the group of activities; and
- (b) identify the community outcomes to which the group of activities primarily contributes; and
- (c) report the results of any measurement undertaken during the year of progress towards the achievement of those outcomes; and
- (d) describe any identified effects that any activity within the group of activities has had on the social, economic, environmental, or cultural well-being of the community.

#### **24 Capital expenditure for groups of activities**

- (1) An annual report must, in relation to each group of activities, include an audited statement comparing the capital expenditure budgeted by the local authority (as set out in the long-term plan or annual plan for the financial year) with the amount spent.
- (2) The statement described in subclause (1) must show separately the amount of funds that the local authority intended to spend and the amount spent to—
  - (a) meet additional demand for a group of activities; and
  - (b) improve the level of performance in relation to a group of activities; and
  - (c) replace existing assets.
- (3) For the purpose of this clause, capital expenditure budgeted for 2 or all of the purposes in subclause (2) must be treated as if it were made solely in relation to the primary purpose of the expenditure.

#### **25 Statement of service provision**

An annual report must include an audited statement that—

Part 3—*continued*

- (a) compares the level of service achieved in relation to a group of activities with the performance target or targets for the group of activities; and
- (b) specifies whether any intended changes to the level of service have been achieved; and
- (c) gives the reasons for any significant variation between the level of service achieved and the intended level of service.

**26 Funding impact statement for groups of activities**

- (1) An annual report must, in relation to each year covered by the plan, include an audited funding impact statement for each group of activities of the local authority.
- (2) The funding impact statement must be in the prescribed form and must—
  - (a) identify—
    - (i) the amount of funds produced from each source of funding; and
    - (ii) how the funds were applied; and
  - (b) compare the information in paragraph (a) with information included in the long-term plan in accordance with clause 5(2).

**27 Internal borrowing**

- (1) This clause applies to borrowing of the type described in paragraph (b)(iii) of the definition of borrowing in section 112 (**internal borrowing**).
- (2) In relation to each group of activities of the local authority, an annual report must include—
  - (a) a statement of the amount of internal borrowing used for the purpose of the group of activities; and
  - (b) the amount of funds borrowed and repaid during the year; and
  - (c) the amount of interest (if any) paid in relation to the internal borrowing.

Part 3—*continued*

**28 Council-controlled organisations**

An annual report must include, in relation to each council-controlled organisation,—

- (a) a report on the extent to which the local authority's significant policies and objectives in regard to ownership and control of the organisation (as set out in the relevant long-term plan or annual plan) have been implemented or attained in the year to which the report relates; and
- (b) a comparison between the nature and scope of the activities intended to be provided by the organisation in the year to which the report relates (as set out in the relevant long-term plan or annual plan) and the nature and scope of the activities actually provided by the organisation in that year; and
- (c) a comparison between actual performance and the key performance targets and other measures set out in the relevant long-term plan or annual plan.

**29 Financial statements**

(1) An annual report must include—

- (a) audited financial statements for the financial year for the local authority; and
- (b) audited consolidated financial statements for the financial year; and
- (c) such other information as is necessary to enable an informed assessment of the operations of each entity reported on; and
- (d) the numerical information from the statements described in paragraphs (a) and (b) for the financial year before the financial year to which the report relates.

(2) The numerical information described in subclause (1)(d) must be presented in a way that allows the public to compare the information with the numerical information contained in the forecast financial statements for the financial year covered by the report.

Part 3—*continued***30 Funding impact statement**

- (1) An annual report must include an audited funding impact statement for the financial year to which the report relates.
- (2) The funding impact statement must be in the prescribed form and must—
  - (a) identify—
    - (i) the amount of funds produced from each source of funding; and
    - (ii) how the funds were applied; and
  - (b) compare the information in paragraph (a) with information included in the annual plan in accordance with clause 20(2).
- (3) The annual report must include the information in subclause (2) for the financial year before the year to which the report relates.

**31 Reserve funds**

An annual report must identify each reserve fund set aside by the local authority and, in relation to each fund, specify for the financial year—

- (a) the purpose of the fund; and
- (b) the activities to which the fund relates; and
- (c) the amounts in the fund at the beginning and end of the financial year; and
- (d) the total amount deposited in the fund; and
- (e) the total amount withdrawn from the fund.

**32 Remuneration issues**

- (1) An annual report must include a report on the remuneration that, in the year to which the report relates, was received by, or payable to, each of the following persons:
  - (a) the mayor or chairperson of the local authority;
  - (b) each of the other members of the local authority;
  - (c) the chief executive of the local authority.

Part 3—*continued*

- (2) The report under subclause (1) must show, in relation to each person specified in that subclause, that person's total remuneration for the year.
- (3) To avoid doubt, subclause (2) applies to the total remuneration (including the value of any non-financial benefits) that, during the year, was paid to the person, or was payable to the person, by the local authority and any council organisation of the local authority.

**33 Severance payments**

- (1) An annual report must state—
  - (a) the amount of any severance payments made in the year to any person who vacated office as the chief executive of the local authority; and
  - (b) the number of employees of the local authority to whom, in the year, severance payments were made; and
  - (c) the amount of every such severance payment.
- (2) In this section, **severance payment** means any consideration that a local authority has agreed to provide to an employee in respect of that employee's agreement to the termination of his or her employment, being consideration, whether of a monetary nature or otherwise, additional to any entitlement of that employee to—
  - (a) any final payment of salary; or
  - (b) any holiday pay; or
  - (c) any superannuation contributions.

**34 Statement of compliance**

- (1) An annual report must include a statement that all statutory requirements in relation to the annual report have been complied with.
- (2) The statement must be signed—
  - (a) by the mayor or chairperson of the local authority; and
  - (b) by the chief executive of the local authority.

Part 3—*continued***35 General**

An annual report must include a report on the activities that the local authority has undertaken in the year to establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority.

## Part 4

Information to be included in pre-election  
report**36 Pre-election report**

- (1) A pre-election report must include,—
- (a) for the 3 financial years immediately preceding the date of the election,—
    - (i) the funding impact statement referred to in clause 30; and
    - (ii) a summary balance sheet based on the financial statements referred to in clause 29(1)(a) that discloses public debt and financial assets separately; and
    - (iii) a statement that compares—
      - (A) rates, rate increases, and borrowing with the quantified limits specified in the financial strategy; and
      - (B) returns on investments with the quantified targets for returns on those investments specified in the financial strategy; and
  - (b) for the 3 financial years immediately following the date of the election,—
    - (i) the information included in the funding impact statement in accordance with clause 15(2)(b) and (c); and
    - (ii) a summary balance sheet based on the forecast financial statements referred to in clause 12(1) that discloses public debt and financial assets separately; and
  - (c) the major projects planned for the 3 financial years immediately following the date of the election.

Part 4—*continued*

- (2) Despite subclause (1)(a), the information to be included in the pre-election report for the financial year ending in the same year as the election in accordance with that subclause may—
  - (a) be based on estimated information; and
  - (b) need not be audited.

**37 Substituted information for small local authorities**

- (1) This clause applies to the pre-election report of a local authority that has an ordinarily resident population of fewer than 20,000 people.
  - (2) For the financial year ending in the same year as the election, the pre-election report must include—
    - (a) the funding impact statement prepared under clause 20(2); and
    - (b) a summary balance sheet based on the forecast financial statements referred to in clause 18 that discloses public debt and financial assets separately; and
    - (c) a statement that compares—
      - (i) rates, rate increases, and borrowing with the quantified limits specified in the financial strategy; and
      - (ii) returns on investments with the quantified targets for returns on those investments specified in the financial strategy.
  - (3) The pre-election report must comply with this clause only if it does not comply with clause 36(1)(a) and (2).
-

**Schedule 11**ss 5(2), 108(4), 109(2),  
110(2)**Matters relating to rates relief on Māori  
freehold land**

- 1 The matters that the local authority must consider under section 108(4) are—
  - (a) the desirability and importance within the district of each of the objectives in clause 2; and
  - (b) whether, and to what extent, the attainment of any of those objectives could be prejudicially affected if there is no remission of rates or postponement of the requirement to pay rates on Māori freehold land; and
  - (c) whether, and to what extent, the attainment of those objectives is likely to be facilitated by the remission of rates or postponement of the requirement to pay rates on Māori freehold land; and
  - (d) the extent to which different criteria and conditions for rates relief may contribute to different objectives.
- 2 The objectives referred to in clause 1 are—
  - (a) supporting the use of the land by the owners for traditional purposes:
  - (b) recognising and supporting the relationship of Māori and their culture and traditions with their ancestral lands:
  - (c) avoiding further alienation of Māori freehold land:
  - (d) facilitating any wish of the owners to develop the land for economic use:
  - (e) recognising and taking account of the presence of waahi tapu that may affect the use of the land for other purposes:
  - (f) recognising and taking account of the importance of the land in providing economic and infrastructure support for marae and associated papakainga housing (whether on the land or elsewhere):
  - (g) recognising and taking account of the importance of the land for community goals relating to—
    - (i) the preservation of the natural character of the coastal environment:



- (ii) the protection of outstanding natural features:
    - (iii) the protection of significant indigenous vegetation and significant habitats of indigenous fauna:
  - (h) recognising the level of community services provided to the land and its occupiers:
  - (i) recognising matters related to the physical accessibility of the land.
-

**Schedule 12**

s 181(3)(b)

**Conditions of constructing or undertaking  
works on private land without the owner's  
consent**

- 1 For the purposes of section 181(3)(b), the requirements are as follows:
  - (a) a description of the works, accompanied by a plan (in the case of any works to be constructed), showing how they affect any land or building, must be deposited for public inspection at a place within the district in which the works are to be undertaken;
  - (b) the territorial authority must give notice in writing of the intention to construct the works (referring to a plan and description of the works and where the plan and description can be viewed)—
    - (i) to the occupier of the land or building unless there is no occupier or, after all reasonable steps have been taken, the occupier cannot be found; and
    - (ii) to the owner if known;
  - (c) however, if there is a change of occupier, it is not necessary to give notice to any subsequent occupier before the work is done;
  - (d) if, within 1 month after the notice is given, the occupier or owner serves on the territorial authority a written objection to the proposed works, the territorial authority must—
    - (i) appoint a day for hearing the objection; and
    - (ii) give to the objector reasonable notice of the day, time, and place of hearing so as to enable the objector to attend the hearing;
  - (e) the territorial authority must hold a meeting on the day appointed, and may, after hearing any person making any objection, if present, determine—
    - (i) to abandon the works proposed; or
    - (ii) to proceed with the works proposed, with or without any alterations that the territorial authority thinks fit.

- 2 A person who is aggrieved by a determination of the territorial authority under clause 1(e) to proceed with the works proposed (with or without alterations) may appeal to a District Court against the determination within 14 days after the date of the determination.
  - 3 Pending the decision of the court on the appeal, the territorial authority must not proceed with the works.
  - 4 On the hearing of the appeal, the court, whose decision is final, may confirm or amend or set aside the determination of the territorial authority.
-

**Schedule 13**

s 197

**Methodology for calculating development contributions****1 Methodology for relating cost of community facilities to units of demand**

In order to calculate the maximum development contribution in respect of a community facility or an activity or group of activities for which a separate development contribution is to be required, a territorial authority must first—

- (a) identify the total cost of the capital expenditure that the local authority expects to incur in respect of the community facility, or activity or group of activities, to meet increased demand resulting from growth within the district, or part of the district, as the case may be; and
- (b) identify the share of that expenditure attributable to each unit of demand, using the units of demand for the community facility or for separate activities or groups of activities, as the case may be, by which the impact of growth has been assessed.

Schedule 13 clause 1(a): amended, on 27 November 2010, by section 49 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

**2 Attribution of units of demand to developments**

For the purpose of determining in accordance with section 203(2) the maximum development contribution that may be required for a particular development or type of development, a territorial authority must demonstrate in its methodology that it has attributed units of demand to particular developments or types of development on a consistent and equitable basis.

---

## **Schedule 14**

ss 213, 215

### **Procedure for making removal orders**

#### **1 Scope of removal order**

If the District Court makes a removal order under section 216, it may—

- (a) order that the fence, structure, or vegetation be removed or altered, or that part of the fence, structure, or vegetation be removed and that part of it be altered;
- (b) order that any thing attached to the fence, structure, or vegetation be removed as a consequence of the removal or alteration ordered under paragraph (a);
- (c) make any consequential order that the court thinks fit;
- (d) without limiting paragraph (c) and subject to any conditions that the court thinks fit, order that entry may be made on to any portion of land adjoining the property to which the order relates for the purposes of enforcing an order in accordance with section 220(2).

Compare: 1974 No 66 s 692ZD(3)

#### **2 Service of removal order**

If a removal order is made under section 216, the Judge may, on application or on his or her own motion, give directions—

- (a) as to the manner in which the order must be served on any person on whom the order must be served under clause 3(a); and
- (b) that the order must be served on any person not referred to in clause 3(a)(i) to (iv) who is likely to be affected by the outcome of the proceedings; and
- (c) as to any other matter relating to service of the order on any person.

Compare: 1974 No 66 s 692ZD(4)

#### **3 Basis for removal order taking effect**

A removal order does not take effect unless—

- (a) a copy of the order is served in accordance with Part 8 of the District Courts Rules 2009 or in accordance with any directions given under clause 2 on—
  - (i) the respondent; and

- (ii) if the respondent is not the owner of the property to which the order relates, the owner of the property; and
- (iii) any mortgagee of the property to which the order relates; and
- (iv) the owner of any property adjoining the property to which the order relates; and
- (v) any person directed by the court to be served under clause 2; and
- (b) either—
  - (i) no objection is made in accordance with section 217(1) by the respondent or by any other person entitled to object to the order under that section; or
  - (ii) if an objection is made, the court, after considering the objection, confirms the order under section 218(1) with or without variation.

Compare: 1974 No 66 s 692ZD(5)

Schedule 14 clause 3(a): amended, on 1 November 2009, pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

#### **4 Circumstances when certain other Acts do not apply**

A removal order may be made under section 216 even if the fence, structure, or vegetation—

- (a) does not contravene a rule in a plan or in a proposed plan to which section 19 of the Resource Management Act 1991 applies; or
- (b) has been constructed or is otherwise in accordance with—
  - (i) a resource consent granted under the Resource Management Act 1991; or
  - (ii) a building consent granted under the Building Act 2004.

Compare: 1974 No 66 s 692ZD(7)

Schedule 14 clause 4(b)(ii): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

#### **5 Evidence of conviction**

- (1) For the purposes of proceedings under subpart 4 of Part 9, proof that a respondent or any other person has been convicted

of an offence by any court in New Zealand is conclusive evidence that that person committed the offence, and the conviction is admissible in evidence.

- (2) A certificate produced as evidence of the fact that a particular person has been convicted of an offence is sufficient evidence, unless the contrary is proved, without proof of the signature or official character of the person appearing to have signed it, if—
- (a) it contains the substance of a conviction; and
  - (b) it purports to be signed by the Registrar or other officer having the custody of the records of the court in which the offender was convicted; and
  - (c) the name of the offender stated in the certificate is the name of the person in respect of whom the applicant seeks to prove the conviction.
- (3) The method of proving a previous conviction authorised by subclause (2) is in addition to, and not to the exclusion of, any other method of proof authorised by another enactment or rule of law.

Compare: 1974 No 66 s 692ZE

## **6 Form of removal order**

- (1) Subject to subclause (2), a removal order must be in the form prescribed in Part 8 of the District Courts Rules 2009.
- (2) If an objection is lodged under section 217(1) and the removal order is subsequently confirmed with or without variation, the Registrar must, without delay, issue a copy of the confirmed order with the date specified by the court in accordance with clause 8(2) as the date by which compliance is required.

Compare: 1974 No 66 s 692ZF

Schedule 14 clause 6(1): amended, on 1 November 2009, pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

## **7 Notice of objection to removal order**

- (1) A notice of objection under section 217(1) must—
- (a) be in the form prescribed in Part 8 of the District Courts Rules 2009; and
  - (b) be lodged with the court and served on the applicant and, if the objector is not the respondent, the respondent.

ent, within 15 working days from the date on which the removal order was served on the objector, or within any further time that the court allows.

- (2) Subject to subclause (4), the Registrar must assign a date for an oral hearing of any objection as soon as practicable if the respondent or, if the respondent is not the owner of the property to which the order relates, the owner of the property—
  - (a) objects to the making of the order; and
  - (b) notifies the court that he or she wishes to be heard in person or to be represented by his or her lawyer.
- (3) If a person described in clause 3(a)(iii), (iv), or (v) objects to the making of the order and notifies the court that he or she wishes to be heard in person or to be represented by his or her lawyer, the court may,—
  - (a) if the court is satisfied that there should be an oral hearing, assign a date for the hearing of the objection, which date, subject to subclause (4), must be as soon as practicable; or
  - (b) if the court thinks fit, decide the objection without holding an oral hearing.
- (4) If an oral hearing is to be held in accordance with subclause (2), or if the court decides under subclause (3) that there should be an oral hearing, the court may assign a date for the objections to be heard together.

Compare: 1974 No 66 s 692ZG(2)–(5)

Schedule 14 clause 7(1)(a): amended, on 1 November 2009, pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

## **8 Consideration of objections by court**

- (1) Before the court exercises its power under section 218(1), the court must, as it thinks fit, give an opportunity to be heard, either orally or in writing, to—
  - (a) the applicant; and
  - (b) any other person entitled to object under section 217(1).
- (2) If the court confirms or varies an order under section 218(1), the court must specify the date by which the respondent must comply with the order.

