

# **Local Government Act 2002 Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The Local Government Act 2002 Amendment Bill implements the Government's decisions regarding reform of local government legislation to improve the operation of local government in New Zealand. The Bill contributes to the Government's broader agenda to build a more competitive and productive economy, and improve the delivery of public services, by focusing councils on operating more efficiently and doing the things only councils can do. New Zealand's 78 councils make up 4% of Gross Domestic Product, spend \$7.5 billion per year of public money, and manage \$100 billion of public assets. They also perform a huge range of important regulatory functions for households and businesses. Councils must be able to play their part in creating an environment conducive to sustained economic growth. This means reducing red tape, minimising the rates burden on households and businesses, limiting debt, and the cost-effective provision of good-quality infrastructure.

The current law relating to local government does not adequately focus councils on operating efficiently, or on delivering those services that only councils can provide or performing those roles that only councils can perform. For example, the very broad purpose of local government, as set out in the Local Government Act 2002, encom-

passing social, economic, cultural and environmental well-being, can divert councils into areas already covered by central government and the private sector. Additionally, the current legislative framework contains convoluted processes that are barriers to efficiency and prevent communities getting the type of council they want. For example, council reorganisation proposals can take several years to progress with no certainty of outcome. At the same time, the current legislative provisions prevent councils receiving timely and proportionate assistance from central government to manage, or avoid, potentially costly problems.

The Bill will amend the Local Government Act 2002 to make better provision for effective, efficient, and democratic local governance. The Bill reframes the scope of councils' role, gives them stronger tools to contain costs, and provides options for efficiency gains from council reorganisation.

Specifically, this Bill introduces a new purpose statement for local government, which is to meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses. Having a clear and focused purpose statement will help define the role of councils, and assist them to plan and prioritise activity.

The Bill provides for the establishment of financial prudence requirements for councils, setting benchmarks for councils' performance in respect of income, expenditure, and prudent debt levels. The Bill provides for these requirements to be set by way of regulations.

The Bill also contains 3 mechanisms to strengthen council governance provisions. First, the Bill provides a simpler, graduated mechanism for Crown assistance and intervention in the affairs of individual councils, enabling central government to provide assistance to struggling councils before situations become critical. The financial prudence requirements form one of the threshold tests for these intervention powers. Secondly, it extends some aspects of the Auckland mayoral model to all mayors, such as the power to appoint deputy mayors and chairs of committees. Thirdly, it specifically enables an elected council to determine policies on remuneration and staff numbers, and requires standard reporting of information on staff numbers and remuneration in council annual reports.

The Bill also streamlines local government reorganisation procedures. It provides the Local Government Commission with greater flexibility to develop reorganisation proposals, and makes it easier for community-led proposals to proceed.

### **Regulatory impact statement**

The Department of Internal Affairs produced a regulatory impact statement on 16 March 2012 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of the regulatory impact statement can be found at—

- [http://www.dia.govt.nz/diawebsite.nsf/wpg\\_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument#four](http://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument#four)
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. The entire Bill, when enacted, comes into force on the day after the date on which it receives the Royal assent, except for *clause 16*, which comes into force on 12 October 2013.

*Clause 3* provides that the provisions of this Bill amend the Local Government Act 2002 (the **Act**).

## **Part 1**

### **Amendments to Local Government Act 2002**

*Clause 4* amends the purpose section of the Act (section 3) by replacing paragraph (d) of that section (which contains a reference to the four well-beings). The amendment in this clause is related to the amendment to section 10 of the Act in *clause 7*.

*Clause 5* amends the interpretation section of the Act (section 5).

*Clause 6* amends section 8 of the Act, which sets out how the Crown is bound under the Act. The amendment removes the reference to Schedule 15 of the Act, which is repealed by *clause 26*.

*Clause 7* amends the purpose of local government section of the Act (section 10). *Subclause (1)* replaces paragraph (b) of that section (which contains the reference to the four well-beings) with a different purpose statement. *Subclause (2)* adds a definition of the term good-quality.

*Clause 8* amends the principles relating to local authorities section of the Act (section 14). The amendments in this clause are related to the amendment to section 10 of the Act in *clause 7*.

*Clause 9* amends section 23 of the Act, which specifies how local authorities are described. The amendment provides that a territorial authority created as a unitary authority after the commencement of this clause must be described as “[*name of city or district*] Council”.

*Clause 10* amends section 24 of the Act, which deals with reorganisation proposals. The amendments are drafting amendments consequential on *new Schedule 3*, as inserted by *clause 23*.

*Clause 11* inserts *new section 24A* into the Act, which authorises the modification of certain statutory requirements during the period beginning when the Local Government Commission gives public notice of a final reorganisation scheme and ending when the fate of the scheme is determined.

*Clause 12* amends section 25 of the Act, which provides for a reorganisation scheme to come into effect by Order in Council. The amendments are drafting amendments consequential on *new Schedule 3*, as inserted by *clause 23*.

*Clause 13* inserts *new section 27A* into the Act, which permits the name of a city council or a district council that is a unitary authority to be changed by Order in Council.

*Clause 14* inserts *new section 31A* into the Act, which provides that the Minister of Local Government may, by notice in the *Gazette*, specify measures and expectations relating to the Local Government Commission’s performance of its functions and exercise of its powers.

*Clause 15* adds a further requirement to the information to be included in a local governance statement under section 40 of the Act. The amendment relates to the amendment in *clause 24(5)*, which introduces a power for local authorities to develop a remuneration and employment policy under the Act.

*Clause 16* adds *new section 41A* to the Act and relates to the role and powers of mayors. This provision is based on section 9 of the Local Government (Auckland Council) Act 2009, which sets out the role and powers of the Mayor of Auckland.

*Clause 17* amends section 42 of the Act, which relates to the chief executive. The amendments to this section relate to the amendment made by *clause 24(5)*.

*Clause 18* amends section 48 of the Act, which sets out the activities of local authorities that must be carried out in accordance with Part 1 of Schedule 7 of the Act, to add a reference to adoption of a remuneration and employment policy. This amendment also relates to the amendment in *clause 24(5)*.

*Clause 19* amends section 77(1)(b)(i) of the Act. Section 77 sets out the requirements of a local authority in the course of its decision-making process. The amendment to subsection (1)(b)(i) is another amendment relating to the amendment to section 10 of the Act in *clause 7*.

*Clause 20* amends the financial management section of the Act (section 101) by deleting the reference to the four well-beings in subsection (3)(b). This also is an amendment relating to the amendment to section 10 of the Act in *clause 7*.

*Clause 21* replaces Part 10 of the Act, which deals with the powers of the Minister of Local Government to act in relation to local authorities, with a *new Part 10 (new sections 253 to 258T)*. *New Part 10* provides for a stepped series of interventions that the Minister may implement in relation to a local authority. These are for the most part available where a problem, as defined in *new section 254*, has been identified in relation to the local authority. The interventions range from advisory (Crown Review Team (*see new section 256*), Crown Observer (*see new section 258*)) to managerial (Crown Manager (*see new section 258B*), Commission (*see new section 258D*)).