Compare: 1974 No 66 s 692ZI(2), (3)



## Schedule 15 Powers of Minister

ss 254, 258

### Part 1

#### Ministerial reviews of local authorities

##### 1 Interpretation

In this Part, unless the context otherwise requires, **review authority** means a review authority appointed under section 254.

Compare: 1974 No 66 s 692L

#### Review authorities

##### 2 Requirement to consult

- (1) The Minister must, before appointing a review authority, give to the persons specified in subsection (2) a written notice specifying the reasons why the Minister considers a review is or may be required and the particular matters the Minister considers should be reviewed.
- (2) The persons are—
  - (a) the local authority to which the review would relate; and
  - (b) the New Zealand Local Government Association Incorporated; and
  - (c) the New Zealand Society of Local Government Managers Incorporated.
- (3) The notice must invite the local authority to give to the Minister, within the period (being not less than 20 working days after the date of the notice) specified in the notice, any written comments that the local authority wishes to make about—
  - (a) the need for the review and the particular matters proposed to be reviewed; and
  - (b) any steps that the local authority is taking, or is intending to take, that may remove the need for a review.
- (4) The notice must invite also the New Zealand Local Government Association Incorporated and the New Zealand Society of Local Government Managers Incorporated to give to the Minister, within the period (being not less than 20 working days after the date of the notice) specified in the notice, any written comments that the Association or the Society wishes

Part 1—*continued*

to make about the need for a review and the particular matters proposed to be reviewed.

- (5) If any matter proposed to be reviewed under this schedule is likely to be of concern to another Minister or the Auditor-General, the Minister must seek from the other Minister or the Auditor-General his or her comments on the need for a review and on the particular matters proposed to be reviewed.

Compare: 1974 No 66 s 692N

**3 Decision in relation to reviews**

- (1) The Minister, after considering any comments received under clause 2, may decide—
- (a) that the review, as originally proposed, should proceed; or
  - (b) that the review should proceed in relation to matters different from those originally proposed; or
  - (c) that the review should proceed in relation to both the matters originally proposed and matters different from those originally proposed; or
  - (d) that the review should not proceed.
- (2) The Minister, on making a decision under subclause (1), must give written notice of the decision to the persons whose comments were sought under clause 2.

Compare: 1974 No 66 s 692O

**4 Appointment of review authority**

The Minister may appoint 1 or more of the following persons to be a review authority to carry out a review in accordance with this schedule:

- (a) the Secretary;
- (b) the Local Government Commission;
- (c) 1 or more persons nominated by the New Zealand Local Government Association Incorporated;
- (d) 1 or more persons nominated by the New Zealand Society of Local Government Managers Incorporated;
- (e) 1 or more persons with relevant expertise.

Compare: 1974 No 66 s 692P

Part 1—*continued*

**5 Notice of review to be published in *Gazette***

- (1) If the Minister appoints a review authority, the Minister must immediately publish in the *Gazette* notice of the appointment.
- (2) The notice must include—
  - (a) the names of the person or persons appointed to be a review authority; and
  - (b) the particular matters to be reviewed; and
  - (c) the date by which the report of the review authority is to be submitted to the Minister.

Compare: 1974 No 66 s 692Q

**6 Remuneration**

The Minister may provide for the payment to a person appointed under clause 4(c), (d), or (e) of the fees that the Minister thinks fit, and may reimburse the person for expenses reasonably incurred in the course of a review.

Compare: 1974 No 66 s 692R

**7 Status of review authority as Commission of Inquiry**

A review authority is a Commission of Inquiry under the Commissions of Inquiry Act 1908, and the provisions of that Act (except sections 2 and 11 to 15), as far as they are applicable, apply accordingly.

Compare: 1974 No 66 ss 692M, 692S

**8 Reports of review authority**

- (1) In the course of carrying out a review, a review authority may—
  - (a) submit more than 1 report to the Minister;
  - (b) request the Minister to amend the particular matters to be reviewed;
  - (c) request the Minister to alter the date by which the review authority is required to report to the Minister.
- (2) A report by a review authority must be made to the Minister and may contain any recommendations that the review authority thinks fit, including a recommendation that the Minister—

Part 1—*continued*

- (a) appoint, under clause 14, a commission to act in place of the local authority; or
- (b) call, under section 255(1)(b), a general election of the local authority.

**9 Action on receipt of report**

- (1) The Minister must, on receiving a report of a review authority, refer a copy of the report to each of the persons from whom comments were invited under clause 2.
- (2) A person to whom a copy of a report is referred may, within 20 working days after receiving the copy, give to the Minister the person's written comments on the findings and recommendations of the report.

Compare: 1974 No 66 s 692T

**10 Publication of report**

- (1) The Minister must publish every report by a review authority.
- (2) However, if the withholding of information contained in a report by a review authority is necessary for any of the reasons specified in section 6 or section 7 of the Local Government Official Information and Meetings Act 1987, the Minister must not publish, as the case may require, the report or the part of the report that contains the information.

Compare: 1974 No 66 s 692ZB

## Implementation of recommendations

**11 Minister may require local authority to implement recommendations**

- (1) This section applies if the Minister, after considering a report of a review authority, any comments received under clause 9, and any other matters that the Minister considers relevant, considers that any action, omission, or practice on the part of the local authority that was a subject of the review requires rectification or alteration.
- (2) The Minister may, by written notice given to the local authority,—

Part 1—*continued*

- (a) require the local authority to implement any of the recommendations in the report relating to the action, omission, or practice; and
  - (b) specify the date by which the requirement is to be implemented (being a date not less than 20 working days after the date of the notice).
- (3) The Minister must, before giving the notice, first obtain the views of the local authority both on the practicability of implementing the recommendations and on the time within which they may reasonably be expected to be implemented.
- (4) As soon as practicable after a notice is given under subclause (1), a copy of the notice must be published in the *Gazette* and publicly notified in the district or region of the local authority.  
Compare: 1974 No 66 s 692U

**12 Minister's powers if local authority fails to implement recommendations**

- (1) This section applies if, by the date specified in a notice given under clause 11 (or any later date that may be subsequently determined by the Minister), any requirement specified in the notice has not been implemented by the local authority to the satisfaction of the Minister.
- (2) The Minister may—
  - (a) appoint a person to assist the local authority to implement the requirement to the Minister's satisfaction; or
  - (b) appoint 1 or more persons (including any officer of the Public Service) to exercise or perform all or any of the functions, responsibilities, duties, and powers of the local authority to the extent necessary to provide that the recommendations of the report are implemented.
- (3) A person appointed under subclause (2)(b) may exercise the functions, responsibilities, duties, and powers of a local authority as if the person were the local authority.
- (4) All costs, charges, and expenses incurred by the Minister under subclause (2), or by a person appointed by the Minister under subclause (2), in assisting the local authority, or exercising or performing the functions, responsibilities, duties,

Part 1—*continued*

and powers of a local authority, are recoverable from the local authority as a debt due to the Crown or may be deducted from any money payable to the local authority by the Crown.

Compare: 1974 No 66 s 692V

**13 Role of person appointed under clause 12(2)(a)**

A person appointed under clause 12(2)(a)—

- (a) must assist the local authority to implement any requirement under clause 11(2) to the satisfaction of the Minister; and
- (b) must report, from time to time, to the Minister on the local authority's progress in implementing the requirement; and
- (c) if the local authority is not, in the person's opinion, making satisfactory progress in implementing the requirement, may recommend to the Minister at any time that the Minister appoint a commission under clause 14.

**14 Minister may appoint commission or call general election**

- (1) The Minister may, by notice in the *Gazette*, on the recommendation of a review authority and after considering any comments received under clause 9, or on the recommendation of a person under clause 13,—

- (a) appoint a commission with power to act, within the scope of its authority, in place of the local authority; or
- (b) call a general election of the local authority in accordance with section 255; or
- (c) both.

- (2) The Minister must send to the local authority a copy of a notice published under subclause (1).

Compare: 1974 No 66 s 692W

**15 Additional provisions if general election called**

- (1) This section applies if a general election of a local authority is called under section 255 or clause 14.
- (2) The *Gazette* notice must specify the date on which the general election is to be held.

Part 1—*continued*

- (3) If a general election is called but a Commissioner or commission is not appointed, the electoral officer of the local authority must, within 7 days after the *Gazette* notice, give notice of the election under section 52 of the Local Electoral Act 2001.
- (4) If a general election is called and a Commissioner or commission is appointed, the electoral officer of the local authority must initiate the process for the election under the Local Electoral Act 2001 within a time that will enable the elected members of the local authority to take office at the end of the Commissioner's or commission's appointment.
- (5) The Minister may, by notice in the *Gazette*, postpone or cancel the next triennial general election of members of the local authority if the date specified under subclause (2) would occur—
  - (a) within 12 months before the triennial general election; or
  - (b) if a Commissioner or commission is appointed, during the term of appointment of the Commissioner or commission.

Commissions

**16 Membership of commission**

- (1) A commission appointed under clause 14 must consist of 1 or more suitable persons appointed by the Minister.
- (2) If a commission consists of 2 or more members, 1 of the members must be appointed by the Minister to be the chairperson of the commission.
- (3) A person appointed as a commission or as a member of a commission under clause 14 holds office during the pleasure of the Minister.
- (4) On the vacation of office by any person appointed as a commission or as a member of a commission, whether by death, resignation, or otherwise, the Minister may appoint a suitable person in his or her place.

Compare: 1974 No 66 s 692X

Part 1—*continued***17 Powers of commission**

- (1) The following provisions apply subject to the notice appointing a commission or to a subsequent *Gazette* notice by the Minister:
  - (a) a commission appointed under clause 14 has and may exercise, to the exclusion of the local authority, all the functions, responsibilities, duties, and powers of the local authority:
  - (b) any functions, responsibilities, duties, and powers conferred by any Act or otherwise on the mayor, chairperson, or any other member or members of the local authority, whether solely or in conjunction with any other person or persons, may be performed or exercised by the commission if the commission consists of a single person and, in any other case, may be performed or exercised by the chairperson of the commission:
  - (c) without limiting paragraphs (a) and (b), cheques drawn on any account held by the local authority at any bank that are required to be countersigned by a member or officer of the local authority are sufficiently countersigned if countersigned by the commission or by the chairperson of the commission, as the case may be.
- (2) *[Repealed]*
- (3) In exercising any power in accordance with subclause (2), the commission must comply, as near as is reasonably practicable in the circumstances, with the requirements relating to public notice that the local authority would have had to comply with if the power had been exercised by the special consultative procedure, or to make the bylaw.
- (4) Without limiting subclause (1), the commission may exercise all the powers of the local authority to set, assess, and collect rates and charges within the district or region and expend the proceeds of the rates and charges.
- (5) Any document that is required to be executed under the seal of the local authority may be executed under the seal and verified by the signature of the person holding office as the commis-



Part 1—*continued*

sion or as the chairperson of the commission, as the case may require.

Compare: 1974 No 66 s 692Y

Schedule 15 clause 17(1)(b): amended, on 7 July 2004, by section 28(1) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 15 clause 17(2): repealed, on 7 July 2004, by section 28(2) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 15 clause 17(4): amended, on 7 July 2004, by section 28(3) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

**18 General provisions relating to commission**

- (1) While a commission appointed under clause 14 is in office, all acts done by the commission in the purported exercise of the powers of the local authority concerned, whether the powers have been expressly included in the powers of the commission or not, are, except in the case of fraud, as valid as if a commission had not been appointed and the acts had been done by the local authority in the ordinary course of the conduct of its business.
- (2) No person appointed as a commission or as a member of a commission under clause 14 is liable for any act done or omitted to be done by him or her in good faith in the performance or intended performance of his or her functions, responsibilities, duties, or powers as a commission or as a member of a commission.
- (3) A person appointed as a commission or as a member of a commission under clause 14 must be paid remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly as if the commission were a statutory Board within the meaning of that Act.
- (4) All expenditure incurred by the commission in carrying out its functions under this Act or any other Act, including the remuneration and travelling allowances and expenses of the commission, are to be paid out of money belonging to the local authority.

Part 1—*continued*

- (5) This clause does not exclude or affect any other remedy available against a local authority, the members of the local authority, or any other person in respect of any illegal act or omission done or intended to be done by the local authority or the members of the local authority or any other person.

Compare: 1974 No 66 s 692Z

**19 Members not to act while commission in office**

While a commission is in office, neither the chairperson of the local authority nor any member of the local authority may exercise or purport to exercise any power, right, or entitlement, or perform or purport to perform any function or duty conferred or imposed on it or him or her in that capacity by this or any other Act, or by any instrument or otherwise, and is not entitled to be paid in that capacity any salary, allowances, or expenses under this Act.

Compare: 1974 No 66 s 692ZA

## Part 2

## Commissioners for Disaster Recovery

**20 Interpretation**

In this Part, unless the context otherwise requires,—

**Commissioner** means a Commissioner for Disaster Recovery appointed under section 258(1)

**Deputy Commissioner** means a Deputy Commissioner for Disaster Recovery appointed under section 258(2).

Compare: 1974 No 66 s 692A

**21 Area of appointment**

A Commissioner or Deputy Commissioner may be appointed in respect of 1 or more districts or regions of 1 or more local authorities.

**22 Term of appointment**

- (1) A Commissioner or Deputy Commissioner holds office for—  
(a) 3 months; or

Part 2—*continued*

- (b) any shorter period specified in the notice of appointment.
- (2) A Commissioner or Deputy Commissioner may be reappointed from time to time.
- (3) A Commissioner or Deputy Commissioner may be removed from office at any time by the Minister for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may resign his or her office by notice in writing to the Minister.

Compare: 1974 No 66 s 692B(2), (3)

**23 Function of Commissioner**

The function of a Commissioner is—

- (a) to restore local government administration and the services and amenities provided by the local authority or local authorities over whose district or districts or region or regions the Commissioner has been appointed; and
- (b) to perform any other functions conferred on the Commissioner by this or any other Act.

Compare: 1974 No 66 s 692D

**24 Commissioner to exercise and perform powers, functions, responsibilities, and duties of local authority**

- (1) The Commissioner, in the name and on behalf of the local authority, may exercise any power and must perform all the functions and duties conferred or imposed on the local authority by this or any other Act, or by any instrument or otherwise.
- (2) Any powers, functions, responsibilities, or duties conferred by any Act or otherwise on the mayor, chairperson, or on any other member or members of the local authority, whether solely or in conjunction with any other person or persons, may be exercised and performed by the Commissioner.
- (3) The Commissioner is, in the name and on behalf of the local authority, mayor, chairperson, or any other member or members of the local authority, as the case may require, entitled to

Part 2—*continued*

exercise all the rights and entitlements conferred in any manner on the local authority, mayor, chairperson, or any member or members of the local authority in his, her, or their capacity as chairperson or member or members of the local authority.

- (4) *[Repealed]*
- (5) In exercising any power in accordance with subclause (4), the Commissioner must comply, as near as is reasonably practicable in the circumstances, with the requirements relating to public notice that the local authority would have had to comply with had it used the special consultative procedure or made a bylaw.
- (6) Without limiting the powers conferred on a Commissioner by subclause (1), the Commissioner may exercise all the powers of the local authority to set, assess, and collect rates and charges within the district or region and expend the proceeds of the rates and charges.
- (7) Any document that is required to be executed under the seal of the local authority may be executed under the seal and verified by the signature of the Commissioner.

Compare: 1974 No 66 s 692E

Schedule 15 clause 24(4): repealed, on 7 July 2004, by section 28(4) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 15 clause 24(5): amended, on 7 July 2004, by section 28(5) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

Schedule 15 clause 24(6): amended, on 7 July 2004, by section 28(6) of the Local Government Act 2002 Amendment Act 2004 (2004 No 63).

## **25 Powers, functions, responsibilities, and duties of Deputy Commissioner**

A Deputy Commissioner has the powers, functions, responsibilities, and duties of the Commissioner conferred on him or her by the Minister, and any other powers that may be delegated to the Deputy Commissioner by the Commissioner, or conferred on him or her by this or any other Act.

Compare: 1974 No 66 s 692F

Part 2—*continued*

**26 Local authority and members not to act while Commissioner in office**

While a Commissioner is in office, the local authority, the mayor or chairperson of the local authority, and any member of the local authority may not exercise or purport to exercise any power, right, or entitlement, or perform or purport to perform any function or duty conferred or imposed on him or her in that capacity by this or any other Act, or by any instrument or otherwise.

Compare: 1974 No 66 s 692H

**27 Appointment and function of advisory committee**

(1) As soon as practicable after taking office, the Commissioner must appoint—

- (a) 1 or more advisory committees whose members must all be members of the local authority or local authorities whose powers, functions, responsibilities, and duties the Commissioner has been appointed to exercise and perform; and
- (b) such officers of the local authority or local authorities as the Commissioner thinks fit.

(2) The function of an advisory committee is to advise the Commissioner on any matter relating to the exercise of the Commissioner's powers, rights, or entitlements or the performance of the Commissioner's functions or duties.

Compare: 1974 No 66 s 692I

**28 Advances and guarantees of advances to Commissioner**

(1) The Minister of Finance may advance to the Commissioner on behalf of the local authority out of public money, without further appropriation than this clause, such funds as the Minister thinks fit to enable the Commissioner to exercise his or her powers and perform his or her functions and duties.

(2) The Minister of Finance may, from time to time, on behalf of the Crown, give in respect of any advances made to the

Part 2—*continued*

Commissioner on behalf of the local authority a guarantee, indemnity, or security under the Public Finance Act 1989.

Compare: 1974 No 66 s 692J

**29 Remuneration and expenses**

- (1) All expenditure incurred by a Commissioner or Deputy Commissioner in exercising his or her powers and performing his or her functions under this Act or any other enactment, and the remuneration, allowances, and expenses of the Commissioner, Deputy Commissioner, and members of the advisory committee are to be paid out of the funds of the local authority.
- (2) If a Commissioner or Deputy Commissioner has been appointed in respect of more than 1 local authority, the expenditure, remuneration, allowances, and expenses referred to in subclause (1) must be apportioned between the local authorities in the manner determined by the Commissioner.
- (3) There must be paid to a Commissioner, Deputy Commissioner, and every member of the advisory committee appointed under clause 27 who is not an officer of the local authority or local authorities over whose district or districts the Commissioner has been appointed—
  - (a) remuneration by way of salary, fees, and allowances that may be fixed from time to time by the Minister with the concurrence of the Minister of Finance; and
  - (b) travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly as if those persons were members of a statutory Board within the meaning of that Act.

Compare: 1974 No 66 s 692K

**30 Status of Commissioner and Deputy Commissioner for Disaster Recovery**

No person is to be treated as being employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 because he or

Part 2—*continued*

she is appointed as a Commissioner for Disaster Recovery or Deputy Commissioner for Disaster Recovery.

Compare: 1974 No 66 s 692B(5)

**31 Liability of Commissioner and Deputy Commissioner for Disaster Recovery**

No person is liable for any act done or omitted to be done by him or her in good faith in the performance or intended performance of his or her functions, duties, or powers as a Commissioner for Disaster Recovery or a Deputy Commissioner for Disaster Recovery.

Compare: 1974 No 66 s 692G

---

## **Schedule 16**

### **Consequential amendments**

s 262

**Administration Act 1969 (1969 No 52)***Amendment(s) incorporated in the Act(s).***Airport Authorities Act 1966 (1966 No 51)***Amendment(s) incorporated in the Act(s).***Animal Welfare Act 1999 (1992 No 142)***Amendment(s) incorporated in the Act(s).***Arts Council of New Zealand Toi Aotearoa Act 1994 (1994 No 19)***Amendment(s) incorporated in the Act(s).***Auckland Airport Act 1987 (1987 No 195)***Amendment(s) incorporated in the Act(s).***Auctioneers Act 1928 (1928 No 29)***Amendment(s) incorporated in the Act(s).***Biosecurity Act 1993 (1993 No 95)***Amendment(s) incorporated in the Act(s).***Building Act 1991 (1991 No 150)***Amendment(s) incorporated in the Act(s).***Building Research Levy Act 1969 (1969 No 23)***Amendment(s) incorporated in the Act(s).***Burial and Cremation Act 1964 (1964 No 75)***Amendment(s) incorporated in the Act(s).***Bylaws Act 1910 (1910 No 28)***Amendment(s) incorporated in the Act(s).*



**Canterbury Museum Trust Board Act 1993 (1993 No 4 (L))**

*Amendment(s) incorporated in the Act(s).*

**Carter Observatory Act 1938 (1938 No 9)**

*Amendment(s) incorporated in the Act(s).*

**Chatham Islands Council Act 1995 (1995 No 41)**

*Amendment(s) incorporated in the Act(s).*

**Children, Young Persons, and Their Families Act 1989 (1989 No 24)**

*Amendment(s) incorporated in the Act(s).*

**Civil Defence Emergency Management Act 2002 (2002 No 33)**

*Amendment(s) incorporated in the Act(s).*

**Climate Change Response Act 2002 (2002 No 40)**

*Amendment(s) incorporated in the Act(s).*

**Conservation Act 1987 (1987 No 65)**

*Amendment(s) incorporated in the Act(s).*

**Credit Contracts Act 1981 (1981 No 27)**

*Amendment(s) incorporated in the Act(s).*

**Dairy Industry Act 1952 (1952 No 55)**

*Amendment(s) incorporated in the Act(s).*

**Disabled Persons Community Welfare Act 1975 (1975 No 122)**

*Amendment(s) incorporated in the Act(s).*

**Dog Control Act 1996 (1996 No 13)**

*Amendment(s) incorporated in the Act(s).*

**Education Act 1989 (1989 No 80)**

*Amendment(s) incorporated in the Act(s).*

**Electricity Act 1992 (1992 No 122)***Amendment(s) incorporated in the Act(s).***Ellesmere Lands Drainage Act 1905 (1905 No 59)***Amendment(s) incorporated in the Act(s).***Energy Companies Act 1992 (1992 No 56)***Amendment(s) incorporated in the Act(s).***Environment Act 1986 (1986 No 127)***Amendment(s) incorporated in the Act(s).***Estate and Gift Duties Act 1968 (1968 No 35)***Amendment(s) incorporated in the Act(s).***Fees and Travelling Allowances Act 1951 (1951 No 79)***Amendment(s) incorporated in the Act(s).***Fencing Act 1978 (1978 No 50)***Amendment(s) incorporated in the Act(s).***Fencing of Swimming Pools Act 1987 (1987 No 178)***Amendment(s) incorporated in the Act(s).***Finance Act (No 2) 1941 (1941 No 27)***Amendment(s) incorporated in the Act(s).***Finance Act (No 2) 1945 (1945 No 45)***Amendment(s) incorporated in the Act(s).***Finance Act (No 2) 1947 (1947 No 45)***Amendment(s) incorporated in the Act(s).***Finance Act (No 2) 1948 (1948 No 78)***Amendment(s) incorporated in the Act(s).*

**Finance Act 1969 (1969 No 132)**

*Amendment(s) incorporated in the Act(s).*

**Finance Act 1977 (1977 No 75)**

*Amendment(s) incorporated in the Act(s).*

**Finance Act 1978 (1978 No 56)**

*Amendment(s) incorporated in the Act(s).*

**Financial Reporting Act 1993 (1993 No 106)**

*Amendment(s) incorporated in the Act(s).*

**Fire Service Act 1975 (1975 No 42)**

*Amendment(s) incorporated in the Act(s).*

**Food Act 1981 (1981 No 45)**

*Amendment(s) incorporated in the Act(s).*

**Forest and Rural Fires Act 1977 (1977 No 52)**

*Amendment(s) incorporated in the Act(s).*

**Forestry Encouragement Act 1962 (1962 No 20)**

*Amendment(s) incorporated in the Act(s).*

**Gaming and Lotteries Act 1977 (1977 No 84)**

*Amendment(s) incorporated in the Act(s).*

**Gas Act 1992 (1992 No 124)**

*Amendment(s) incorporated in the Act(s).*

**Geographical Indications Act 1994 (1994 No 125)**

*Amendment(s) incorporated in the Act(s).*

**Goods and Services Tax Act 1985 (1985 No 141)**

*Amendment(s) incorporated in the Act(s).*

**Greytown District Trust Lands Act 1979 (1979 No 4 (L))***Amendment(s) incorporated in the Act(s).***Harbour Boards Dry Land Endowment Revesting Act 1991 (1991 No 104)***Amendment(s) incorporated in the Act(s).***Hauraki Gulf Marine Park Act 2000 (2000 No 1)***Amendment(s) incorporated in the Act(s).***Hawke's Bay Endowment Land Empowering Act 2002 (2002 No 1 (L))***Amendment(s) incorporated in the Act(s).***Hazardous Substances and New Organisms Act 1996 (1996 No 30)***Amendment(s) incorporated in the Act(s).***Health Act 1956 (1956 No 65)***Amendment(s) incorporated in the Act(s).***Health Research Council Act 1990 (1990 No 68)***Amendment(s) incorporated in the Act(s).***Historic Places Act 1993 (1993 No 38)***Amendment(s) incorporated in the Act(s).***Housing Act 1955 (1955 No 51)***Amendment(s) incorporated in the Act(s).***Housing Assets Transfer Act 1993 (1993 No 50)***Amendment(s) incorporated in the Act(s).***Housing Corporation Act 1974 (1974 No 19)***Amendment(s) incorporated in the Act(s).*

**Howard Estate Act 1978 (1978 No 74)**

*Amendment(s) incorporated in the Act(s).*

**Impounding Act 1955 (1955 No 108)**

*Amendment(s) incorporated in the Act(s).*

**Income Tax Act 1994 (1994 No 164)**

*Amendment(s) incorporated in the Act(s).*

**Insolvency Act 1967 (1967 No 54)**

*Amendment(s) incorporated in the Act(s).*

**Insurance Companies' Deposits Act 1953 (1953 No 50)**

*Amendment(s) incorporated in the Act(s).*

**Joint Family Homes Act 1964 (1964 No 45)**

*Amendment(s) incorporated in the Act(s).*

**Land Act 1948 (1948 No 64)**

*Amendment(s) incorporated in the Act(s).*

**Land Drainage Act 1908 (1908 No 96)**

*Amendment(s) incorporated in the Act(s).*

**Land Drainage Amendment Act 1920 (1920 No 56)**

*Amendment(s) incorporated in the Act(s).*

**Land Transfer Act 1952 (1952 No 52)**

*Amendment(s) incorporated in the Act(s).*

**Land Transfer Amendment Act 1963 (1963 No 61)**

*Amendment(s) incorporated in the Act(s).*

**Land Transport Act 1998 (1998 No 110)**

*Amendment(s) incorporated in the Act(s).*

**Life Insurance Act 1908 (1908 No 105)***Amendment(s) incorporated in the Act(s).***Litter Act 1979 (1979 No 41)***Amendment(s) incorporated in the Act(s).***Local Authorities (Members' Interests) Act 1968 (1968 No 147)***Amendment(s) incorporated in the Act(s).***Local Electoral Act 2001 (2001 No 35)***Amendment(s) incorporated in the Act(s).***Local Government Act 1974 (1974 No 66)***Amendment(s) incorporated in the Act(s).***Local Government Official Information and Meetings Act 1987  
(1987 No 174)***Amendment(s) incorporated in the Act(s).***Local Government (Rating) Act 2002 (2002 No 6)***Amendment(s) incorporated in the Act(s).***Machinery Act 1950 (1950 No 52)***Amendment(s) incorporated in the Act(s).***Marine Farming Act 1971 (1971 No 29)***Amendment(s) incorporated in the Act(s).***Marine Mammals Protection Act 1978 (1978 No 80)***Amendment(s) incorporated in the Act(s).***Marine Reserves Act 1971 (1971 No 15)***Amendment(s) incorporated in the Act(s).***Maritime Transport Act 1994 (1994 No 104)***Amendment(s) incorporated in the Act(s).*

**Masterton Trust Lands Act 1966 (1966 No 27 (L))**

*Amendment(s) incorporated in the Act(s).*

**Mining Tenures Registration Act 1962 (1962 No 48)**

*Amendment(s) incorporated in the Act(s).*

**Municipal Insurance Act 1960 (1960 No 29)**

*Amendment(s) incorporated in the Act(s).*

**Museum of New Zealand Te Papa Tongarewa Act 1992 (1992 No 19)**

*Amendment(s) incorporated in the Act(s).*

**Mutual Insurance Act 1955 (1955 No 23)**

*Amendment(s) incorporated in the Act(s).*

**Napier Borough Endowments Act 1876 (1876 No 79)**

*Amendment(s) incorporated in the Act(s).*

**National Parks Act 1980 (1980 No 66)**

*Amendment(s) incorporated in the Act(s).*

**National Provident Fund Restructuring Act 1990 (1990 No 126)**

*Amendment(s) incorporated in the Act(s).*

**New Zealand Film Commission Act 1978 (1978 No 61)**

*Amendment(s) incorporated in the Act(s).*

**New Zealand Geographic Board Act 1946 (1946 No 3)**

*Amendment(s) incorporated in the Act(s).*

**New Zealand Maori Arts and Crafts Institute Act 1963 (1963 No 51)**

*Amendment(s) incorporated in the Act(s).*

**New Zealand Public Health and Disability Act 2000 (2000 No 91)**

*Amendment(s) incorporated in the Act(s).*

**New Zealand Railways Corporation Act 1981 (1981 No 119)***Amendment(s) incorporated in the Act(s).***New Zealand Railways Corporation Restructuring Act 1990  
(1990 No 105)***Amendment(s) incorporated in the Act(s).***New Zealand Walkways Act 1990 (1990 No 32)***Amendment(s) incorporated in the Act(s).***Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship  
Fund Act 1945 (1945 No 33)***Amendment(s) incorporated in the Act(s).***Oaths and Declarations Act 1957 (1957 No 88)***Amendment(s) incorporated in the Act(s).***Ombudsmen Act 1975 (1975 No 9)***Amendment(s) incorporated in the Act(s).***Otago Museum Trust Board Act 1996 (1996 No 1 (L))***Amendment(s) incorporated in the Act(s).***Pacific Islands Polynesian Education Foundation Act 1972  
(1972 No 138)***Amendment(s) incorporated in the Act(s).***Patriotic and Canteen Funds Act 1947 (1947 No 63)***Amendment(s) incorporated in the Act(s).***Pawnbrokers Act 1908 (1908 No 141)***Amendment(s) incorporated in the Act(s).***Personal Property Securities Act 1999 (1999 No 126)***Amendment(s) incorporated in the Act(s).*



**Petroleum Demand Restraint Act 1981 (1981 No 12)**

*Amendment(s) incorporated in the Act(s).*

**Plumbers, Gasfitters, and Drainlayers Act 1976 (1976 No 69)**

*Amendment(s) incorporated in the Act(s).*

**Port Companies Act 1988 (1988 No 91)**

*Amendment(s) incorporated in the Act(s).*

**Privacy Act 1993 (1993 No 28)**

*Amendment(s) incorporated in the Act(s).*

**Property Law Act 1952 (1952 No 51)**

*Amendment(s) incorporated in the Act(s).*

**Protected Disclosures Act 2000 (2000 No 7)**

*Amendment(s) incorporated in the Act(s).*

**Public Audit Act 2001 (2001 No 10)**

*Amendment(s) incorporated in the Act(s).*

**Public Bodies Contracts Act 1959 (1959 No 98)**

*Amendment(s) incorporated in the Act(s).*

**Public Bodies Leases Act 1969 (1969 No 141)**

*Amendment(s) incorporated in the Act(s).*

**Public Finance Act 1989 (1989 No 44)**

*Amendment(s) incorporated in the Act(s).*

**Public Trust Act 2001 (2001 No 100)**

*Amendment(s) incorporated in the Act(s).*

**Public Works Act 1928 (1928 No 21)**

*Amendment(s) incorporated in the Act(s).*

**Public Works Act 1981 (1981 No 35)***Amendment(s) incorporated in the Act(s).***Queen Elizabeth the Second National Trust Act 1977 (1977 No 102)***Amendment(s) incorporated in the Act(s).***Rates Rebate Act 1973 (1973 No 5)***Amendment(s) incorporated in the Act(s).***Rating Valuations Act 1998 (1998 No 69)***Amendment(s) incorporated in the Act(s).***Receiverships Act 1993 (1993 No 122)***Amendment(s) incorporated in the Act(s).***Reserves Act 1977 (1977 No 66)***Amendment(s) incorporated in the Act(s).***Resource Management Act 1991 (1991 No 69)***Amendment(s) incorporated in the Act(s).***River Boards Act 1908 (1908 No 165)***Amendment(s) incorporated in the Act(s).***River Boards Amendment Act 1910 (1910 No 23)***Amendment(s) incorporated in the Act(s).***Sale of Liquor Act 1989 (1989 No 63)***Amendment(s) incorporated in the Act(s).***Securities Act 1978 (1978 No 103)***Amendment(s) incorporated in the Act(s).***Securities Transfer Act 1991 (1991 No 119)***Amendment(s) incorporated in the Act(s).*

**Smoke-free Environments Act 1990 (1990 No 108)**

*Amendment(s) incorporated in the Act(s).*

**Soil Conservation and Rivers Control Act 1941 (1941 No 12)**

*Amendment(s) incorporated in the Act(s).*

**Sports, Fitness, and Leisure Act 1987 (1987 No 13)**

*Amendment(s) incorporated in the Act(s).*

**State-Owned Enterprises Act 1986 (1986 No 124)**

*Amendment(s) incorporated in the Act(s).*

**Statistics Act 1975 (1975 No 1)**

*Amendment(s) incorporated in the Act(s).*

**Taupiri Drainage and River District Act 1929 (1929 No 23)**

*Amendment(s) incorporated in the Act(s).*

**Te Ture Whenua Maori Act 1993 (1993 No 4)**

*Amendment(s) incorporated in the Act(s).*

**Telecommunications Act 2001 (2001 No 103)**

*Amendment(s) incorporated in the Act(s).*

**Transit New Zealand Act 1989 (1989 No 75)**

*Amendment(s) incorporated in the Act(s).*

**Transport Act 1962 (1962 No 135)**

*Amendment(s) incorporated in the Act(s).*

**Transport Services Licensing Act 1989 (1989 No 74)**

*Amendment(s) incorporated in the Act(s).*

**Unit Titles Act 1972 (1972 No 15)**

*Amendment(s) incorporated in the Act(s).*

**Unit Titles Amendment Act 1979 (1979 No 37)***Amendment(s) incorporated in the Act(s).***Wages Protection Act 1983 (1983 No 143)***Amendment(s) incorporated in the Act(s).***Wellington Airport Act 1990 (1990 No 56)***Amendment(s) incorporated in the Act(s).***Wild Animal Control Act 1977 (1977 No 111)***Amendment(s) incorporated in the Act(s).***Wildlife Act 1953 (1953 No 31)***Amendment(s) incorporated in the Act(s).***Winston Churchill Memorial Trust Act 1965 (1965 No 39)***Amendment(s) incorporated in the Act(s).*