*New Part 10* also folds the separate processes and powers of Commissioners and Deputy Commissioners for Disaster Recovery in current Part 10 of the Act into the new scheme.

*Clause 22* adds a new regulation-making power to section 259 of the Act. *New subsection (1)(dc)* authorises the Governor-General to make regulations that prescribe parameters or benchmarks for assessing whether a local authority is prudently managing its revenues,

expenses, assets, liabilities, investments, and general financial dealings (as required by section 101 of the Act). Regulations made under this new empowering provision may prescribe parameters or benchmarks in any manner, including in the ways set out in *new subsection (3)*.

*Clause 23* replaces Schedule 3 (which deals with the reorganisation of local authorities) with the *new Schedule 3* set out in *Schedule 1* of the Bill.

*Clause 24* amends Schedule 7 of the Act, which sets out procedural matters relating to local authorities, community boards, and members. *Subclause (2)* replaces clause 6 of Schedule 7 with *new clause 6* and *subclause (3)* inserts *new clause 7A*. Both these amendments relate to the setting of remuneration of local authority members by the Remuneration Authority. *New clause 6* enlarges the category of persons in relation to whom the Authority may make determinations and the methods by which it may do so. It also authorises the Authority to direct a local authority to make publicly available any rules that it has approved for reimbursing expenses incurred by members of the local authority. *New clause 7A* sets out rules that will apply to a determination made by the Authority. These replace the current rules contained in section 19 of the Remuneration Authority Act 1977. The new rules are less prescriptive as to when the Authority may amend a determination, but retain the rule that the expiry date of a determination may only be amended where the Authority is satisfied that in all the circumstances there are particular and special reasons that justify a period of less than the term originally set.

Amendments made by *clause 24(4) and (5)* are related. *Subclause (5)* inserts *new clause 36A* into Schedule 7 of the Act. This clause empowers a local authority to adopt a policy that sets out its policies in relation to employee staffing levels and remuneration of employees. *Subclause (4)* adds a reference to this policy in clause 32(1) of Schedule 7 as a matter of business that the local authority may not delegate the making of to any other person or body.

*Clause 25* amends Schedule 10 of the Act. That schedule sets out the information required to be included in long-term plans, annual plans, annual reports, and pre-election reports of local authorities. The amendments in *subclauses (1) to (3)* relate to the amendment to section 10 of the Act in *clause 7*. *Subclause (4)* inserts *new clause 32A* into Schedule 10, which requires a local authority to include

in its annual report for the financial year ending 30 June 2013, and each following financial year, a report on employee staffing levels and remuneration.

*Clause 26* repeals Schedule 15 of the Act, as the relevant provisions are now incorporated into *new Part 10* of the Act inserted by *clause 21*.

## **Part 2**

### **Transitional provision and consequential amendments**

*Clause 27* is a transitional provision relating to reorganisation proposals made before the Bill comes into force. Those provisions are to be completed as if *Part 1* of the Bill had not been enacted.

*Clause 28* makes consequential amendments to the enactments listed in *Schedule 2* in the manner indicated in that schedule.

### **Schedules**

There are 2 schedules, as follows:

- *Schedule 1* contains the *new Schedule 3* of the Local Government Act 2002, which deals with the reorganisation of local authorities (*see clause 23*):
  - *Schedule 2* contains amendments to enactments consequential on the amendments made to the Local Government Act 2002 under *Part 1* of the Bill.
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*Hon David Carter*

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Local Government Act 2002 Amendment Act **2012**.
- 2 Commencement** 5  
(1) **Section 16** comes into force on **12 October 2013**.  
(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act** 10  
This Act amends the Local Government Act 2002 (the **principal Act**).

**Part 1**  
**Amendments to Local Government Act**  
**2002**

- 4 Section 3 amended (Purpose)** 15  
Replace section 3(d) with:  
“(d) provides for local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions.” 20
- 5 Section 5 amended (Interpretation)**  
(1) In section 5(1), replace the definition of **community outcomes** with:  
“**community outcomes** means the outcomes that a local authority aims to achieve in meeting the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions” 25  
(2) In section 5(1), definition of **significance**, replace paragraph (a) with:  
“(a) the district or region.” 30  
(3) In section 5(1), insert in their appropriate alphabetical order:

“**good-quality**, in relation to local infrastructure, local public services, and performance of regulatory functions, has the meaning given in **section 10(2)**

“**remuneration and employment policy** means a policy adopted by a local authority under **clause 36A of Schedule 7**”.

**6 Section 8 amended (Act binds the Crown)**

In section 8(2)(c), replace “and Schedule 15 (which relate” with “(which relates”.

**7 Section 10 amended (Purpose of local government)**

(1) Replace section 10(b) with:

“(b) to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.”

(2) In section 10, insert as subsection (2):

“(2) In this Act, **good-quality**, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—

“(a) efficient; and

“(b) effective; and

“(c) appropriate to present and anticipated future circumstances.”

**8 Section 14 amended (Principles relating to local authorities)**

(1) Replace section 14(1)(c)(iii) with:

“(iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):”.

(2) In section 14(1)(h)(i), replace “well-being” with “interests”.

(3) In section 14(2), delete “, or any aspects of well-being referred to in section 10, are in”.

**9 Section 23 amended (Description of local government)**

After section 23(3), insert:

“(3A) However, a territorial authority created as a unitary authority after the commencement of this subsection must be described as ‘[*name of city or district*] Council’.”

**10 Section 24 amended (Reorganisation proposals)**

- (1) In the heading to section 24, replace “**proposals**” with “**applications**”. 5
- (2) In section 24(1), replace “reorganisation proposal” with “reorganisation application”.
- (3) In section 24(2), replace “reorganisation proposals” with “reorganisation applications”. 10
- (4) Repeal section 24(3).