---

**Schedule 17**

s 265

**New Schedule of Receiverships Act 1993**

**Schedule 1**

s 40C(2)

**Modifications and exceptions that apply  
in relation to receivers of assets of local  
authorities**

*Amendment(s) incorporated in the Act(s).*

---

## **Schedule 18**

### **Enactments repealed**

s 266

#### **Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94)**

*Amendment(s) incorporated in the Act(s).*

#### **Auckland Centennial Memorial Park Act 1941 (1941 No 7 (L))**

#### **Auckland City and Auckland Hospital Board Empowering Act 1922 (1922 No 10 (L))**

#### **Auckland City Council Empowering Act 1926 (1926 No 2 (L))**

#### **Auckland City Council (Old Victoria Street Depot Site) Empowering Act 1976 (1976 No 6 (L))**

#### **Auckland City Empowering Act 1913 (1913 No 5 (L))**

#### **Auckland City Empowering Act 1939 (1939 No 10 (L))**

#### **Auckland City Empowering (Community Centres) Act 1958 (1958 No 12 (L))**

#### **Auckland City Housing Act 1942 (1942 No 4 (L))**

#### **Auckland City Markets and Empowering Act 1915 (1915 No 4 (L))**

#### **Auckland Community Welfare Centre and Auckland City Empowering Act 1941 (1941 No 8 (L))**

#### **Auckland Harbour Board Act 1879 (1879 No 2 (L))**

#### **Auckland Harbour Board and Other Local Bodies Empowering Act 1931 (1931 No 7 (L))**

#### **Auckland Harbour Board and Waitemata County Council Empowering Act 1967 (1967 No 9 (L))**

**Auckland Harbour Board and Waitemata City Council (Te Atatu) Empowering Act 1983 (1983 No 9 (L))**

**Auckland Harbour Board Central Area Properties Redevelopment Act 1965 (1965 No 15 (L))**

**Auckland Harbour Board Empowering Act 1899 (1899 No 10 (L))**

**Auckland Harbour Board Empowering Act 1911 (1911 No 29 (L))**

**Auckland Harbour Board Empowering Act 1912 (1912 No 13 (L))**

**Auckland Harbour Board Empowering Act 1914 (1914 No 8 (L))**

**Auckland Harbour Board Empowering Act 1920 (1920 No 10 (L))**

**Auckland Harbour Board Empowering Act 1925 (1925 No 3 (L))**

**Auckland Harbour Board Loan and Empowering Act 1919 (1919 No 9 (L))**

**Auckland Harbour Board Loan And Empowering Act 1964 (1964 No 12 (L))**

**Auckland Harbour Board Loan And Empowering Act 1966 (1966 No 24 (L))**

**Auckland Harbour Board Loan And Empowering Act 1968 (1968 No 20 (L))**

**Auckland Municipal Abattoir Livestock Auctions Empowering Act 1979 (1979 No 10 (L))**

**Auckland (Symonds Street) Cemeteries Act 1908 (1908 No 12 (L))**

**Auckland Transport Board Act 1928 (1928 No 44)**

**Auckland Transport Board Amendment Act 1955 (1955 No 64)**

**Auckland Transport Board Amendment Act 1960 (1960 No 5 (L))**

**Auckland Transport Board Amendment Act 1963 (1963 No 1 (L))**

**Auckland Waterworks Extension Act 1904 (1904 No 4 (L))**

**Biosecurity Act 1993 (1993 No 95)**

*Amendment(s) incorporated in the Act(s).*

**Biosecurity Amendment Act 1997 (1997 No 89)**

*Amendment(s) incorporated in the Act(s).*

**Borough of Onehunga Water-Supply Act 1898 (1898 No 10 (L))**

**Building Act 1991 (1991 No 150)**

*Amendment(s) incorporated in the Act(s).*

**Chatham Islands Council Act 1995 (1995 No 41)**

*Amendment(s) incorporated in the Act(s).*

**City of Christchurch Drainage Debentures Act 1874 (1874 No 43)**

**City of Christchurch Loan Act 1871 (1871 No 71)**

**City of Dunedin Borrowing Act 1871 (1871 No 73)**

**City of Wellington Loans Consolidation Act 1876 (1876 No 53)**

**Companies Act 1955 Amendment Act 2001 (2001 No 17)**

*Amendment(s) incorporated in the Act(s).*



**Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16)**

*Amendment(s) incorporated in the Act(s).*

**Conservation Law Reform Act 1990 (1990 No 31)**

*Amendment(s) incorporated in the Act(s).*

**Counties Act Amendment Act 1888 (1888 No 11)**

**Counties Insurance Empowering Act 1941 (1941 No 6)**

*Amendment(s) incorporated in the Act(s).*

**Counties Insurance Empowering Amendment Act 1980 (1980 No 108)**

**Cromwell Waterworks Act 1874 (1874 No 42)**

**Decimal Currency Amendment Act 1965 (1965 No 124)**

*Amendment(s) incorporated in the Act(s).*

**District Courts Amendment Act 1998 (1998 No 76)**

*Amendment(s) incorporated in the Act(s).*

**Dog Control Act 1996 (1996 No 13)**

*Amendment(s) incorporated in the Act(s).*

**Dunedin Corporation Borrowing Powers Extension and Debentures Act 1875 (1875 No 58)**

**Dunedin Waterworks Act 1874 (1874 No 45)**

**Energy Companies Act 1992 (1992 No 56)**

*Amendment(s) incorporated in the Act(s).*

**Energy Companies Amendment Act 1992 (1992 No 123)**

*Amendment(s) incorporated in the Act(s).*

**Epuni Leases Surrender Act 1905 (1905 No 51)**

**Finance Act 1964 (1964 No 6)***Amendment(s) incorporated in the Act(s).***Financial Reporting Amendment Act 1996 (1996 No 86)***Amendment(s) incorporated in the Act(s).***Fire Service Amendment Act 1986 (1986 No 18)***Amendment(s) incorporated in the Act(s).***Forest and Rural Fires Amendment Act 1990 (1990 No 137)***Amendment(s) incorporated in the Act(s).***Grey Lynn Domain Vesting Act 1909 (1909 No 36 (L))****Health Amendment Act 1993 (1993 No 24)***Amendment(s) incorporated in the Act(s).***Health Sector (Transfers) Act 1993 (1993 No 23)***Amendment(s) incorporated in the Act(s).***Higher Salaries Commission Amendment Act 1989 (1989 No 35)***Amendment(s) incorporated in the Act(s).***Housing Corporation Amendment Act 2001 (2001 No 37)***Amendment(s) incorporated in the Act(s).***Hutt Road Act 1939 (1939 No 18)***Amendment(s) incorporated in the Act(s).***Impounding Amendment Act 1980 (1980 No 59)***Amendment(s) incorporated in the Act(s).***Income Tax Act 1994 (1994 No 164)***Amendment(s) incorporated in the Act(s).***Income Tax Amendment Act 1999 (1999 No 12)**

**Judicature Amendment Act 1991 (1991 No 60)**

*Amendment(s) incorporated in the Act(s).*

**Kawhia and Awakino Counties Act 1903 (1903 No 90)**

**Land Drainage Amendment Act 1908 (1908 No 249)**

**Land Drainage Amendment Act 1922 (1922 No 5)**

*Amendment(s) incorporated in the Act(s).*

**Land Transport Act 1998 (1998 No 110)**

*Amendment(s) incorporated in the Act(s).*

**Local Authorities Empowering Act 1915 (1915 No 10)**

**Local Elections and Polls Amendment Act 1934–35 (1934–35  
No 43)**

**Local Government Act 1974 (1974 No 123)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1976 (1976 No 55)**

**Local Government Amendment Act (No 3) 1977 (1977 No 122)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1978 (1978 No 43)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1979 (1979 No 59)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1980 (1980 No 82)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1981 (1981 No 13)**

**Local Government Amendment Act (No 2) 1981 (1981 No 111)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act 1982 (1982 No 3)****Local Government Amendment Act (No 2) 1982 (1982 No 166)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act 1983 (1983 No 132)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act 1984 (1984 No 18)****Local Government Amendment Act 1985 (1985 No 60)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act 1986 (1986 No 21)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act (No 3) 1986 (1986 No 50)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act 1987 (1987 No 149)****Local Government Amendment Act 1988 (1988 No 71)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act (No 2) 1988 (1988 No 104)****Local Government Amendment Act (No 2) 1989 (1989 No 29)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act (No 4) 1989 (1989 No 76)***Amendment(s) incorporated in the Act(s).***Local Government Amendment Act 1991 (1991 No 49)***Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1992 (1992 No 42)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act (No 2) 1992 (1992 No 71)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1994 (1994 No 68)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1995 (1995 No 25)**

**Local Government Amendment Act (No 2) 1995 (1995 No 40)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act (No 3) 1996 (1996 No 83)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act (No 4) 1996 (1996 No 84)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act (No 5) 1996 (1996 No 96)**

**Local Government Amendment Act (No 2) 1997 (1997 No 78)**

**Local Government Amendment Act (No 3) 1997 (1997 No 95)**

**Local Government Amendment Act 1998 (1998 No 89)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act 1999 (1999 No 11)**

**Local Government Amendment Act (No 2) 1999 (1999 No 24)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act (No 4) 1999 (1999 No 108)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Amendment Act (No 5) 1999 (1999 No 125)***Amendment(s) incorporated in the Act(s).***Local Government (Elected Member Remuneration and Trading Enterprises) Amendment Act 2001 (2001 No 98)****Local Government Official Information and Meetings Act 1987 (1987 No 174)***Amendment(s) incorporated in the Act(s).***Local Government Official Information and Meetings Amendment Act 1989 (1989 No 39)****Local Government (Rating) Act 2002 (2002 No 6)***Amendment(s) incorporated in the Act(s).***Local Government Reform (Transitional Provisions) Act 1990 (1990 No 27)***Amendment(s) incorporated in the Act(s).***Local Government (Reorganisation Proposals) Amendment Act 1992 (1992 No 74)****Local Government (Rodney District Council) Amendment Act 2000 (2000 No 10)****Local Government (Validation of Appointments) Act 2000 (2000 No 4)****Local Legislation Act 1927 (1927 No 58)***Amendment(s) incorporated in the Act(s).***Local Legislation Act 1930 (1930 No 39)***Amendment(s) incorporated in the Act(s).***Local Legislation Act 1968 (1968 No 131)***Amendment(s) incorporated in the Act(s).*

**Manawatu Gorge Road and Bridge Act 1919 (1919 No 10)**

**Manukau Harbour Control Act 1911 (1911 No 23 (L))**

**Maritime Transport Act 1994 (1994 No 104)**

*Amendment(s) incorporated in the Act(s).*

**Municipal Insurance Amendment Act 1981 (1981 No 80)**

*Amendment(s) incorporated in the Act(s).*

**Nelson City Loan Act 1871 (1871 No 72)**

**Nelson City Loan Act 1875 (1875 No 28)**

**Newmarket Borough Council Vesting and Empowering Act  
1927 (1927 No 20 (L))**

**New Zealand Public Health and Disability Act 2000 (2000 No 91)**

*Amendment(s) incorporated in the Act(s).*

**New Zealand Railways Corporation Restructuring Act 1990  
(1990 No 105)**

*Amendment(s) incorporated in the Act(s).*

**North Shore Boroughs (Auckland) Water-Supply Act 1941  
(1941 No 1)**

**Oamaru Gasworks Act 1875 (1875 No 30)**

**Oamaru Harbour Board Land Act 1874 (1874 No 37)**

**Oamaru King George's Park Reserve Vesting Act 1912 (1912  
No 16 (L))**

**Oamaru Loans Consolidation Act 1893 (1893 No 2 (P))**

**Oamaru Reserves Act 1908 (1908 No 2 (L))**

**Oamaru Waterworks Act 1875 (1875 No 29)**

**Oamaru Waterworks Act 1875 Amendment Act 1879 (1879 No 31 (L))**

**Oamaru Waterworks Act 1875 Amendment Act 1880 (1880 No 8 (L))**

**Ohura County Act 1908 (1908 No 33 (L))**

**Onehunga Borough Council Enabling Act 1914 (1914 No 3 (L))**

**Onehunga Cemetery Act 1898 (1898 No 8 (L))**

**Otago Harbour Board Empowering Act 1903 Amendment Act 1905 (1905 No 1 (L))**

*Amendment(s) incorporated in the Act(s).*

**Otago Harbour Board Further Empowering Act 1882 (1882 No 24 (L))**

**Otago Harbour Board Vesting, Reclamation, and Empowering Act 1981 (1981 No 9 (L))**

*Amendment(s) incorporated in the Act(s).*

**Port Companies Amendment Act 1990 (1990 No 120)**

*Amendment(s) incorporated in the Act(s).*

**Public Audit Act 2001 (2001 No 10)**

*Amendment(s) incorporated in the Act(s).*

**Public Bodies Contracts Act 1959 (1959 No 98)**

*Amendment(s) incorporated in the Act(s).*

**Public Bodies Contracts Amendment Act 1976 (1976 No 115)**

**Public Finance Act 1989 (1989 No 44)**

*Amendment(s) incorporated in the Act(s).*



**Public Trust Act 2001 (2001 No 100)**

*Amendment(s) incorporated in the Act(s).*

**Public Works Amendment Act (No 2) 1987 (1987 No 67)**

*Amendment(s) incorporated in the Act(s).*

**Public Works Amendment Act 1988 (1988 No 43)**

*Amendment(s) incorporated in the Act(s).*

**Queenstown Waterworks Act 1875 (1875 No 4)**

**Rates Rebate Amendment Act 1978 (1978 No 85)**

*Amendment(s) incorporated in the Act(s).*

**Rating Valuations Act 1998 (1998 No 69)**

*Amendment(s) incorporated in the Act(s).*

**Reserves Amendment Act 1979 (1979 No 63)**

*Amendment(s) incorporated in the Act(s).*

**Reserves and other Lands Disposal and Public Bodies  
Empowering Act 1922 (1922 No 50)**

*Amendment(s) incorporated in the Act(s).*

**Reserves and other Lands Disposal and Public Bodies  
Empowering Act 1925 (1925 No 46)**

*Amendment(s) incorporated in the Act(s).*

**Resource Management Act 1991 (1991 No 69)**

*Amendment(s) incorporated in the Act(s).*

**Resource Management Amendment Act 1993 (1993 No 65)**

*Amendment(s) incorporated in the Act(s).*

**Resource Management Amendment Act 1997 (1997 No 104)**

*Amendment(s) incorporated in the Act(s).*

**River Boards Amendment Act 1913 (1913 No 35)***Amendment(s) incorporated in the Act(s).***Rotorua Borough Act 1922 (1922 No 9)***Amendment(s) incorporated in the Act(s).***Rural Fires Amendment Act 1990 (1990 No 137)***Amendment(s) incorporated in the Act(s).***Soil Conservation and Rivers Control Amendment Act 1954  
(1954 No 80)****Stamp and Cheque Duties Act 1971 (1971 No 51)***Amendment(s) incorporated in the Act(s).***Statutes Amendment Act 1940 (1940 No 18)***Amendment(s) incorporated in the Act(s).***Statutes Amendment Act 1942 (1942 No 18)****Statutes Amendment Act 1947 (1947 No 60)***Amendment(s) incorporated in the Act(s).***Statutes Amendment Act 1950 (1950 No 91)****Taieri County Empowering (Community Centres) Act 1970  
(1970 No 18 (L))****Taxation (Core Provisions) Act 1996 (1996 No 67)***Amendment(s) incorporated in the Act(s).***Thames Harbour Act 1936 (1936 No 52)****Thorndon Reclamation Act 1921–22 (1921 No 70)****Timaru Harbour Board Act 1876 (1876 No 97)***Amendment(s) incorporated in the Act(s).*

**Timaru Municipal Council Waterworks Loan Act 1875 (1875 No 31)**

**Transit New Zealand Amendment Act 1995 (1995 No 42)**

*Amendment(s) incorporated in the Act(s).*

**Transport Act 1962 (1962 No 135)**

*Amendment(s) incorporated in the Act(s).*

**Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69)**

*Amendment(s) incorporated in the Act(s).*

**Transport Services Licensing Amendment Act 1995 (1995 No 47)**

**Trustee Companies Act 1967 (1967 No 35)**

*Amendment(s) incorporated in the Act(s).*

**Waikato and King Country Counties Act 1921–22 (1921 No 64)**

**Waikowhai Park Act 1911 (1911 No 8 (L))**

**Waimakariri–Ashley Water Supply Act 1961 (1961 No 131)**

*Amendment(s) incorporated in the Act(s).*

**Waitomo County Act 1904 (1904 No 56)**

**Wanganui Harbour and River Conservators Board Act 1876 (1876 No 86)**

*Amendment(s) incorporated in the Act(s).*

**Wellington Regional Water Board Act 1972 (1972 No 3 (L))**

*Amendment(s) incorporated in the Act(s).*

---

**Schedule 19**

s 269

**Local Acts repealed**

**Akaroa and Wainui Road District, Akaroa County, and  
Wairewa County Alteration of Boundaries Act 1912 (1912 No 8  
(L))**

**Akitio County Act 1898 (1898 No 16 (L))**

**Ashburton Borough Cemetery Act 1955 (1955 No 2 (L))**

**Ashburton Water-supply Act 1904 (1904 No 16 (L))**

**Ashley Subdivision, and the Waimakariri–Ashley Water-supply  
Board Act 1911 (1911 No 9 (L))**

**Auckland Cemetery Bridge and City Borrowing Act 1905 (1905  
No 32 (L))**

**Auckland City Council and Auckland Harbour Board  
Empowering Act 1948 (1948 No 12 (L))**

**Auckland City Council (Local Elections) Empowering Act 1974  
(1974 No 3 (L))**

**Auckland City Empowering Act 1928 (1928 No 3 (L))**

**Auckland City Endowments and Reserves Act 1877 (1877 No 27  
(L))**

**Auckland City Loans Consolidation and Empowering Act 1921  
(1921 No 1 (L))**

**Auckland City Parks Improvement and Empowering Act 1916  
(1916 No 4 (L))**

**Auckland City Sinking Funds and Empowering Act 1929 (1929  
No 15 (L))**

**Auckland City (Vulcan Lane Mall) Empowering Act 1967 (1967 No 10 (L))**

**Auckland Harbour Act 1877 (1877 No 16 (L))**

**Auckland Harbour Board Act 1912 (1912 No 22 (L))**

**Auckland Harbour Board and Devonport Borough Council (Ngataranga Bay) Empowering Act Repeal Act 1990 (1990 No 1 (L))**

**Auckland Harbour Board Empowering Act 1882 (1882 No 1 (L))**

**Auckland Harbour Board Empowering Act 1891 (1891 No 1 (L))**

**Auckland Harbour Board Empowering Act 1892 (1892 No 16 (L))**

**Auckland Harbour Board Empowering Act 1905 (1905 No 8 (L))**

**Auckland Harbour Board Empowering Act 1916 (1916 No 1 (L))**

**Auckland Harbour Board Empowering Act 1926 (1926 No 16 (L))**

**Auckland Harbour Board Empowering Act 1927 (1927 No 10 (L))**

**Auckland Harbour Board Empowering Act 1933 (1933 No 1 (L))**

**Auckland Harbour Board Empowering Act 1935 (1935 No 16 (L))**

**Auckland Harbour Board Empowering Act 1936 (1936 No 7 (L))**

**Auckland Harbour Board Empowering Act 1970 (1970 No 23 (L))**

**Auckland Harbour Board Loan Act 1886 (1886 No 1 (L))**

**Auckland Harbour Board Loan Act 1886 Amendment Act 1891  
(1891 No 6 (L))**

**Auckland Harbour Board Loan and Empowering Act 1904  
(1904 No 14 (L))**

**Auckland Harbour Board Loan and Empowering Act 1908  
(1908 No 10 (L))**

**Auckland Harbour Board Loan and Empowering Act 1924  
(1924 No 14 (L))**

**Auckland Harbour Board Loan and Empowering Act 1937  
(1937 No 2 (L))**

**Auckland Harbour Board Loan and Empowering Act 1946  
(1946 No 6 (L))**

**Auckland Harbour Board Loan and Empowering Act 1951  
(1951 No 17 (L))**

**Auckland Harbour Board Loan and Empowering Act 1953  
(1953 No 13 (L))**

**Auckland Harbour Board Loan and Empowering Act 1955  
(1955 No 8 (L))**

**Auckland Harbour Board Loan and Empowering Act 1958  
(1958 No 13 (L))**

**Auckland Harbour Board Loan and Empowering Act 1961  
(1961 No 8 (L))**

**Auckland Harbour Board Loan and Empowering Act 1963  
(1963 No 12 (L))**

**Auckland Harbour Board Loan and Empowering Act 1965  
(1965 No 16 (L))**

**Auckland Harbour Board Loan and Empowering Act 1967  
(1967 No 7 (L))**

**Auckland Harbour Board (Lynfield Development) Loan and  
Empowering Act 1960 (1960 No 11 (L))**

**Auckland Harbour Development Act 1949 (1949 No 2 (L))**

**Auckland Harbour Improvement Act 1888 (1888 No 1 (L))**

**Auckland Metropolitan Drainage Act 1944 (1944 No 8 (L))**

**Auckland Regional Authority Empowering Act 1972 (1972  
No 10 (L))**

**Auckland Regional Authority Establishment Act 1960 (1960  
No 9 (L))**

**Auckland Regional Authority (Mount Smart) Expenditure Act  
1985 (1985 No 1 (L))**

**Auckland Regional Planning Authority Act 1963 (1963 No 19  
(L))**

**Awanui Harbour Board Empowering Act 1956 (1956 No 1 (L))**

**Awatere County Act 1911 (1911 No 10 (L))**

**Awatere County Empowering Act 1941 (1941 No 4 (L))**

**Awatere County Empowering Act 1960 (1960 No 6 (L))**

**Balclutha Borough Council Empowering Act 1949 (1949 No 12  
(L))**

**Bay of Islands Harbour Act 1920 (1920 No 16 (L))**

**Bay of Islands Harbour Amendment Act 1922 (1922 No 20 (L))**

**Bay of Islands Harbour Amendment Act 1930 (1930 No 15 (L))**

**Bay of Islands Harbour Amendment Act 1936 (1936 No 10 (L))**

**Bay of Islands Harbour Board Empowering Act 1952 (1952  
No 22 (L))**

**Bay of Islands Harbour Board Empowering Act 1956 (1956  
No 12 (L))**

**Bay of Plenty Catchment Commission and Regional Water  
Board Administrative Expenses Recovery Act 1977 (1977 No 12  
(L))**

**Bay of Plenty Harbour Board Act 1970 (1970 No 5 (L))**

**Bay of Plenty Harbour Board Empowering Act 1919 (1919  
No 2 (L))**

**Bay of Plenty Harbour Board Empowering Act 1920 (1920  
No 7 (L))**

**Bay of Plenty Harbour Board Empowering Act 1977 (1977  
No 8 (L))**

**Bay of Plenty Harbour Board Empowering Amendment Act  
1921 (1921 No 6 (L))**

**Bay of Plenty Harbour Board Loan and Empowering Act 1956  
(1956 No 7 (L))**

**Bay of Plenty Harbour Board Loan and Empowering Act 1959  
(1959 No 16 (L))**

**Bay of Plenty Harbour Board Loan and Empowering Act 1962  
(1962 No 14 (L))**

**Bay of Plenty Harbour Board Loan and Empowering Act 1964  
(1964 No 4 (L))**



**Bay of Plenty Harbour Board Loan and Empowering Act 1965  
(1965 No 6 (L))**

**Bay of Plenty Harbour Board Loan and Empowering Act 1966  
(1966 No 13 (L))**

**Bay of Plenty Harbour Board Loan and Empowering Act 1967  
(1967 No 12 (L))**

**Bay of Plenty Harbour Board Loan and Empowering Act 1968  
(1968 No 10 (L))**

**Bay of Plenty Regional Council (Rates Validation) Act 1995  
(1995 No 1 (L))**

**Beachlands Domain Board Empowering Act 1961 (1961 No 9  
(L))**

**Bluff Borough Council and Southland Harbour Board  
Empowering Act 1952 (1952 No 24 (L))**

**Bluff Borough Empowering Act 1939 (1939 No 1 (L))**

**Bluff Harbour Foreshore Leasing Act 1880 (1880 No 2 (L))**

**Bluff Harbour Improvement Act 1952 (1952 No 14 (L))**

**Bluff Harbour Reclamation and Leasing and Empowering Act  
1929 (1929 No 7 (L))**

**Borough of Birkenhead Enabling Act 1905 (1905 No 23 (L))**

**Borough of Brunner Enabling Act 1889 (1889 No 18 (L))**

**Borough of Hamilton Boundaries Act 1882 (1882 No 7 (L))**

**Borough of Masterton Private Roads Act 1898 (1898 No 18 (L))**

**Borough of Masterton Water-supply and Drainage-works Loan Empowering Act 1896 (1896 No 13 (L))**

**Borough of Mataura Loan Validation Act 1901 (1901 No 5 (L))**

**Borough of Mornington Boundaries Act 1886 (1886 No 11 (L))**

**Borough of Mornington Tramways Act 1901 (1901 No 6 (L))**

**Borough of Mornington Tramways Act Amendment Act 1913 (1913 No 2 (L))**

**Borough of Oamaru Leasing Act 1894 (1894 No 17 (L))**

**Borough of Port Chalmers and Otago Dock Trust Exchange of Land Act 1906 (1906 No 24 (L))**

**Borough of Port Chalmers Borrowing Act 1899 (1899 No 5 (L))**

**Borough of Port Chalmers Leasing Empowering Act 1961 (1961 No 1 (L))**

**Brunner Borough Abolition Act 1925 (1925 No 13 (L))**

**Buller County Leasing Empowering Act 1928 (1928 No 4 (L))**

**Cambridge Borough Council (Sale of Land Validating) Act 1978 (1978 No 6 (L))**

**Canterbury Society of Arts Reserve Act 1889 (1889 No 20 (L))**

**Carterton Borough Water-supply Act 1903 (1903 No 11 (L))**

**Castlepoint County Act 1900 (1900 No 32 (L))**

**Caversham Drainage Act 1884 (1884 No 16 (L))**

**Caversham, South Dunedin, and St. Kilda Streets Improvement Act 1883 (1883 No 24 (L))**

**Christchurch City Empowering (Information Centre) Act 1974  
(1974 No 7 (L))**

**Christchurch City Forestry Empowering Act 1975 (1975 No 8  
(L))**

**Christchurch Domains Trust Indemnity Act 1899 (1899 No 20  
(L))**

**Christchurch Rifle Range Act 1888 (1888 No 14 (L))**

**Christchurch Town Hall Board of Management Act 1976 (1976  
No 2 (L))**

**Christchurch Town Hall Empowering Act 1968 (1968 No 7 (L))**

**Christchurch Tramway District Act 1920 (1920 No 15 (L))**

**Christchurch Tramway District Amendment Act 1926 (1926  
No 12 (L))**

**Christchurch Tramway District Amendment Act 1927 (1927  
No 21 (L))**

**Christchurch Tramway District Amendment Act 1932–33  
(1932–33 No 14 (L))**

**Christchurch Tramway District Amendment Act 1949 (1949  
No 1 (L))**

**Christchurch Tramway District Amendment Act 1950 (1950  
No 2 (L))**

**Christchurch Tramway District Amendment Act 1954 (1954  
No 4 (L))**

**Christchurch Tramway District Amendment Act 1960 (1960  
No 12 (L))**

**Christchurch Tramway District Amendment Act 1963 (1963  
No 4 (L))**

**Christchurch Tramway District Amendment Act 1966 (1966  
No 8 (L))**

**Christchurch Tramway District Amendment Act 1967 (1967  
No 16 (L))**

**Christchurch Tramway District Amendment Act 1970 (1970  
No 20 (L))**

**Christchurch Tramway District Amendment Act 1974 (1974  
No 10 (L))**

**Christchurch Tramway District Amendment Act 1975 (1975  
No 5 (L))**

**Christchurch Tramway District Amendment Act (No 2) 1975  
(1975 No 12 (L))**

**City of Dunedin Loans Consolidation Act 1877 (1877 No 50 (L))**

**City of Nelson Loans Conversion and Empowering Act 1913  
(1913 No 16 (L))**

**City of Nelson Loans Conversion and Empowering Amendment  
Act 1916 (1916 No 3 (L))**

**City of Wellington Loans Consolidation Act 1876 Amendment  
Act 1877 (1877 No 31 (L))**

**Collingwood County Act 1903 (1903 No 13 (L))**

**Day's Bay Sanitation and Water-supply Act 1917 (1917 No 1 (L))**

**District of Palmerston North Hospital and Charitable Aid  
Board Empowering Act 1893 (1893 No 9 (L))**

**Dunedin City and Suburban Tramways Act 1900 (1900 No 3 (L))**

**Dunedin City and Suburban Tramways Act 1900 Amendment  
Act 1901 (1901 No 26 (L))**

**Dunedin City Borrowing Act 1896 (1896 No 2 (L))**

**Dunedin City Corporation Empowering Amendment Act 1944  
(1944 No 2 (L))**

**Dunedin City Council Empowering Act 1914 (1914 No 5 (L))**

**Dunedin City Council (Sale of Liquor) Empowering Act 1992  
(1992 No 5 (L))**

**Dunedin City Empowering Act 1935 (1935 No 15 (L))**

**Dunedin City Empowering Act 1949 (1949 No 6 (L))**

**Dunedin City Empowering Act 1960 (1960 No 13 (L))**

**Dunedin District Drainage and Sewerage Act 1900 (1900 No 25  
(L))**

**Dunedin District Drainage and Sewerage Act 1900 Amendment  
Act 1902 (1902 No 15 (L))**

**Dunedin District Drainage and Sewerage Act 1900 Amendment  
Act 1905 (1905 No 29 (L))**

**Dunedin District Drainage and Sewerage Act 1900 Amendment  
Act 1906 (1906 No 14 (L))**

**Dunedin District Drainage and Sewerage Act Amendment Act  
1907 (1907 No 20 (L))**

**Dunedin District Drainage and Sewerage Acts Amendment Act  
1909 (1909 No 23 (L))**

**Dunedin District Drainage and Sewerage Acts Amendment Act  
1911 (1911 No 32 (L))**

**Dunedin District Drainage and Sewerage Acts Amendment Act  
1912 (1912 No 3 (L))**

**Dunedin District Drainage and Sewerage Acts Amendment Act  
1913 (1913 No 3 (L))**

**Dunedin District Drainage and Sewerage Acts Amendment Act  
1914 (1914 No 12 (L))**

**Dunedin District Drainage and Sewerage Acts Amendment Act  
1915 (1915 No 12 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1916  
(1916 No 6 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1921  
(1921 No 2 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1923  
(1923 No 9 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1925  
(1925 No 5 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1930  
(1930 No 6 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1937  
(1937 No 8 (L))**

**Dunedin Drainage and Sewerage Board Empowering Act 1946  
(1946 No 7 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1947  
(1947 No 4 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1951  
(1951 No 3 (L))**

**Dunedin Drainage and Sewerage Board Empowering Act 1953  
(1953 No 4 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1966  
(1966 No 6 (L))**