**11 New section 24A inserted (Transitional modification or suspension of certain statutory requirements after issue of final proposal for reorganisation)**

After section 24, insert:

**“24A Transitional modification or suspension of certain statutory requirements after issue of final proposal for reorganisation**

- “(1) The purpose of this section is to authorise the extension or postponement of certain statutory requirements after public notice of a final reorganisation proposal is given, but before the fate of the final reorganisation proposal is known. 20
- “(2) The Governor-General may, by Order in Council, in relation to an affected local authority,—
- “(a) extend, for a period not exceeding 12 months, the time by which the local authority would otherwise have to complete, within the transition period, any action relating to the preparation or adoption of any plan, policy, or strategy required by or under any enactment: 25
- “(b) postpone, to a date not more than 12 months after the date determined under section 10 of the Local Electoral Act 2001, the next triennial general election of members of the local authority. 30
- “(3) An Order in Council may be made only—
- “(a) during a transition period; and 35
- “(b) on the recommendation of the Minister; and

- “(c) if the Minister is satisfied that the Order in Council is—
- “(i) necessary to avoid public confusion or waste of public resources; or
- “(ii) in the interests of the district of the affected local authority; and 5
- “(d) with the agreement of—
- “(i) the affected local authority; and
- “(ii) the Commission.
- “(4) In this section,—
- “**affected local authority** means a local authority that would be affected if a final reorganisation proposal resulted in a reorganisation scheme 10
- “**transition period** means the period—
- “(a) beginning on the date on which public notice is given of the final proposal under **clause 19 of Schedule 3**; 15
- and
- “(b) ending on the date—
- “(i) by which a petition demanding a poll must be received by the Commission, if no petition is received; or 20
- “(ii) on which a poll is held, if a petition demanding a poll is received by the Commission in accordance with **clause 21 of Schedule 3**.”
- 12 Section 25 amended (Order in Council to give effect to reorganisation schemes) 25**
- (1) In section 25(3), replace “67” with “**34**”.
- (2) In section 25(4), replace “Clauses 68 to 70” with “**Clauses 41 to 43**”.
- (3) After section 25(5), insert:
- “(6) An Order in Council giving effect to a reorganisation scheme is not invalid because it amends the scheme if the amendments are of a verbal or formal nature or are corrections of clerical or typographical errors.” 30
- 13 New section 27A inserted (Change of name of unitary authorities) 35**
- After section 27, insert:

**“27A Change of name of unitary authorities**

“(1) A unitary authority that is described as a city council or district council may apply to the Minister to change its name to the ‘[*name of city or district*] Council’.

“(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, give effect to the application. 5

“(3) The Order in Council may consequentially amend Part 2 of Schedule 2.”

**14 New section 31A inserted (Minister’s expectations of Commission in relation to local government reorganisation)** 10

After section 31, insert:

**“31A Minister’s expectations of Commission in relation to local government reorganisation**

“(1) The Minister may, by notice in the *Gazette*, specify measures and expectations relating to the Commission’s performance of its functions and exercise of its powers under **Schedule 3**. 15

“(2) Without limiting **subsection (1)**, the Minister may specify—

“(a) the time frames within which the Commission is expected to complete specified matters: 20

“(b) which reorganisation applications are to be regarded by the Commission as having a higher priority.

“(3) The Minister may consult the Commission and any other persons and organisations that the Minister considers appropriate to consult before specifying measures and expectations under this section. 25

“(4) The Commission must, in its report to the Minister under clause 31 of Schedule 4, describe how and the extent to which it has met the measures and expectations specified under **subsection (1)**.” 30

**15 Section 40 amended (Local governance statements)**

After section 40(1)(j), insert:

“(ja) the remuneration and employment policy, if adopted; and”.



**16 New section 41A inserted (Role and powers of mayors)**

After section 41, insert:

**“41A Role and powers of mayors**

- “(1) The role of a mayor is to provide leadership to—
- “(a) the other members of the territorial authority; and 5
  - “(b) the people in the district of the territorial authority.
- “(2) Without limiting **subsection (1)**, it is the role of a mayor to lead the development of the territorial authority’s plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority. 10
- “(3) For the purposes of **subsections (1) and (2)**, a mayor has the following powers:
- “(a) to appoint the deputy mayor:
  - “(b) to establish committees of the territorial authority: 15
  - “(c) to appoint the chairperson of each committee established under **paragraph (b)** and, for that purpose, a mayor—
    - “(i) may make the appointment before the other members of the committee are determined; and 20
    - “(ii) may appoint himself or herself.
- “(4) A mayor is a member of each committee of a territorial authority.
- “(5) To avoid doubt,—
- “(a) clause 17(1) of Schedule 7 does not apply to the election of a deputy mayor of a territorial authority (unless the mayor of the territorial authority declines to exercise the power under **subsection (3)(a)** of this section); and 25
  - “(b) clause 25 of Schedule 7 does not apply to the election of the chairperson of a committee of a territorial authority, if the mayor of the territorial authority exercises the power in **subsection (3)(c)** of this section in respect of that committee; and 30
  - “(c) clause 30 of Schedule 7 applies to a territorial authority, except to the extent that the mayor of the territorial authority exercises the power in **subsection (3)(b)** of this section.” 35

- 17 Section 42 amended (Chief executive)**
- (1) In section 42(2)(g), after “staff of the local authority”, insert “(in accordance with any remuneration and employment policy)”.
- (2) In section 42(2)(h), after “authority”, insert “(in accordance with any remuneration and employment policy)”.
- 18 Section 48 amended (Further provisions of Schedule 7)**  
After section 48(j), insert:  
“(k) adoption of a remuneration and employment policy.”
- 19 Section 77 amended (Requirements in relation to decisions)** 10  
In section 77(1)(b)(i), replace “social, economic, environmental, and cultural well-being” with “interests”.
- 20 Section 101 amended (Financial management)**  
In section 101(3)(b), delete “current and future social, economic, environmental, and cultural well-being of the”.
- 21 Part 10 replaced**  
Replace Part 10 with:
- “Part 10**
- “Powers of Minister to act in relation to** 20  
**local authorities**
- “253 Outline of Part**  
This Part confers powers on the Minister to—
- “(a) assist local authorities in certain situations; and
- “(b) intervene in the affairs of local authorities in certain situations.” 25
- “254 Interpretation**  
In this Part,—
- “**Ministerial appointee** means a person appointed under **sub-part 1** of this Part as a Crown Manager or a Crown Observer, 30  
or as a member of a Crown Review Team or of a Commission

“**Ministerial body** means a Crown Review Team, a Crown Observer, a Crown Manager, or a Commission appointed under **subpart 1** of this Part

“**problem**, in relation to a local authority,—

“(a) means— 5

“(i) a matter or circumstance relating to the management or governance of the local authority that detracts from, or is likely to detract from, its ability to give effect to the purpose of local government within its district or region; or 10

“(ii) the consequences of a state of emergency (within the meaning of section 4 of the Civil Defence Emergency Management Act 2002) affecting, or recently affecting, the local authority’s district or region; and 15

“(b) includes—

“(i) a failure by the local authority to demonstrate prudent management of its revenues, expenses, assets, liabilities, investments, or general financial dealings in terms of any parameters or benchmarks prescribed by regulations made under **section 259(1)(dc)**; and 20

“(ii) a potential problem within the meaning of **paragraph (a)(i) or subparagraph (i) of this paragraph**; and 25

“(iii) to avoid doubt, 2 or more problems within the meaning of **paragraph (a) or subparagraph (i) or (ii) of this paragraph**

“**significant**, in relation to a problem of a local authority, means that the problem will have actual or probable adverse consequences for residents and ratepayers within the district or region of the local authority. 30