**Dunedin District Drainage and Sewerage Amendment Act 1983  
(1983 No 5 (L))**

**Dunedin Drainage and Sewerage Board Empowering Act 1938  
(1938 No 16 (L))**

**Dunedin Gaol Street Act 1877 (1877 No 43 (L))**

**Dunedin Gas and Waterworks Act 1877 (1877 No 23 (L))**

**Dunedin Loans Consolidation Act 1895 (1895 No 15 (L))**

**Dunedin Loans Conversion Act 1894 (1894 No 16 (L))**

**Dunedin Town Hall Site Act 1877 (1877 No 11 (L))**

**Dunedin Waterworks Extension Act 1875 Amendment Act 1878  
(1878 No 61 (L))**

**Dunedin Waterworks Extension Act 1901 (1901 No 8 (L))**

**Eastbourne Borough Act 1905 (1905 No 21 (L))**

**Eastbourne Borough Bank Account and Empowering Act 1926  
(1926 No 11 (L))**

**East Coast Bays Borough Empowering Act 1965 (1965 No 18  
(L))**

**East Coast Bays City Council (Rates Validation) Act 1987 (1987 No 10 (L))**

**Egmont County Act 1901 (1901 No 9 (L))**

**Egmont County Districts Adjustment Act 1902 (1902 No 8 (L))**

**Eketahuna Borough Act 1906 (1906 No 15 (L))**

**Eketahuna County Act 1898 (1898 No 17 (L))**

**Ellesmere Domain Board Empowering Act 1909 (1909 No 2 (L))**

**Eltham County Act 1906 (1906 No 39 (L))**

**Epsom and Mount Eden Reserve Act 1890 (1890 No 17 (L))**

**Far North District Council (Rating and Loans Validation) Act 1995 (1995 No 5 (L))**

**Featherston County Act 1901 (1901 No 10 (L))**

**Featherston County Council Empowering Act 1964 (1964 No 2 (L))**

**Featherston County Water-race Districts Validation Act 1935 (1935 No 11 (L))**

**Franklin and Manukau Counties Act 1911 (1911 No 12 (L))**

**Gisborne Borough and Harbour Board Lands Exchange and Empowering Act 1913 (1913 No 21 (L))**

**Gisborne Harbour Amendment Act 1910 (1910 No 1 (L))**

**Gisborne Harbour Board Amendment Act 1920 (1920 No 17 (L))**



**Gisborne Harbour Board Empowering Act 1952 (1952 No 11 (L))**

**Gisborne Harbour Board Empowering Act 1956 (1956 No 6 (L))**

**Gisborne Harbour Board Empowering Act 1958 (1958 No 4 (L))**

**Gisborne Harbour Board Empowering Act 1961 (1961 No 13 (L))**

**Gisborne Harbour Board Empowering Act 1964 (1964 No 1 (L))**

**Gisborne Harbour Board Empowering Act 1966 (1966 No 5 (L))**

**Gisborne Harbour Board Enabling Act 1913 (1913 No 17 (L))**

**Gisborne Harbour Board Loan and Empowering Act 1974 (1974 No 1 (L))**

**Gisborne Harbour Board Loan and Empowering Amendment Act 1972 (1972 No 6 (L))**

**Gladstone Streets Vesting and Empowering Act 1906 (1906 No 20 (L))**

**Gonville and Castlecliff Tramway District Act 1908 (1908 No 29 (L))**

**Gore Agricultural and Pastoral Association Empowering Act 1899 (1899 No 8 (L))**

**Gore Agricultural and Pastoral Association Vesting and Enabling Act 1907 (1907 No 7 (L))**

**Gore Cemetery Reserve Vesting and Enabling Act 1901 (1901 No 11 (L))**

**Greymouth Harbour Board Act 1884 (1884 No 11 (L))**

**Greymouth Harbour Board Act 1884 Amendment Act 1902  
(1902 No 29 (L))**

**Greymouth Harbour Board Amendment Act 1920 (1920 No 71)**

**Greymouth Harbour Board Amendment Act 1935 (1935 No 26)**

**Greymouth Harbour Board Amendment Act 1945 (1945 No 13)**

**Greymouth Harbour Board Amendment Act 1962 (1962 No 73)**

**Greymouth Harbour Board Loan Act 1938 (1938 No 12 (L))**

**Greymouth Harbour Board Loan Act 1940 (1940 No 1 (L))**

**Greymouth Harbour Board (Validation of Rates) Act 1991  
(1991 No 1 (L))**

**Greytown Borough Loan Empowering Act 1919 (1919 No 16  
(L))**

**Greytown Reserves Vesting and Disposal Enabling Act 1901  
(1901 No 12 (L))**

**Hamilton Borough Council Empowering Act 1935 (1935 No 14  
(L))**

**Hamilton Borough Council Empowering Amendment Act 1937  
(1937 No 15 (L))**

**Hamilton Domains Act 1911 (1911 No 33 (L))**

**Hamilton Domains Amendment Act 1922 (1922 No 16 (L))**

**Hastings Borough Loan Validation and Empowering Act 1894  
(1894 No 23 (L))**

**Hastings Recreation Reserve Act 1907 (1907 No 18 (L))**

**Hauraki Plains County Council Empowering Act 1924 (1924 No 25 (L))**

**Hauraki Plains, Thames, Ohinemuri, and Piako Counties Act 1919 (1919 No 21 (L))**

**Havelock Harbour Board Act 1905 (1905 No 30 (L))**

**Havelock Harbour Board Amendment Act 1953 (1953 No 15 (L))**

**Hawera Borough Betterment Act 1902 (1902 No 2 (L))**

**Hawera Borough Endowment Act 1889 (1889 No 3 (L))**

**Hawke's Bay Catchment Board Empowering Act 1977 (1977 No 14 (L))**

**Hawke's Bay Catchment Board Rating Act 1966 (1966 No 10 (L))**

**Hawke's Bay County Empowering Act 1930 (1930 No 10 (L))**

**Hawke's Bay County Empowering Act 1935 (1935 No 6 (L))**

**Hawke's Bay Harbour Board Act 1974 (1974 No 8 (L))**

**Heathcote County Boundary Act 1911 (1911 No 13 (L))**

**Heathcote Road Board Waterworks Act 1909 (1909 No 16 (L))**

**Heathcote Road District Sanitation Act 1899 (1899 No 1 (L))**

**Hikurangi Town Council Empowering Act 1955 (1955 No 4 (L))**

**Horowhenua County Loan Act 1910 (1910 No 12 (L))**

**Hutt City Council (Rating Validation) Act 1993 (1993 No 1 (L))**

**Hutt County Special Rates Amalgamation Act 1970 (1970 No 11 (L))**

**Hutt River Improvement and Reclamation Act 1922 (1922 No 17 (L))**

**Hutt Valley Tramway District Act 1908 (1908 No 43 (L))**

**Hutt Valley Tramway District Amendment Act 1909 (1909 No 40 (L))**

**Inangahua County Council Empowering Act 1894 (1894 No 10 (L))**

**Inangahua County Council Empowering Act 1909 (1909 No 31 (L))**

**Inangahua County Empowering Act 1908 (1908 No 8 (L))**

**Inangahua County Empowering Act 1943 (1943 No 6 (L))**

**Invercargill Athenaeum Act 1916 (1916 No 8 (L))**

**Invercargill City Council Tramway Depreciation Fund Empowering Act 1940 (1940 No 3 (L))**

**Invercargill City Council (Differential Rating Validation) Act 1986 (1986 No 8 (L))**

**Invercargill City Council Vesting and Empowering Act 1982 (1982 No 5 (L))**

**Invercargill Corporation Empowering Act 1922 (1922 No 11 (L))**

**Invercargill Gas Loan Act 1877 (1877 No 9 (L))**

**Invercargill Reserves Vesting and Empowering Act 1991 (1991 No 3 (L))**

**Judea Land Drainage Board Empowering Act 1921 (1921 No 4 (L))**

**Kaikoura River Board Validating Act 1953 (1953 No 5 (L))**

**Kairanga County Act 1901 (1901 No 15 (L))**

**Kaitieke County Act 1910 (1910 No 33 (L))**

**Kensington Park Rate Exemption Act 1906 (1906 No 16 (L))**

**Kiwitea County Act 1893 (1893 No 4 (L))**

**Kiwitea County Validation Act 1909 (1909 No 34 (L))**

**Kohukohu Foreshore Reclamation Act 1897 (1897 No 11 (L))**

**Lake County Empowering (Community Centres) Act 1970 (1970 No 2 (L))**

**Lawrence Municipal Waterworks Act 1877 (1877 No 39 (L))**

**Lawrence Reserves Act 1877 (1877 No 24 (L))**

**Levels County Act 1894 (1894 No 4 (L))**

**Lower Hutt Borough Council Empowering Act 1927 (1927 No 18 (L))**

**Lower Hutt City Empowering (Community Centres) Act 1949 (1949 No 13 (L))**

**Lower Hutt City Empowering (Community Centres) Amendment Act 1953 (1953 No 8 (L))**

**Lower Hutt, Porirua, and Upper Hutt Cities Empowering (Petroleum Tax) Act 1973 (1973 No 7 (L))**

**Lyttelton Borough Council Foreshore Vesting Act 1905 (1905 No 22 (L))**

**Lyttelton Borough Empowering Act 1946 (1946 No 4 (L))**

**Lyttelton Borough Empowering Act 1963 (1963 No 5 (L))**

**Lyttelton Borough Empowering Act 1976 (1976 No 7 (L))**

**Lyttelton Harbour Board Empowering Act 1951 (1951 No 7 (L))**

**Lyttelton Harbour Board Land Act 1913 (1913 No 25 (L))**

**Lyttelton Harbour Board Loan Act 1949 (1949 No 5 (L))**

**Lyttelton Harbour Board Loan Act 1956 (1956 No 2 (L))**

**Lyttelton Harbour Board Loan and Empowering Act 1952 (1952 No 21 (L))**

**Lyttelton Harbour Board Loan and Empowering Act 1955 (1955 No 5 (L))**

**Lyttelton Harbour Board Loan and Empowering Act 1962 (1962 No 17 (L))**

**Lyttelton Harbour Board Loan and Empowering Act 1965 (1965 No 8 (L))**

**Lyttelton Harbour Board Reclamation and Empowering Act 1910 (1910 No 21 (L))**

**Lyttelton Orphanage Lands Vesting Act 1893 (1893 No 11 (L))**

**Lyttelton Waterworks Transfer Act 1878 (1878 No 48 (L))**

**Lyttelton Waterworks Transfer Amendment Act 1979 (1979 No 2 (L))**

**Makara County Act 1907 (1907 No 28 (L))**

**Makara County Empowering (Community Centres) Act 1959  
(1959 No 14 (L))**

**Manawatu County Loan and Empowering Act 1917 (1917 No 2  
(L))**

**Manawatu County Loan and Empowering Amendment Act  
1919 (1919 No 3 (L))**

**Manukau City Empowering (Drainage and Sewerage Rates  
Remission) Act 1974 (1974 No 9 (L))**

**Manukau City Empowering (Rates Postponement) Act 1967  
(1967 No 5 (L))**

**Manukau City Empowering (Sewerage Rate) Act 1966 (1966  
No 4 (L))**

**Manukau City Empowering (Wiri Hotel Site) Act 1973 (1973  
No 3 (L))**

**Manukau City Empowering (Woodside Cemetery) Act 1975  
(1975 No 6 (L))**

**Manukau City Rating Repeal Act 1977 (1977 No 11 (L))**

**Manukau County Council Empowering Act 1941 (1941 No 5  
(L))**

**Marlborough County Council Empowering Act Repeal Act  
1999 (1999 No 1 (L))**

**Marlborough County Council (Riverlore Reserve) Empowering  
Act 1989 (1989 No 2 (L))**

**Marlborough District Council Empowering Act 1991 (1991  
No 5 (L))**

**Marlborough Forestry Corporation Act Repeal Act 1996 (1996 No 2 (L))**

**Marlborough Harbour Act 1958 (1958 No 17 (L))**

**Marlborough Harbour Amendment Act 1959 (1959 No 7 (L))**

**Marlborough Harbour Amendment Act 1960 (1960 No 10 (L))**

**Marlborough Harbour Amendment Act 1962 (1962 No 15 (L))**

**Marlborough Harbour Amendment Act 1977 (1977 No 15 (L))**

**Massey Frauds Indemnity Act 1883 (1883 No 3 (L))**

**Masterton Borough Betterment Act 1902 (1902 No 10 (L))**

**Masterton County Act 1900 (1900 No 16 (L))**

**Masterton County Council (Special Order and Rates) Act 1979 (1979 No 18 (L))**

**Masterton District Council (Rates Validation and Empowering) Act 1992 (1992 No 1 (L))**

**Matakoa County Act 1919 (1919 No 8 (L))**

**Matamata County Act 1908 (1908 No 15 (L))**

**Matamata County Council Empowering Act 1925 (1925 No 2 (L))**

**Matamata–Piako District Council Empowering Act 1990 (1990 No 3 (L))**

**Mataura Borough Council Empowering Act 1970 (1970 No 7 (L))**

**Mataura Reserve Vesting Act 1896 (1896 No 16 (L))**



**Mauriceville County Act 1899 (1899 No 16 (L))**

**Mokau Harbour Act 1940 (1940 No 5 (L))**

**Mosgiel Borough Empowering Act 1911 (1911 No 15 (L))**

**Mosgiel Borough Empowering Act 1922 (1922 No 19 (L))**

**Mosgiel Borough Empowering Act 1926 (1926 No 6 (L))**

**Motueka Borough Council Empowering Act 1937 (1937 No 3 (L))**

**Motueka Borough Council Empowering Act 1963 (1963 No 10 (L))**

**Motueka Borough Reclamation Act 1977 (1977 No 13 (L))**

**Motueka Harbour Board Act 1905 (1905 No 38 (L))**

**Motueka Harbour Board Amendment Act 1936 (1936 No 12 (L))**

**Mount Herbert County Act 1902 (1902 No 27 (L))**

**Mount Herbert County Council (Lump Sum Contributions) Empowering Act 1987 (1987 No 8 (L))**

**Murchison County Act 1908 (1908 No 31 (L))**

**Napier Athenaeum and Mechanics' Institute Empowering Act 1906 (1906 No 26 (L))**

**Napier Borough (Marewa Area) Empowering Act 1946 (1946 No 12 (L))**

**Napier Borough and Napier Harbour Board Enabling Act 1928 (1928 No 20 (L))**

**Napier Borough (Marewa Area) Empowering Amendment Act 1951 (1951 No 13 (L))**

**Napier City (Westshore Streets Improvement) Empowering Act 1951 (1951 No 12 (L))**

**Napier Harbour Board and Napier High School Empowering Act 1918 (1918 No 8 (L))**

**Napier Harbour Board and Napier High School Empowering Amendment Act 1921 (1921 No 13 (L))**

**Napier Harbour Board Empowering Act 1933 (1933 No 16 (L))**

**Napier Harbour Board Empowering and Loan Act 1884 (1884 No 5 (L))**

**Napier Harbour Board Empowering and Loan Act 1914 (1914 No 14 (L))**

**Napier Harbour Board Empowering and Loan Amendment Act 1920 (1920 No 4 (L))**

**Napier Harbour Board Empowering and Vesting Act 1917 (1917 No 9 (L))**

**Napier Harbour Board Empowering, Loan, and Constitution Amendment Act 1927 (1927 No 23 (L))**

**Napier Harbour Board Enabling Act 1921 (1921 No 12 (L))**

**Napier Harbour Board Exchange of Lands Empowering Act 1906 (1906 No 27 (L))**

**Napier Harbour Board Loan Act 1892 (1892 No 5 (L))**

**Napier Harbour Board Loan Act 1909 (1909 No 41 (L))**

**Napier Harbour Board Loan Act 1933 (1933 No 18 (L))**

**Napier Harbour Board Loan Amendment Act 1937 (1937 No 14 (L))**

**Napier Harbour Board Loan Amendment Act 1939 (1939 No 8 (L))**

**Napier Harbour Board Loan Act 1946 (1946 No 13 (L))**

**Napier Harbour Board Loan Amendment Act 1951 (1951 No 11 (L))**

**Napier Harbour Board Loan Act 1954 (1954 No 1 (L))**

**Napier Harbour Board Loan and Empowering Act 1962 (1962 No 12 (L))**

**Napier Harbour Board Loan and Empowering Act 1968 (1968 No 11 (L))**

**Napier Harbour Board Loan and Empowering Act (No 2) 1968 (1968 No 19 (L))**

**Napier Harbour Board Loans Enabling Act 1918 (1918 No 3 (L))**

**Napier Harbour Board Loans Enabling Act 1918 Extension Act 1927 (1927 No 8 (L))**

**Napier Harbour Board Loans Enabling Act 1930 (1930 No 12 (L))**

**Napier Harbour Board Rating Regulation Act 1925 (1925 No 6 (L))**

**Naseby Borough Council (Excess Rate Validation) Act 1991 (1991 No 4 (L))**

**Nelson City Council (Trafalgar Park) Empowering Act 1985 (1985 No 5 (L))**

**Nelson City Drainage Loan and Empowering Act 1910 (1910 No 11 (L))**

**Nelson City Empowering Act 1946 (1946 No 3 (L))**

**Nelson City Empowering Act 1951 (1951 No 5 (L))**

**Nelson City Empowering Act 1958 (1958 No 16 (L))**

**Nelson City Empowering Act 1966 (1966 No 25 (L))**

**Nelson City Empowering Act 1967 (1967 No 13 (L))**

**Nelson City Empowering Act 1968 (1968 No 12 (L))**

**Nelson City Lands Vesting Act 1904 (1904 No 6 (L))**

**Nelson Gas and Waterworks Sale Act 1877 (1877 No 72 (L))**

**Nelson Harbour Board and Nelson City Empowering Act 1961 (1961 No 11 (L))**

**Nelson Harbour Board Empowering Act 1917 (1917 No 10 (L))**

**Nelson Harbour Board Empowering Act 1939 (1939 No 5 (L))**

**Nelson Harbour Board Empowering Act 1948 (1939 No 13 (L))**

**Nelson Harbour Board Empowering Amendment Act 1953 (1939 No 1 (L))**

**Nelson Harbour Board Empowering Act 1956 (1956 No 3 (L))**

**Nelson Harbour Board Empowering Act 1958 (1958 No 11 (L))**

**Nelson Harbour Board Empowering Act 1959 (1959 No 11 (L))**

**Nelson Harbour Board Empowering Act 1965 (1965 No 12 (L))**

**Nelson Harbour Board Empowering Act 1966 (1966 No 3 (L))**

**New Lynn Sewerage Validation Act 1931 (1931 No 10 (L))**

**New Plymouth Borough and Harbour Board Exchange Act  
1918 (1918 No 4 (L))**

**New Plymouth Borough and Taranaki Harbours Board  
Exchange Act 1924 (1924 No 2 (L))**

**New Plymouth Borough and the Taranaki School  
Commissioners Exchange Act 1906 (1906 No 2 (L))**

**New Plymouth Borough Council and New Plymouth Harbour  
Board Empowering Act 1933 (1933 No 2 (L))**

**New Plymouth Borough Council and New Plymouth Harbour  
Board Empowering Amendment Act 1948 (1948 No 3 (L))**

**New Plymouth Borough Land Exchange and Empowering Act  
1934 (1934 No 9 (L))**

**New Plymouth Borough Land Exchange and Empowering Act  
1936 (1936 No 3 (L))**

**New Plymouth Harbour Reclamation Act 1909 (1909 No 24 (L))**

**New Plymouth Huatoki Stream Diversion and Exchange Act  
1912 (1912 No 15 (L))**

**Newmarket Reserve Act 1878 (1878 No 45 (L))**

**Ngaruawahia Borough Council Empowering Act 1937 (1937  
No 4 (L))**

**Northcote Borough Empowering Act 1956 (1956 No 10 (L))**

**Northland Harbour Board Empowering Act 1978 (1978 No 1  
(L))**

**Northland Harbour Board Vesting Act 1971 (1971 No 12 (L))**

**Northland Harbour Board Vesting and Empowering Act 1966  
(1966 No 20 (L))**

**Northland Harbour Board Vesting and Empowering Act 1967  
(1967 No 11 (L))**

**Northland Harbour Board Vesting and Empowering Act 1968  
(1968 No 15 (L))**