“Subpart 1—Ministerial powers of assistance  
and intervention

“*Minister may require information from local  
authority*

- “**255 Minister may require information** 5
- “(1) The Minister may, by notice in writing, require a local authority to provide to him or her information on the nature and extent of a problem and how the local authority is addressing or planning to address the problem if the Minister believes, on reasonable grounds, that— 10
- “(a) a problem relating to the local authority may exist; and
- “(b) the local authority—
- “(i) has not publicly acknowledged the nature and extent of the problem; or
- “(ii) may be unable or unwilling to effectively address the problem. 15
- “(2) A notice must state—
- “(a) the problem; and
- “(b) the information required by the Minister; and
- “(c) the form in which the information is to be provided; and 20
- “(d) the date by which the information is to be provided.
- “(3) A local authority must respond to a notice received under this section—
- “(a) by the date stated in the notice; or
- “(b) by any other date to which the Minister has agreed. 25

“*Minister may appoint Crown Review Team*

- “**256 Minister may appoint Crown Review Team**
- “(1) The Minister may appoint a Crown Review Team to a local authority if—
- “(a) the local authority has received a notice from the Minister under **section 255** and, for no good reason, has not provided the information required by the notice by the stated or agreed date; or 30
- “(b) the Minister concludes, from information provided by the local authority under **section 255** or otherwise, that there may be a significant problem that the local authority is unable or unwilling to effectively address; or 35

- “(c) the Minister believes, on reasonable grounds, that—
- “(i) a significant problem relating to the local authority may exist; and
  - “(ii) the local authority is unable or unwilling to effectively address the problem; or 5
- “(d) the Minister has received a written request from the local authority to do so.
- “(2) Before the review begins, the Minister must give notice of the appointment—
- “(a) to the local authority, in writing; and 10
  - “(b) by notice in the *Gazette*.
- “(3) Each notice must comply with **section 258M**.
- “(4) The Crown Review Team must, to the extent authorised by its terms of reference,—
- “(a) investigate and report on the nature and extent of the problem; and 15
  - “(b) make recommendations to the local authority and the Minister on how the local authority could address the problem.
- “(5) The local authority must— 20
- “(a) co-operate with the Crown Review Team so that it may fulfil its terms of reference; and
  - “(b) comply with any reasonable request of the Crown Review Team to provide any relevant information that the local authority holds. 25
- “(6) The Crown Review Team must produce a final report that complies with **section 258O**, as soon as practicable after the review is completed.
- “(7) This section is subject to **section 258K**.
- “257 How Crown Review Team appointed 30**
- “(1) A Crown Review Team comprises 1 or more members.
- “(2) If a Crown Review Team comprises 2 or more members, the Minister must appoint 1 member as the chairperson.
- “(3) The Minister must appoint each member of a Crown Review Team by notice in writing. The notice must include the following information: 35

- “(a) the terms of reference of the Crown Review Team, including—
- “(i) an outline of the problem in relation to which it has been appointed; and
- “(ii) the extent of its authority; and 5
- “(b) the start and end dates of the member’s appointment; and
- “(c) the start and end dates of the review period.
- “Minister may appoint Crown Observer*
- “258 Minister may appoint Crown Observer 10**
- “(1) The Minister may appoint a Crown Observer to a local authority if—
- “(a) a Crown Review Team appointed to the local authority has recommended that a Crown Observer be appointed to the local authority; or 15
- “(b) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority exists and that the appointment of a Crown Observer is—
- “(i) necessary to enable, or better enable, the local authority to effectively address the problem; or 20
- “(ii) necessary to enable, or better enable, the Minister to monitor the local authority’s progress in addressing the problem; or
- “(c) the Minister has received a written request from the local authority to do so. 25
- “(2) Before the observation period begins, the Minister must give notice of the appointment—
- “(a) to the local authority, in writing; and
- “(b) by notice in the *Gazette*.
- “(3) Each notice must comply with **section 258M**. 30
- “(4) A Crown Observer must, to the extent authorised by his or her terms of reference,—
- “(a) assist the local authority to—
- “(i) address the problem; and
- “(ii) implement the recommendations of the Crown Review Team, if applicable; and 35

- “(b) monitor the local authority’s progress in relation to the problem; and
- “(c) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority. 5
- “(5) The local authority must—
- “(a) co-operate with the Crown Observer so that he or she may fulfil his or her terms of reference; and
- “(b) comply with any reasonable request of the Crown Observer to provide any relevant information that the local authority holds. 10
- “(6) The Crown Observer must produce a final report that complies with **section 258O**, as soon as practicable after the observation ends.
- “(7) This section is subject to **section 258K**. 15

**“258A How Crown Observer appointed**

The Minister must appoint a Crown Observer by notice in writing. The notice must include the following information:

- “(a) the terms of reference of the Crown Observer, including— 20
- “(i) an outline of the problem in relation to which the Crown Observer has been appointed; and
- “(ii) the extent of his or her authority; and
- “(b) the start and end dates of the appointment; and
- “(c) the start and end dates of the observation period. 25

*“Minister may appoint Crown Manager*

**“258B Minister may appoint Crown Manager**

- “(1) The Minister may appoint a Crown Manager to a local authority if—
- “(a) a Crown Review Team or a Crown Observer appointed to the local authority has recommended that a Crown Manager be appointed to the local authority; or 30
- “(b) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority exists and, for no good reason, the local authority has not adequately implemented a recommendation of a Crown 35

- Review Team or Crown Observer in relation to the problem; or
- “(c) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority exists and the nature or extent of the problem is such that the local authority is unlikely to effectively address the problem without the appointment of a Crown Manager; or
- “(d) the Minister has received a written request from the local authority to do so.
- “(2) To avoid doubt, the Minister may appoint a Crown Manager to a local authority without having first appointed a Crown Review Team or a Crown Observer to the local authority.
- “(3) Before the management period begins, the Minister must give notice of the appointment—
- “(a) to the local authority, in writing; and
- “(b) by notice in the *Gazette*.
- “(4) Each notice must comply with **section 258M**.
- “(5) A Crown Manager must, to the extent authorised by his or her terms of reference, direct the local authority to act to address the problem.
- “(6) The local authority must comply with the Crown Manager’s directions and any reasonable request he or she makes to provide any relevant information that the local authority holds.
- “(7) The Crown Manager must produce a final report that complies with **section 258O**, as soon as practicable after the management ends.
- “(8) This section is subject to **section 258K**.
- “**258C How Crown Manager appointed**
- The Minister must appoint a Crown Manager by notice in writing. The notice must include the following information:
- “(a) the terms of reference of the Crown Manager, including—
- “(i) an outline of the problem in relation to which the Crown Manager has been appointed; and
- “(ii) the extent of his or her authority; and



- “(b) the start and end dates of the Crown Manager’s appointment; and
- “(c) the start and end dates of the management period.

*“Minister may appoint Commission*

- “**258D Minister may appoint Commission** 5
- “(1) The Minister may appoint a Commission for a local authority if—
- “(a) the Minister believes, on reasonable grounds, that—
    - “(i) a significant problem relating to the local authority— 10
      - “(A) is impairing, or likely to impair, the good local government of the local authority’s district or region; or
      - “(B) is endangering, or likely to endanger, the public health or safety of the people within the local authority’s district or region; and 15
    - “(ii) the local authority is unable or unwilling to effectively address the problem; and
    - “(iii) the problem is such that appointing a Crown Review Team, a Crown Observer, or a Crown Manager to the local authority is unlikely to prevent the consequences described in **subparagraph (i)**; or 20
  - “(b) a Crown Review Team, a Crown Observer, or a Crown Manager appointed to the local authority has recommended that a Commission be appointed for the local authority and the Minister is satisfied that the appointment is necessary to effectively address a significant problem; or 25
  - “(c) the local authority refuses or is unable to comply with a direction of a Crown Manager given under **section 258B(5)**; or 30
  - “(d) the Minister has received a written request from the local authority to do so.
- “(2) Before the Commission begins, the Minister must give notice of the Commission’s appointment— 35
- “(a) to the local authority, in writing; and
  - “(b) by notice in the *Gazette*.

- “(3) Each notice must comply with **section 258M**.
- “(4) A Commission must perform the functions and duties and exercise the powers of the local authority, and its members, under this Act and any other enactment,—
- “(a) subject only to any limits on its authority set out in the terms of reference; and 5
- “(b) to the exclusion of the members of the local authority.
- “(5) To avoid doubt, a Commission—
- “(a) must perform any functions or exercise any powers directly conferred on the mayor or chairperson, or any other member, of the local authority by or under any enactment; and 10
- “(b) may exercise all the powers of the local authority to set, assess, and collect rates and charges within the district or region and expend their proceeds; and 15
- “(c) may appoint members of the local authority to a committee or subcommittee established under Schedule 7 of this Act.
- “(6) The Commission must produce a final report that complies with **section 258O**, as soon as practicable after the term of the Commission ends. 20
- “(7) This section is subject to **section 258K**.

**“258E How Commission appointed**

- “(1) A Commission comprises 1 or more members.
- “(2) If a Commission comprises 2 or more members, the Minister must appoint 1 member as the chairperson. 25
- “(3) The Minister must appoint each member of a Commission by notice in writing. The notice must include the following information:
- “(a) the terms of reference of the Commission, including— 30
- “(i) an outline of the problem in relation to which it has been appointed; and
- “(ii) any limitations on the extent of its authority; and
- “(b) the start and end dates of the member’s appointment; and 35

- “(c) the start and end dates of the period in which the Commission is to perform the local authority’s functions and duties and exercise its powers.

“**258F Application of this and other enactments during Commission’s term of appointment**

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- “(1) This section applies during the period in which a Commission is appointed for a local authority under **section 258D**.

- “(2) This Act applies, with any necessary modifications, as if the Commission were the local authority.

- “(3) For the purposes of clauses 31, 32, and 32A of Schedule 7, but not otherwise, this Act applies as if members of the Commission were elected members of the local authority. 10

- “(4) A 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 chairperson of the Commission. 15

- “(5) All acts done by the Commission in the purported exercise of the powers of the local authority under this or any other enactment, whether the powers have been expressly limited in the terms of reference or not, are, except in the case of fraud, as valid as if the Commission had not been appointed and the acts had been done by the local authority in the ordinary course of its business. 20

“**258G Minister may postpone general election when appointing Commission**

- “(1) The Minister may, at the same time as appointing a Commission for a local authority under **section 258D**, postpone the next triennial general election for members of the local authority. 25

- “(2) **Subsection (1)** applies only if the term of the Commission extends more than 120 days beyond the date of that election as determined under section 10 of the Local Electoral Act 2001. 30

- “(3) If the Minister acts under **subsection (1)**, he or she must, before the term of the Commission ends, call a general election of the local authority by notice in the *Gazette*.

- “(4) The notice must specify the date on which the election is to be held, which must be no later than 7 days before the date on which the term of the Commission ends.
- “(5) The Local Electoral Act 2001 applies, with any necessary modifications, to the conduct of an election called by the Minister under this section as if the election were a triennial general election. 5
- “(6) Despite **subsection (5)**, the electoral officer responsible for the election must give notice of the election under section 52 of the Local Electoral Act 2001 no later than 7 days after the Minister gives notice of the election under **subsection (4)**. 10

“**258H Local authority members remain in office but must not act during term of Commission**

- “(1) **Subsection (2)** applies to each member of a local authority, including the mayor or chairperson, from the date on which a Commission appointed for the local authority under **section 258D** begins its term. 15
- “(2) A member must not act, and is not entitled in that capacity to be paid any salary, allowances, or expenses under this Act or any other enactment, but remains in office until the earliest of the following events occurs: 20
- “(a) the Commission ends its term, in which case the member resumes full power to act:
- “(b) a triennial general election is held for the local authority under section 10 of the Local Electoral Act 2001, in which case the member vacates office in accordance with section 116 of that Act: 25
- “(c) a general election is held for the local authority under **section 258G**, in which case the member vacates office on the date that the member would have vacated office in accordance with section 116 of the Local Electoral Act 2001 had the triennial general election not been postponed: 30
- “(d) a general election is held for the local authority under **section 258J**, in which case the member vacates office in accordance with section 116 of the Local Electoral Act 2001: 35

- “(e) the member vacates his or her office in accordance with clause 5(1)(a), (b), (c), or (e) of Schedule 7.
- “(3) However, if a Commission appoints a member to a committee or subcommittee in accordance with Schedule 7, the person—
  - “(a) may accept the appointment, in the capacity as a person who has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee; and
  - “(b) is entitled to receive payment for holding office as a member of the committee or subcommittee in that capacity.
- “(4) In **subsection (2), act** means to exercise or purport to exercise a power, right, or entitlement, or perform or purport to perform a function or duty, conferred or imposed on the member in his or her capacity as a member of the local authority by this Act or any other enactment.

**“258I Extraordinary vacancy during term of Commission**

- “(1) This section applies if an extraordinary vacancy (within the meaning of clause 5 of Schedule 7) is created during the term that a Commission is appointed to a local authority.
- “(2) The vacancy is not required to be filled if the Commission’s term ends after the date of—
  - “(a) a triennial general election for the local authority under section 10 of the Local Electoral Act 2001; or
  - “(b) a general election for the local authority under **section 258G or 258J.**
- “(3) The vacancy must be filled in accordance with sections 117 to 120 of the Local Electoral Act 2001 in any other case except that if the vacancy occurs more than 90 days before the end of the term of the Commission, the vacancy must be treated as if it occurred on the 90th day before that date.