**Oamaru Borough Council Loan Act 1905 (1905 No 27 (L))**

**Oamaru Harbour Board Act 1879 (1879 No 30 (L))**

**Oamaru Harbour Board Advance Repayment Act 1892 (1892  
No 15 (L))**

**Oamaru Harbour Board Empowering Act 1934 (1934 No 13 (L))**

**Oamaru Harbour Board Enabling Act 1910 (1910 No 9 (L))**

**Oamaru Harbour Board Loan Act 1882 (1882 No 25 (L))**

**Oamaru Harbour Board Loan Act 1887 (1887 No 13 (L))**

**Oamaru Harbour Board Loan Act 1903 (1903 No 29 (L))**

**Oamaru Harbour Board Loan Act 1908 (1908 No 3 (L))**

**Oamaru Harbour Board Loan and Empowering Act 1964 (1964  
No 9 (L))**

**Oamaru Harbour Board Ordinance Amendment Act 1878  
(1878 No 24 (L))**

**Oamaru Municipal and Education Reserves Exchange Act 1888  
(1888 No 20 (L))**

**Oamaru Volunteer Drill-shed Site Act 1905 (1905 No 16 (L))**

**Oamaru Waterworks Act 1875 Amendment Act 1880 (1880 No 8 (L))**

**Ohakune Town Board Election Validation Act 1908 (1908 No 44 (L))**

**Ohura County Act 1908 (1908 No 33 (L))**

**Omaka Recreation Reserve Sale Act 1890 (1890 No 2 (L))**

**Onehunga Borough Vesting Act 1911 (1911 No 24 (L))**

**Otago Dock Trust Merger Amendment Act 1909 (1909 No 22 (L))**

**Otago Dock Validation Act 1906 (1906 No 6 (L))**

**Otago Harbour Board Empowering Act 1880 (1880 No 23 (L))**

**Otago Harbour Board Empowering Act 1903 (1903 No 19 (L))**

**Otago Harbour Board Empowering Act 1907 (1907 No 16 (L))**

**Otago Harbour Board Empowering Act 1909 (1909 No 17 (L))**

**Otago Harbour Board Empowering Act 1938 (1938 No 7 (L))**

**Otago Harbour Board Empowering Act 1944 (1944 No 6 (L))**

**Otago Harbour Board Empowering Act 1950 (1950 No 8 (L))**

**Otago Harbour Board Empowering Act 1952 (1952 No 19 (L))**

**Otago Harbour Board Empowering Act 1958 (1958 No 15 (L))**

**Otago Harbour Board Empowering Act 1960 (1960 No 2 (L))**

**Otago Harbour Board Empowering Act 1965 (1965 No 13 (L))**

**Otago Harbour Board Further Empowering Act 1882  
Amendment Act 1894 (1894 No 31 (L))**

**Otago Harbour Board Indemnity and Lands Vesting Act 1888  
(1888 No 21 (L))**

**Otago Harbour Board Loans Consolidation Act 1884  
Amendment Act 1897 (1897 No 2 (L))**

**Paeroa Domain Loan Validation Act 1905 (1905 No 26 (L))**

**Palmerston North Borough Loans Consolidation Act 1921 (1921  
No 14 (L))**

**Palmerston North Reserves Act 1879 (1879 No 17 (L))**

**Patea Harbour Act 1878 (1878 No 37 (L))**

**Patea Harbour Act 1901 (1901 No 18 (L))**

**Patea Harbour Act 1904 (1904 No 13 (L))**

**Patea Harbour Act 1913 (1913 No 9 (L))**

**Patea Harbour Amendment Act 1919 (1919 No 7 (L))**

**Petone and Hutt Corporations Empowering Act 1905 (1905  
No 44 (L))**

**Petone and Lower Hutt Gas Act 1922 (1922 No 13 (L))**

**Petone and Lower Hutt Gas Amendment Act 1954 (1954 No 2  
(L))**

**Petone and Lower Hutt Gas Empowering Act 1944 (1944 No 1  
(L))**



**Petone and Lower Hutt Gas Empowering and Amendment Act 1942 (1942 No 5 (L))**

**Petone Borough Council (Differential Rating) Empowering Act 1980 (1980 No 5 (L))**

**Petone Borough Council Empowering Act 1926 (1926 No 17 (L))**

**Petone Borough Council Empowering Act 1931 (1931 No 1 (L))**

**Petone Borough Empowering Act 1924 (1924 No 18 (L))**

**Petone Borough Streets Act 1906 (1906 No 33 (L))**

**Petone Corporation Loan Empowering Act 1892 (1892 No 10 (L))**

**Petone Corporation Waterworks Act 1905 (1905 No 13 (L))**

**Picton Recreation Reserve Act 1896 (1896 No 3 (L))**

**Picton Recreation Reserve Amendment Act 1921–22 (1921 No 16 (L))**

**Pohangina County Act 1894 (1894 No 3 (L))**

**Porirua City (Financial Unification) Act 1976 (1976 No 1 (L))**

**Port Chalmers Corporation Empowering Act 1903 (1903 No 24 (L))**

**Port Chalmers Waterworks Act Amendment Act 1877 (1877 No 7 (L))**

**Portobello Road Board Enabling Act 1882 (1882 No 28 (L))**

**Puniu Reserves Sale Act 1895 (1895 No 6 (L))**

**Raglan Harbour Board Empowering Act 1954 (1954 No 14 (L))**

**Rangitikei County (Rating Validation) Act 1984 (1984 No 1 (L))**

**Remuera Road District Borrowing Act 1904 (1904 No 9 (L))**

**Reporoa Drainage Board Empowering Act 1947 (1947 No 1 (L))**

**Rotorua County Council Empowering Act 1977 (1977 No 7 (L))**

**Rotorua District (Rates Validation) Act 1981 (1981 No 7 (L))**

**Selwyn County Subdivision Act 1910 (1910 No 23 (L))**

**Silverpeaks County Council (Rates Validation) Act 1986 (1986 No 10 (L))**

**South Invercargill Borough Wards Validating Act 1924 (1924 No 16 (L))**

**Southland Harbour Board Act 1958 (1958 No 6 (L))**

**Southland Harbour Board Empowering Act 1933 (1933 No 6 (L))**

**Southland Harbour Board Empowering Act 1960 (1960 No 8 (L))**

**Southland Harbour Board Empowering Act 1968 (1968 No 9 (L))**

**Southland Harbour Board Reclamation and Empowering Act 1977 (1977 No 5 (L))**

**Sydenham Public Works Loan Validation Act 1885 (1885 No 13 (L))**

**Takapuna City Council (Rates Validation) Act 1977 (1977 No 2 (L))**

**Taranaki Botanic Garden Act Amendment Act 1907 (1907 No 10 (L))**

**Taranaki County Council Loan Act 1878 (1878 No 34 (L))**

**Taranaki County Council Loan Act 1878 Amendment Act 1881 (1881 No 1 (L))**

**Taupo County Council (Rates Remission and Postponement) Empowering Act 1970 (1970 No 22 (L))**

**Tauranga Borough Council and Bay of Plenty Harbour Board Empowering Act 1918 (1918 No 5 (L))**

**Tauranga Borough Council Empowering Act 1938 (1938 No 3 (L))**

**Tauranga Borough Council Empowering Act 1953 (1953 No 6 (L))**

**Tauranga City Council Empowering Repeal Act 1979 (1979 No 8 (L))**

**Tauranga Harbour Act 1912 (1912 No 19 (L))**

**Tawa Borough Empowering Act 1968 (1968 No 2 (L))**

**Tawera County Act 1909 (1909 No 32 (L))**

**Te Aroha Borough Council (Rating Validation) Act 1985 (1985 No 4 (L))**

**Te Aroha Borough Endowment Empowering Act 1970 (1970 No 8 (L))**

**Te Aroha Borough Water-Supply Empowering Act 1962 (1962 No 5 (L))**

**Te Kuiti Borough Empowering Act 1951 (1951 No 2 (L))**

**Te Matai Road Water-race District Act 1927 (1927 No 3 (L))**

**Te Ore Ore River Board Rating Act 1934 (1934 No 5 (L))**

**Thames Borough Boundaries Alteration Act 1918 (1918 No 10 (L))**

**Thames Borough Commissioner Act 1932 (1932 No 1 (L))**

**Thames Borough Commissioner Amendment Act 1934 (1934 No 10 (L))**

**Thames Borough Commissioner Amendment Act 1940 (1940 No 12 (L))**

**Thames Borough Loans Rate Adjustment Act 1928 (1928 No 1 (L))**

**Thames–Coromandel District Council Ambulance Levy Act 1981 (1981 No 5 (L))**

**Thames–Coromandel District Council (Rating Validation) Act 1987 (1987 No 6 (L))**

**Thames–Coromandel District Council (Whitianga Lump Sum Validation) Act 1996 (1996 No 6 (L))**

**Timaru Borough Loans Consolidation Act 1909 (1909 No 12 (L))**

**Timaru Harbour Board Act 1899 (1899 No 7 (L))**

**Timaru Harbour Board Amendment Act 1906 (1906 No 31 (L))**

**Timaru Harbour Board Empowering Act 1879 (1879 No 26 (L))**

**Timaru Harbour Board Empowering Act 1890 (1890 No 12 (L))**

**Timaru Harbour Board Empowering Act 1913 (1913 No 11 (L))**

**Timaru Harbour Board Loan Act 1881 (1881 No 13 (L))**

**Timaru Harbour Board Loan Act 1885 (1885 No 14 (L))**

**Timaru Harbour Board Loan Act 1899 (1899 No 21 (L))**

**Timaru Harbour Board Loan Act 1904 (1904 No 18 (L))**

**Timaru Harbour Board Loan Act 1929 (1929 No 8 (L))**

**Timaru Harbour Board Loan Act 1952 (1952 No 18 (L))**

**Timaru Harbour Board Loan Act 1955 (1955 No 13 (L))**

**Timaru Harbour Board Loan Act 1962 (1962 No 13 (L))**

**Timaru Harbour Board Loan Amendment Act 1937 (1937 No 9 (L))**

**Timaru Harbour Board Loan and Empowering Act 1959 (1959 No 12 (L))**

**Timaru Harbour District and Harbour Board Act 1903 (1903 No 17 (L))**

**Timaru Harbour District Rating Act 1894 (1894 No 26 (L))**

**Timaru Waterworks Act 1879 (1879 No 27 (L))**

**Tokomaru Bay Harbour Act 1915 (1915 No 8 (L))**

**Tokoroa Borough Council (Rates Validation) Act 1992 (1992 No 6 (L))**

**Tolaga Bay Harbour Act 1919 (1919 No 11 (L))**

**Tolaga Bay Harbour Board Empowering Act 1921 (1921 No 7 (L))**

**Tukituki Bridge Loans Act 1902 (1902 No 3 (L))**

**Tutukaka, Whangaruru, and Whananaki Harbours Control Act 1926 (1926 No 15 (L))**

**Uawa County Act 1918 (1918 No 6 (L))**

**Waiapu County Council Empowering Act 1930 (1930 No 8 (L))**

**Waiapu County Council (Tokomaru Harbour) Empowering Act 1910 (1910 No 16 (L))**

**Waiapu County Council (Tokomaru Harbour) Empowering Amendment Act 1943 (1943 No 4 (L))**

**Waiheke County Council (Loans) Act 1989 (1989 No 4 (L))**

**Waikohu County Act 1908 (1908 No 23 (L))**

**Waimairi County Act 1909 (1909 No 6 (L))**

**Waimairi County Differential Rate Empowering Act 1912 (1912 No 14 (L))**

**Waimakariri–Ashley Water-supply Board Loan Act 1894 (1894 No 19 (L))**

**Waimarino County Act 1902 (1902 No 19 (L))**

**Waimate Racecourse Reserve Act 1881 (1881 No 18 (L))**

**Waimate Racecourse Reserve Act 1881 Amendment Act 1903 (1903 No 2 (L))**

**Waimate Racecourse Trustees Empowering Act 1886 (1886 No 7 (L))**

**Waimate West County Act 1908 (1908 No 38 (L))**

**Waiorongomai Bridge Act 1892 (1892 No 22 (L))**

**Waipara County Act 1909 (1909 No 35 (L))**

**Waipawa County Act 1907 (1907 No 26 (L))**

**Wairarapa North County Council Empowering Act 1887 (1887 No 18 (L))**

**Wairarapa North County Loan Act 1898 (1898 No 21 (L))**

**Wairarapa South County Loan Act 1898 (1898 No 20 (L))**

**Wairau Harbour Board Empowering Act 1922 (1922 No 3 (L))**

**Wairau Harbour Board Loan and Enabling Act 1916 (1916 No 10 (L))**

**Wairau River District Loans Act 1922 (1922 No 4 (L))**

**Wairewa County Act 1909 (1909 No 33 (L))**

**Wairoa Harbour Act 1946 (1946 No 11 (L))**

**Waitara Borough Empowering Act 1940 (1940 No 2 (L))**

**Waitemata City Council Empowering Act 1975 (1975 No 9 (L))**

**Waitemata County Council Empowering Act 1956 (1956 No 8 (L))**

**Waitemata County Council Empowering Act 1962 (1962 No 4 (L))**

**Wanganui Borough Council Empowering Act 1920 (1920 No 18 (L))**

**Wanganui Borough Council Empowering and Acquisition Act 1920 (1920 No 1 (L))**

**Wanganui Borough Council Special Rate Empowering and Special Loan Act 1913 (1913 No 26 (L))**

**Wanganui Borough Council Street Access Empowering Act 1913 (1913 No 12 (L))**

**Wanganui Borough Council Street Access Empowering Amendment Act 1916 (1916 No 2 (L))**

**Wanganui City Council Empowering and Enabling Act 1925 (1925 No 10 (L))**

**Wanganui Harbour Board Empowering Act 1972 (1972 No 11 (L))**

**Wanganui Harbour Board Land Development Act 1974 (1974 No 11 (L))**

**Wanganui Harbour Board Vesting Act 1910 (1910 No 17 (L))**

**Wanganui Harbour Board Vesting Act 1911 (1911 No 16 (L))**

**Wanganui Harbour Board Vesting Act 1917 (1917 No 12 (L))**

**Wanganui Harbour District and Empowering Act 1913 (1913 No 18 (L))**

**Wanganui Harbour District and Empowering Amendment Act 1923 (1923 No 1 (L))**

**Wanganui Harbour District and Empowering Amendment Act 1926 (1926 No 5 (L))**

**Wanganui Harbour District and Empowering Amendment Act 1929 (1929 No 17 (L))**

**Wanganui Harbour District and Empowering Amendment Act 1935 (1935 No 7 (L))**



**Wanganui Harbour District and Empowering Amendment Act 1937 (1937 No 5 (L))**

**Wanganui Harbour District and Empowering Amendment Act 1954 (1954 No 15 (L))**

**Wanganui River Bridge No 2 Act 1911 (1911 No 40 (L))**

**Weber County Act 1902 (1902 No 23 (L))**

**Wellington (City) Suburbs Sanitation Act 1893 (1893 No 3 (L))**

**Wellington (City) Suburbs Water-supply Act 1895 (1895 No 7 (L))**

**Wellington (City) Water-supply Loan-moneys Diversion Act 1909 (1909 No 3 (L))**

**Wellington City Abattoir Loan Act 1919 (1919 No 10 (L))**

**Wellington City Boundaries Act 1878 (1878 No 51 (L))**

**Wellington City Council (Capital Power Establishment Plan) Empowering Act 1993 (1993 No 6 (L))**

**Wellington City Empowering Act 1899 (1899 No 12 (L))**

**Wellington City Empowering Act 1921 (1921 No 11 (L))**

**Wellington City Empowering Act 1934 (1934 No 14 (L))**

**Wellington City Empowering Act 1936 (1936 No 11 (L))**

**Wellington City Empowering and Amendment Act 1911 (1911 No 42 (L))**

**Wellington City Empowering and Amendment Act 1919 (1919 No 6 (L))**

**Wellington City Empowering and Amendment Act 1932 (1932 No 4 (L))**

**Wellington City Empowering and Amendment Act 1937 (1937 No 17 (L))**

**Wellington City Empowering and Amendment Act 1943 (1943 No 1 (L))**

**Wellington City Empowering and Special Rates Consolidation Act 1923 (1923 No 13 (L))**

**Wellington City Empowering and Special Rates Consolidation Amendment Act 1933 (1933 No 9 (L))**

**Wellington City Housing Act 1938 (1938 No 11 (L))**

**Wellington City Sanitation Loan Act 1897 (1897 No 1 (L))**

**Wellington City Trading Departments' Reserve and Renewal Funds Act 1917 (1917 No 5 (L))**

**Wellington City Trading Departments' Reserve and Renewal Funds Amendment Act 1950 (1950 No 11 (L))**

**Wellington Harbour Board Act 1879 (1879 No 13 (L))**

**Wellington Harbour Board Empowering Act 1902 (1902 No 6 (L))**

**Wellington Harbour Board Empowering Act 1902 Amendment Act 1903 (1903 No 5 (L))**

**Wellington Harbour Board Empowering Act 1910 (1910 No 35 (L))**

**Wellington Harbour Board Loan and Empowering Act 1952 (1952 No 17 (L))**

**Wellington Harbour Board Loan and Empowering Act 1957  
(1957 No 4 (L))**

**Wellington Harbour Board Loan and Empowering Act 1959  
(1959 No 4 (L))**

**Wellington Harbour Board Loan and Empowering Act 1961  
(1961 No 6 (L))**

**Wellington Harbour Board Loan and Empowering Act 1964  
(1964 No 6 (L))**

**Wellington Harbour Board Loans Consolidation and  
Empowering Act 1884 (1884 No 7 (L))**

**Wellington Harbour Board Reclamation and Empowering Act  
1898 (1898 No 1 (L))**

**Wellington Harbour Board Reclamation and Empowering Act  
1903 (1903 No 6 (L))**

**Wellington High Levels Tramway Act 1898 (1898 No 25 (L))**

**Wellington High Levels Tramway Amendment and Empowering  
Act 1935 (1935 No 18 (L))**

**Wellington Reserves Act 1876 Amendment Act 1877 (1877  
No 54 (L))**

**Whakatane County Act 1899 (1899 No 26 (L))**

**Whakatane County Act Amendment Act 1908 (1908 No 11 (L))**

**Whakatane County Council Empowering and Loan-moneys  
Diversion Act 1927 (1927 No 2 (L))**

**Whakatane District Council (Rates Assessment Validation) Act  
1995 (1995 No 2 (L))**

**Whakatane District Council Empowering Act 1987 (1987 No 3 (L))**

**Whangamomona County Act 1907 (1907 No 13 (L))**

**Whangarei Abattoir Site Act 1908 (1908 No 42 (L))**

**Whangarei Borough Empowering Act 1918 (1918 No 12 (L))**

**Whangarei Borough Empowering Amendment Act 1922 (1922 No 25 (L))**

**Whangarei Borough Repayment of Kensington Park Rate Enabling Act 1903 (1903 No 28 (L))**

**Whangarei City Constitution Act 1965 (1965 No 9 (L))**

**Whangarei Foreshore Vesting Act 1913 (1913 No 15 (L))**

**Whangarei Harbour Act 1907 (1907 No 31 (L))**

**Whangarei Harbour Board Empowering Act 1914 (1914 No 2 (L))**

**Whangarei Harbour Board Empowering Act 1921–22 (1921–22 No 20 (L))**

**Whangarei Harbour Board Empowering Act 1960 (1960 No 3 (L))**

**Whangarei Harbour Board Empowering Act 1963 (1963 No 2 (L))**

**Whangarei Harbour Board Vesting Act 1917 (1917 No 14 (L))**

**Whangarei Harbour Board Vesting Act 1928 (1928 No 14 (L))**

**Whangarei Harbour Board Vesting Act 1932–33 (1932–33 No 11 (L))**

**Whangarei Harbour Board Vesting Amendment Act 1951 (1951 No 1 (L))**

**Whangarei Harbour Board Vesting and Empowering Act 1919 (1919 No 18 (L))**

**Whangarei Harbour Board Vesting and Empowering Act 1923 (1923 No 10 (L))**

**Whangarei Harbour Board Vesting and Empowering Act 1925 (1925 No 8 (L))**

**Whangarei Harbour Board Vesting and Empowering Act 1927 (1927 No 6 (L))**

**Whangarei Harbour Board Vesting and Empowering Act 1950 (1950 No 13 (L))**

**Whangarei Harbour Board Vesting and Empowering Act 1961 (1961 No 3 (L))**

**Whangarei Harbour Board Vesting and Empowering Act 1962 (1962 No 8 (L))**

**Whangarei Harbour Board Vesting and Empowering Act 1963 (1963 No 14 (L))**

**Whangarei Milk Authority Empowering Act 1949 (1949 No 11 (L))**

**Woodville County Act 1901 (1901 No 1 (L))**

---