*“Minister may call general election*

**“258J Minister may call general election**

- “(1) The Minister may, by notice in the *Gazette*, call a general election of a local authority if the Minister believes, on reasonable grounds, that the membership of the local authority is such that

the local authority is unable or unwilling to perform its functions and duties and exercise its powers.

- “(2) The notice must specify the date on which the election is to be held, which, to avoid doubt, may be a date that is earlier than the date of the next triennial general election for members of the local authority as determined under section 10 of the Local Electoral Act 2001. 5
- “(3) The Minister must give the local authority a copy of the *Gazette* notice as soon as practicable after its publication.
- “(4) The Local Electoral Act 2001 applies, with any necessary modifications, to the conduct of an election called by the Minister under this section, as if the election were a triennial general election. 10
- “(5) Despite **subsection (4)**, the electoral officer responsible for the election must give notice of the election under section 52 of the Local Electoral Act 2001 no later than 7 days after the Minister gives notice of the election under **subsection (1)**. 15

“Subpart 2—General provisions applying to Ministerial powers conferred under subpart 1

- “**258K Notice to local authority of proposed appointment of Ministerial body** 20
- “(1) Before appointing a Ministerial body, the Minister must—
- “(a) give the local authority concerned written notice that he or she intends to make the appointment; and
- “(b) state in the notice the reasons for the proposed appointment in terms of **section 256(1), 258(1), 258B(1), or 258D(1)** and the proposed terms of reference; and 25
- “(c) give the local authority an opportunity to satisfy the Minister of the following matters, as applicable, by a date specified in the notice, being no earlier than 10 working days after the date on which notice is given to the local authority: 30
- “(i) the reasons for making the appointment do not exist;
- “(ii) the local authority is acting effectively to address the problem: 35

- “(iii) for any other reason, the appointment should not be made:
- “(iv) a different Ministerial body should be appointed.
- “(2) The Minister must—
- “(a) notify the local authority, in writing, if he or she decides not to appoint a Ministerial body; or
- “(b) act under **section 256(2), 258(2), 258B(3), or 258D(2)** in any other case.
- “(3) This section does not apply if—
- “(a) the local authority has requested the Minister to make the appointment; or
- “(b) the problem in relation to which the Minister intends to make the appointment relates to the consequences of a state of emergency and the Minister believes, on reasonable grounds, that the public health or safety of the people within the local authority’s district or region is, or is likely to be, endangered.
- “258L Notice to local authority of proposed general election**
- “(1) Before calling a general election under **section 258J**, the Minister must—
- “(a) give the local authority concerned written notice that he or she intends to call the election; and
- “(b) state in the notice the reasons for the proposed election in terms of **section 258J(1)**; and
- “(c) give the local authority an opportunity to satisfy the Minister of the following matters, as applicable, by a date specified in the notice, being no earlier than 10 working days after the date on which notice is given to the local authority:
- “(i) the reasons for calling the election do not exist;
- “(ii) for any reason, the election should not be called;
- “(iii) a Ministerial body should be appointed instead.
- “(2) The Minister must—
- “(a) notify the local authority, in writing, if he or she decides not to call the election; or
- “(b) act under **section 258J(3)**.

**“258M Notification of appointment of Ministerial body**

“(1) A notice of appointment of a Ministerial body under **section 256(1), 258(1), 258B(1), or 258D(1)** must state the following:

“(a) that the Minister has appointed a Ministerial body; and 5

“(b) the terms of reference of the Ministerial body; and

“(c) the start and end dates of the Ministerial body’s appointment; and

“(d) the names of each member of the Ministerial body; and

“(e) if applicable, the name of the chairperson of the Ministerial body. 10

“(2) **Subsection (3)** applies if—

“(a) the notice of appointment relates to a Commission; and

“(b) the Minister has, at the same time, postponed the next triennial general election for members of the local authority under **section 258G**. 15

“(3) The notice of appointment must also state that the Minister has postponed the next triennial general election for members of the local authority and that the Minister will call a general election, by notice in the *Gazette*, before the term of the Commission ends. 20

**“258N Notification of change of membership of Ministerial body**

The Minister must notify any change in the membership of a Ministerial body by notice in the *Gazette*. 25

**“258O Final report of Ministerial body**

“(1) A final report produced by a Ministerial body must include the following:

“(a) a narrative description of the activities of the Ministerial body in relation to its terms of reference; and 30

“(b) in respect of the problem in relation to which the Ministerial body was appointed, an assessment of progress in addressing the problem; and

“(c) any recommendations of the Ministerial body to the Minister, the local authority, or both; and 35

“(d) any other matter required by the Ministerial body’s terms of reference.



- “(2) The Minister must, as soon as practicable,—
- “(a) give a copy of the report to the local authority; and
  - “(b) make the report publicly available, excluding any information that it is necessary to withhold for any of the reasons stated in section 6 or 7 of the Local Government Official Information and Meetings Act 1987. 5

**“258P Remuneration and expenses of Ministerial appointees**

- “(1) A Ministerial appointee is entitled—
- “(a) to receive remuneration for services as a member of a Ministerial body as determined by the Minister in accordance with the fees framework; and 10
  - “(b) to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member in accordance with the fees framework. 15
- “(2) In this section, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

**“258Q Recovery of expenses from local authority 20**

- “(1) A local authority owes as a debt to the Crown any expenses that the Crown incurs for the appointment of a Crown Manager or a Commission to the local authority, including the payment of remuneration and expenses to the Crown Manager or a member of the Commission. 25
- “(2) Any expenses that the Crown incurs for the appointment of a Crown Observer or a Crown Review Team to a local authority, including the payment of remuneration and expenses to the Crown Observer or a member of the Crown Review Team, may be recovered by the Crown from the local authority if— 30
- “(a) the Minister decides that to do so is reasonable in the circumstances; and
  - “(b) the terms of reference authorise the recovery.
- “(3) The Crown may recover expenses under **subsection (2)** as a debt to the Crown. 35

**“258R Minister may terminate Ministerial appointee**

The Minister may terminate a Ministerial appointee’s appointment at any time by notice in writing, and no compensation is payable to the person as a result of the termination.

**“258S Protection from liability for Ministerial appointees**

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“(1) A Ministerial appointee is not 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 and duties, or the exercise of his or her powers as a Ministerial appointee.

10

“(2) To avoid doubt, this includes—

“(a) acts done or omitted to be done by a Crown Manager when directing a local authority to act; and

“(b) acts done or omitted to be done by a Commission member when performing the functions and exercising the powers of a local authority or its members.

15

**“258T Disclosure of information held by local authority**

“(1) For the purposes of this Part, information held by a local authority may be disclosed to the Minister or a Ministerial appointee despite anything to the contrary in the Official Information Act 1982, the Local Government Official Information and Meetings Act 1987, or the Privacy Act 1993.

20

“(2) However, the Minister or a Ministerial appointee must not publish or disclose that information to any other person except in accordance with those Acts.”

25

**22 Section 259 amended (Regulations)**

(1) After 259(1)(db), insert:

“(dc) prescribing parameters or benchmarks for assessing whether a local authority is prudently managing its revenues, expenses, assets, liabilities, investments, and general financial dealings:”.

30

(2) After section 259(2), insert:

“(3) Regulations made under **subsection (1)(dc)** may—

“(a) prescribe parameters or benchmarks in any manner, including by—

35

- “(i) reference to fixed terms (for example, the debt of a local authority in a financial year, generally, should not exceed a fixed sum per resident):
- “(ii) the use of ratios, factors, or other relative terms (for example, the expenditure of a local authority in a financial year, generally, should not increase by more than the ratio of population growth multiplied by the rate of increase of the Consumers Price Index): 5
- “(iii) reference to circumstances, statistics, or other publicly available information, whether only concerning local authorities and their districts and regions or otherwise; and 10
- “(b) prescribe parameters or benchmarks in a way that differentiates between different types or classes of local authority (for example, regional councils, territorial authorities, and local authorities with a population, assets, or an average income of its population over or under a specified figure). 15
- “(4) The Minister may recommend the making of regulations under **subsection (1)(dc)** only if the content of the recommendation has been developed in consultation with the New Zealand Local Government Association Incorporated.” 20
- 23 Schedule 3 replaced**
- Replace Schedule 3 with the **Schedule 3** set out in **Schedule 1** of this Act. 25
- 24 Schedule 7 amended**
- (1) This section amends Schedule 7 of the principal Act.
- (2) Replace clause 6 with:
- “6 Remuneration Authority to determine remuneration” 30**
- “(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: 35
- “(c) chairpersons and members of community boards:
- “(d) chairpersons of committees of community boards:

- “(e) chairpersons and members of local boards:  
“(f) chairpersons of committees of local boards.
- “(2) The Remuneration Authority may also determine the remuneration, allowances, and expenses payable to the following persons, if requested to do so by a local authority: 5
- “(a) members of the local authority with specified responsibilities other than those listed in **subclause (1)**:  
“(b) members of community boards of the local authority with specified responsibilities other than those referred to in **subclause (1)**: 10  
“(c) members of local boards with specified responsibilities other than those listed in **subclause (1)**.
- “(3) The Remuneration Authority may do 1 or more of the following things under **subclause (1) or (2)**: 15
- “(a) fix—  
“(i) scales of salaries:  
“(ii) scales of allowances:  
“(iii) ranges of remuneration:  
“(iv) different forms of remuneration:  
“(b) prescribe— 20  
“(i) rules for the application of those scales, ranges, or different forms of remuneration:  
“(ii) rules for reimbursing expenses incurred by members:  
“(c) differentiate— 25  
“(i) between persons occupying equivalent positions in different local authorities, community boards, or local boards:  
“(ii) between persons occupying equivalent positions in the same local authorities, community boards, 30 or local boards:  
“(d) make determinations that apply to individuals, or groups, occupying equivalent positions:  
“(e) approve rules proposed by a local authority for reimbursing expenses incurred by members, subject to any 35 conditions that the Authority thinks fit.
- “(4) The Remuneration Authority may direct a local authority to make publicly available any rules it has approved under **subclause (3)(e)**.

- “(5) The Remuneration Authority may issue separate determinations, at different times, for the different positions listed in **subclauses (1) and (2)**.
- “(6) **Clause 7A** applies to determinations made under this clause.
- “(7) A determination by the Remuneration Authority under this clause is a regulation under the Regulations (Disallowance) Act 1989. 5
- “(8) In this clause, **local boards** has the meaning given in section 4(1) of the Local Government (Auckland Council) Act 2009.”
- (3) Insert after clause 7: 10
- “7A Matters applying to determinations**
- “(1) The Remuneration Authority may make a determination before or after the date on which the determination is to come into force.
- “(2) However, a determination must not come into force earlier than the expiry date of the determination that it supersedes. 15
- “(3) A determination must specify the date on which it expires.
- “(4) Despite the expiry of a determination, it continues in force to the extent that it is not superseded by another determination.
- “(5) The Remuneration Authority may amend a determination while it is in force. 20
- “(6) Despite **subclause (5)**, the Remuneration Authority may amend the expiry date of a determination only if the Authority is satisfied that in all the circumstances there are particular and special reasons that justify a period of less than the term originally set. 25
- “(7) The Remuneration Authority must review and issue a determination for each position listed in **clause 6(1)** at intervals of no more than 3 years.”
- (4) In clause 32(1), insert after paragraph (g): 30
- “(h) the power to adopt a remuneration and employment policy.”
- (5) After clause 36, insert:
- “36A Remuneration and employment policy**
- “(1) A local authority may adopt a policy that sets out the policies of the local authority in relation to— 35
- “(a) employee staffing levels; and

- “(b) the remuneration of employees.
- “(2) A local authority must review a policy adopted under this clause at intervals of no more than 3 years.”
- 25 Schedule 10 amended**
- (1) This section amends Schedule 10 of the principal Act. 5
- (2) In clause 2(1)(c), delete “social, economic, environmental, or cultural well-being of the”.
- (3) In clause 23(d), delete “social, economic, environmental, or cultural well-being of the”.
- (4) After clause 32, insert: 10
- “32A Employee staffing levels and remuneration**
- “(1) An annual report must include a report on the number of employees who were employed by the local authority—
- “(a) on the last day of the financial year to which the report relates; and 15
- “(b) on the last day of the immediately preceding financial year.
- “(2) For each financial year, the report must state—
- “(a) the number of full-time employees; and
- “(b) the full-time equivalent number of all other employees; 20
- and
- “(c) the number of employees receiving total annual remuneration of less than \$60,000; and
- “(d) the number of employees receiving total annual remuneration of \$60,000 or more, expressed in bands of 25
- \$20,000.
- “(3) However, if the number of employees in any band to which **subclause (2)(d)** applies is 5 or fewer, the number for that band must be combined with the next-highest band and the statement in the report in relation to that subclause must be 30
- adjusted accordingly.
- “(4) In **subclause (2)**, **total annual remuneration** includes the value of any non-financial benefit that, during the year, was paid to an employee, or was payable to the employee, by the local authority. 35
- “(5) The report requirement in this clause applies to—
- “(a) the financial year ending 30 June 2013; and

“(b) each following financial year.”

- 26 Schedule 15 repealed**  
Repeal Schedule 15.