**Schedule 20**

s 272

**Orders in Council revoked**

**Bay of Plenty Catchment Commission and Regional Water  
Board Administrative Expenses Recovery Act Commencement  
Order 1978 (SR 1978/7)**

**Local Government Act First Schedule Order (No 2) 1989  
(SR 1989/160)**

**Local Government Act First Schedule Order (No 3) 1989  
(SR 1989/224)**

**Local Government Act First Schedule Order 1991 (SR 1991/224)**

**Local Government Amendment Act Commencement Order  
1992 (SR 1992/214)**

**Local Government Amendment Act (No 5) 1996 Commencement  
Order 1999 (SR 1999/276)**

**Public Bodies Contracts Order 1997 (SR 1997/113)**

---

## **Local Government Act 2002 Amendment Act 2006**

Public Act    2006 No 26  
Date of assent    27 June 2006  
Commencement    see section 2

### **1    Title**

This Act is the Local Government Act 2002 Amendment Act 2006.

### **2    Commencement**

- (1) Section 7 comes into force on 14 October 2007.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

### *Transitional provision*

### **31    Transitional provision for long-term council community plans for period beginning on 1 July 2006**

Any amendments made by this Act that have the effect of requiring an amendment to a long-term council community plan (to ensure that it complies with the requirements of the principal Act, as amended by this Act)—

- (a) do not apply to a long-term council community plan to which section 280 of the principal Act applies, whether it is adopted before or after the commencement of this Act; but
  - (b) do apply to any amendment made to a long-term council community plan to which section 280 of the principal Act applies that is adopted after the commencement of this Act.
-

---

## **Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008**

Public Act    2008 No 64  
Date of assent    9 September 2008  
Commencement    see section 2

### **1    Title**

This Act is the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008.

### **2    Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

## **Part 1 Amendments to Statutes**

### *Amendments to Local Government Act 2002*

#### **7    Amendments to Local Government Act 2002**

- (1) This section amends the Local Government Act 2002.
  - (2), (3) *Amendment(s) incorporated in the Act(s).*
  - (4) The amendments made by subsections (2) and (3) do not limit the power of a District Court under clause 2 of Schedule 7 of the Local Government Act 2002.
-



## **Local Government Act 2002 Amendment Act 2010**

Public Act    2010 No 124  
Date of assent    26 November 2010  
Commencement    see section 2

### **1    Title**

This Act is the Local Government Act 2002 Amendment Act 2010.

### **2    Commencement**

- (1) Section 17 comes into force on 1 July 2011.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

## **Part 2 Consequential amendments and transitional provisions**

### *Transitional provisions*

### **51    Transitional provision for long-term plan beginning on 1 July 2009**

- (1) This section applies to a long-term plan beginning on 1 July 2009 and still in force at the commencement of this section.
- (2) The amendments made by this Act to Schedule 10 of the principal Act do not apply to a long-term plan specified in subsection (1), and nothing in this Act requires that long-term plan to be amended to ensure it complies with the requirements of the principal Act as amended by this Act.
- (3) Until a local authority has adopted a financial strategy under section 101A of the principal Act (as inserted by section 18 of this Act), it must amend its liability management policy or investment policy only as an amendment to its long-term plan as if the amendments enacted by this Act had not been made.

**52 Transitional provision for annual plans**

- (1) This section applies to an annual plan that relates to the period—
- (a) 1 July 2010 to 30 June 2011; or
  - (b) 1 July 2011 to 30 June 2012.
- (2) The amendments made by this Act to section 85(2)(a) and Schedule 10 of the principal Act do not apply to an annual plan specified in subsection (1), and nothing in this Act requires that annual plan to be amended to ensure it complies with the requirements of the principal Act as amended by this Act.

**53 Transitional provision for audit of information in annual report and summary**

- (1) This section applies to an annual report that relates to the period—
- (a) 1 July 2009 to 30 June 2010; or
  - (b) 1 July 2010 to 30 June 2011; or
  - (c) 1 July 2011 to 30 June 2012.
- (2) The amendments made by this Act to Schedule 10 of the principal Act do not apply to an annual report specified in subsection (1).
- (3) The amendments made by this Act to section 99 of the principal Act do not apply to the auditor's report on the annual reports specified in subsection (1).

**54 Transitional provision for pre-election report**

- (1) Despite section 99A of the principal Act (as inserted by section 17 of this Act), a pre-election report required in relation to the triennial general election of local authorities in 2013 need not comply with clause 36(1)(a)(i) and (iii) of Schedule 10 of the principal Act (as substituted by this Act), but must instead include—
- (a) the funding impact statement referred to in clause 30 of Schedule 10 of the principal Act (as substituted by this Act) for the financial year ending in 2013; and
  - (b) a summary of cash flows based on the financial statements referred to in clause 29 of Schedule 10 of the

principal Act (as substituted by this Act) for the last 3 years ending before the date of the election in 2013.

- (2) The summary of cash flows must disclose income from rates and payments for property, plant, equipment, and intangible assets separately.

**55 Transitional provision for identification and reporting of community outcomes**

A local authority is not required to comply with, or complete the compliance with, an obligation under section 91 or 92 of the principal Act that existed before the repeal of those provisions by section 13 of this Act.

**56 Transitional provision for review of certain funding and financial policies**

- (1) This section applies to a review of the following policies:
- (a) a local authority's policy on the remission and postponement of rates on Māori freehold land under section 108(4A) of the principal Act (as inserted by section 25 of this Act):
  - (b) a local authority's rates remission policy under section 109(2A) of the principal Act (as inserted by section 26 of this Act):
  - (c) a local authority's rates postponement policy under section 110(2A) of the principal Act (as inserted by section 27 of this Act).
- (2) A policy specified in subsection (1) is to be treated as having been last reviewed on the date that the local authority adopted its long-term plan for the period beginning on 1 July 2009.
-

## Building Amendment Act 2012

Public Act    2012 No 23  
Date of assent    12 March 2012  
Commencement    see section 2

### 1 Title

This Act is the Building Amendment Act 2012.

### 2 Commencement

- (1) The following provisions come into force on the day after the date of Royal assent:
- (a) sections 1 to 5:
  - (b) section 6(4) to (6), and (9) to (11):
  - (c) sections 8 to 10:
  - (d) sections 13 and 14:
  - (e) sections 18 to 20:
  - (f) sections 23 to 27:
  - (g) section 29:
  - (h) sections 36(3) and 39 to 51:
  - (i) sections 53 and 54:
  - (j) section 56:
  - (k) section 57(1) and (2):
  - (l) sections 59, 61, 62(2), and 63 to 65:
  - (m) sections 67 to 71:
  - (n) sections 74 and 75:
  - (o) sections 81 to 83:
  - (p) sections 87 and 88(2):
  - (q) sections 90 to 92, 93(5), and 94.
- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.

### 3 Principal Act amended

This Act amends the Building Act 2004.

## Part 2

### Miscellaneous provisions

#### 92 Transitional provisions for section 91

- (1) In this section, **transition period** means—
    - (a) the period of 18 months from the commencement of this section; or
    - (b) a shorter period than 18 months from the commencement of this section ending on a date determined by the Minister of Conservation (the **Minister**) and notified in the *Gazette*.
  - (2) During the transition period, the following provisions of the Building Act 2004 do not apply to the Minister in his or her capacity as a territorial authority under section 22 of the Local Government Act 2002:
    - (a) section 212;
    - (b) section 215.
  - (3) During the transition period, none of the following persons is liable, and no proceeding may be brought against any of them, for any thing done or omitted to be done under the Building Act 2004 from the commencement of that Act until the close of the transition period on or in relation to the islands referred to in section 22(2) of the Local Government Act 2002 after amendment by this Act:
    - (a) the Minister;
    - (b) the Minister of Local Government;
    - (c) the Department of Conservation;
    - (d) any employee or agent of the Department of Conservation.
-

## Search and Surveillance Act 2012

Public Act    2012 No 24  
Date of assent    5 April 2012  
Commencement    see section 2

### 1 Title

This Act is the Search and Surveillance Act 2012.

### 2 Commencement

- (1) Part 1 and subpart 1 of Part 3 (other than section 49(3) and (4)), and sections 136, 140, 141, 148, 162, 165, 166, 167, 168, 169, 170, 171, 172, 175, 179, 180, 181, 247, 248, 251(3), 325 (other than section 325(4) and (6)), 334(1) and (7), 337(4), 342, 343, 346, 347, 349, 350, 352, 353, 354, 355, and 356 come into force on 18 April 2012.
- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.
- (3) To the extent that it is not previously brought into force under subsection (2), the rest of this Act comes into force on 1 April 2014.
- (4) In this section, **provision** includes any item, or any part of an item, in the Schedule.

Section 2(2): Part 2, section 49(3), (4), subparts 2–4 of Part 3, Part 4 (except sections 136, 140, 141, 148, 162, 165–172, 175, 179–181), Part 5 (except sections 201(3)–(9), 247, 248, 251(3), 302, 325(1)–(3), (5), (7)–(13), 334(1), (7), 337(4), 342, 343, 346, 347, 349, 350, 352–356) and the Schedule (except the items relating to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and the Tax Administration Act 1994) brought into force, on 1 October 2012, by clause 3 of the Search and Surveillance Act Commencement Order 2012 (SR 2012/229).

## Part 1 General provisions

### 5 Purpose

The purpose of this Act is to facilitate the monitoring of compliance with the law and the investigation and prosecution

of offences in a manner that is consistent with human rights values by—

- (a) modernising the law of search, seizure, and surveillance to take into account advances in technologies and to regulate the use of those technologies; and
- (b) providing rules that recognise the importance of the rights and entitlements affirmed in other enactments, including the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, and the Evidence Act 2006; and
- (c) ensuring investigative tools are effective and adequate for law enforcement needs.

## **Part 5**

### **Amendments, repeals, and miscellaneous provisions**

Subpart 4—Regulation-making powers,  
transitional provisions, and review provision

#### *Transitional provisions*

#### **351 Transitional provision relating to provisions brought into force under section 2**

- (1) Despite any amendment in Part 5 of this Act,—
  - (a) where an application has been made under an authorising Act before the relevant commencement, and the application is not finally determined before that date, the provisions of that Act continue to apply to the application and to any matter or obligation relating to the application in all respects as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted; and
  - (b) those provisions continue to apply to a continuing warrant and to any matter relating to the warrant in all respects as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted; and
  - (c) those provisions continue to apply to any other proceeding, matter, or thing commenced and not completed before the relevant commencement as if this Act (other than this section and any provisions in force immedi-

ately before the relevant commencement) had not been enacted.

(2) Subsection (1)(c) does not limit the provisions of the Interpretation Act 1999.

(3) In this section,—

**authorising Act** means an Act amended by Part 5

**continuing warrant** means a warrant or other authority issued under an authorising Act—

(a) before the relevant commencement; or

(b) on or after that date on an application made before that date

**relevant commencement**, in relation to an authorising Act, means the commencement of a provision in Part 5 that amends an authorising Act.

---



## **Contents**

- 1 General
  - 2 Status of reprints
  - 3 How reprints are prepared
  - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
  - 5 List of amendments incorporated in this reprint (most recent first)
- 

## **Notes**

### **1 *General***

This is a reprint of the Local Government Act 2002. The reprint incorporates all the amendments to the Act as at 1 October 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5**     ***List of amendments incorporated in this reprint  
(most recent first)***

Search and Surveillance Act 2012 (2012 No 24): sections 270, 271

Building Amendment Act 2012 (2012 No 23): section 91

Financial Reporting Amendment Act 2011 (2011 No 22): section 12

Local Government Act 2002 Amendment Act 2010 (2010 No 124)

Electricity Industry Act 2010 (2010 No 116): section 166

Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109): section 211

Affordable Housing: Enabling Territorial Authorities Act Repeal Act 2010 (2010 No 101): section 7

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37): section 113(1), (2)

Local Government Amendment Act 2009 (2009 No 48)

Local Government (Auckland Council) Act 2009 (2009 No 32): section 36

District Courts Rules 2009 (SR 2009/257): rule 17.1  
Waste Minimisation Act 2008 (2008 No 89): sections 62, 63  
Policing Act 2008 (2008 No 72): section 116(a)(ii)  
Affordable Housing: Enabling Territorial Authorities Act 2008 (2008 No 67): section 38  
Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64): section 7  
Energy (Fuels, Levies, and References) Amendment Act 2008 (2008 No 60): section 17  
Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)  
New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 (2008 No 30): section 38  
Income Tax Act 2007 (2007 No 97): section ZA 2(1)  
Health (Drinking Water) Amendment Act 2007 (2007 No 92): sections 16, 17  
Local Government Act 2002 Amendment Act 2007 (2007 No 69)  
Evidence Act 2006 (2006 No 69): section 216  
Local Government (Rating) Amendment Act 2006 (2006 No 28): section 15  
Local Government Act 2002 Amendment Act 2006 (2006 No 26)  
Education Amendment Act 2006 (2006 No 19): section 8(4)  
Public Finance Amendment Act 2004 (2004 No 113): section 37(1)  
Building Act 2004 (2004 No 72): section 414  
Local Government Act 2002 Amendment Act 2004 (2004 No 63)  
Local Government (Auckland) Amendment Act 2004 (2004 No 57): section 48(1)(b)  
Local Government (Tauranga City Council) Order 2003 (SR 2003/275): clause 5  
Public Finance Act 1989 (1989 No 44): section 65R(3)

---