**Part 2**  
**Transitional provision and consequential amendments** 5

- 27 Transitional provision relating to reorganisation proposals**
- (1) This section applies to a reorganisation proposal made under Schedule 3 of the principal Act before the commencement of **Part 1 of this Act.** 10
- (2) The principal Act continues to apply to the reorganisation proposal as if **Part 1 of this Act** had not been enacted.
- 28 Consequential amendments**
- The enactments listed in **Schedule 2** are consequentially amended in the manner indicated in that schedule. 15
-

	<b>Schedule 1</b>	<b>s 23</b>
	<b>Schedule 3 of principal Act replaced</b>	
	<b>Schedule 3</b>	s 24
	<b>Reorganisation of local authorities</b>	
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Schedule 3—*continued***1 Interpretation**

In this schedule, unless the context otherwise requires,—

**affected local authority**, in relation to a reorganisation application, means a local authority that would be affected if the application resulted in a reorganisation scheme 5

**applicant** means the person making a reorganisation application

**reorganisation application** means an application containing proposals dealing with 1 or more of the matters specified in section 24 10

**significant community support**,—

(a) in relation to a reorganisation application and a proposal developed under **clause 12**, means—

(i) support from a large proportion of the community, or of the leaders of the community, for reform of the current local government arrangements; and 15

(ii) substantial support within that group for the changes proposed in the reorganisation application; and 20

(b) in relation to a final proposal developed under **clause 18**, means substantial support from a large proportion of the community or the leaders of the community for the changes proposed in the final proposal.

## Part 1 25

## Reorganisation applications

*Subpart 1—Making reorganisation applications***2 Who may make reorganisation application**

(1) A reorganisation application may be made by any person or organisation, including (but not limited to)— 30

(a) 1 or more affected local authorities; or

Schedule 3—*continued*Part 1—*continued*Subpart 1—*continued*

- (b) any body or group with an interest in the governance of the area or areas that the reorganisation application relates to; or
  - (c) the Minister.
- (2) A reorganisation application must be made to the chief executive officer of the Commission. 5
- 3 Prohibition on making certain reorganisation applications**  
No person may make a reorganisation application if—
- (a) the application relates to a local authority that has been the subject of a reorganisation scheme; and 10
  - (b) the application, if it were made, would have been made during a period (being not greater than 3 years) specified by the Commission under **clause 30**.
- 4 Contents of reorganisation application**
- (1) A reorganisation application must include the following: 15
- (a) the name and address of the person making the application; and
  - (b) if more than 1 person is making the application, the name and address of the person who is the representative of the applicants; and 20
  - (c) a description of the proposed changes, including (but not limited to)—
    - (i) which of the matters listed in section 24(1) is being sought; and
    - (ii) a plan or other description sufficient to identify 25 the area or areas concerned; and
  - (d) a description of the potential improvements that would result from the proposed changes; and
  - (e) information that shows that the application has significant community support and that it will promote good 30 local government.
- (2) A reorganisation application may include—

Schedule 3—*continued*Part 1—*continued*Subpart 1—*continued*

- (a) any information requested or recommended in any guidelines issued by the Commission; and
  - (b) any other information that the applicant considers relevant to the Commission's consideration of the application. 5
- (3) A reorganisation application may be accompanied by a petition of affected electors for the purposes of **clause 7(2)**.
- (4) If a reorganisation application is accompanied by a petition, each elector who signed the petition must state, against his or her signature, the person's name and address in sufficient detail to enable the person to be identified as an elector. 10

*Subpart 2—Commission to decline or assess  
reorganisation application*

**5 Action on receipt of application**

As soon as practicable after receiving a reorganisation application, the Commission must— 15

- (a) decide whether to assess the application; and
- (b) notify the applicant of its decision; and
- (c) if the Commission decides to assess the application, notify the affected local authorities of its decision. 20

**6 When Commission may decline to assess reorganisation application**

The Commission may decline to assess a reorganisation application on 1 or more of the following grounds: 25

- (a) the application is frivolous: 25
- (b) the application does not contain the information required by **clause 4(1)**:
- (c) a substantially similar application has been declined by the Commission and the reasons for declining that application continue to apply. 30

Schedule 3—*continued*Part 1—*continued*Subpart 2—*continued*

- 7 Assessment: significant community support**
- (1) If the Commission decides to assess a reorganisation application, the Commission must first be satisfied that the application has significant community support.
- (2) The matters the Commission may consider for the purposes of **subclause (1)** include (but are not limited to)— 5
- (a) a petition or petitions of affected electors:
  - (b) questionnaires or surveys of ratepayers or residents:
  - (c) submissions or other correspondence about existing or proposed local government arrangements: 10
  - (d) meetings with community members or their representatives in which views on the existing or proposed local government arrangements are expressed.
- (3) If the reorganisation application is accompanied by a petition,— 15
- (a) the chief executive officer of the Commission must refer the application to the electoral officers of the affected local authority or local authorities to confirm the names and addresses of electors who signed the petition; and
  - (b) the electoral officers must advise the Commission of the number of qualified electors of each territorial authority district who— 20
    - (i) were entitled to sign the petition; and
    - (ii) have signed the petition.
- (4) If the Commission is not satisfied that a reorganisation application has significant community support, the Commission may— 25
- (a) decline the application without completing the assessment of it; or
  - (b) require the applicant to provide further evidence of community support; or 30
  - (c) undertake any other investigations it considers appropriate to determine community support for the application.

Schedule 3—*continued*Part 1—*continued*Subpart 2—*continued***8 Assessment: promotion of good local government**

- (1) If the Commission is satisfied that a reorganisation application has significant community support, the Commission must next be satisfied that the changes proposed in the application will promote good local government by— 5
- (a) improving local government in the area or areas that the application relates to; and
  - (b) facilitating, in the affected local authority or local authorities,—
    - (i) efficiencies and cost savings; and 10
    - (ii) productivity improvements, both within the affected local authorities and for the businesses and households that interact with those local authorities; and
    - (iii) simplified planning processes within and across the district or region through, for example, the integration of statutory plans or a reduction in the number of plans to be prepared or approved by the local authority; and 15
  - (c) ensuring that each local authority proposed to be established or changed under the application will— 20
    - (i) have the resources necessary to enable it to carry out effectively its responsibilities, duties, and powers; and
    - (ii) have a district or region that is appropriate for the efficient performance of its role as specified in section 11; and 25
    - (iii) contain within its district or region 1 or more communities of interest, but only if they are distinct communities of interest; and 30
  - (d) if the reorganisation application proposes a unitary authority, enabling catchment-based flooding and water management issues to be dealt with effectively by the unitary authority.

Schedule 3—*continued*Part 1—*continued*Subpart 2—*continued*

- (2) For the purposes of **subclause (1)**, 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 5
  - (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.
- 9 Commission must consider other options** 10
- In assessing a reorganisation application, the Commission must consider whether there are options for reorganisation, other than those included in the application, that might have community support and promote, more effectively, good local government.
- 10 Other things Commission may do when assessing reorganisation application** 15
- (1) The Commission may assess a reorganisation application in conjunction with any other reorganisation applications, and may combine proposals from those applications.
  - (2) The Commission may require a local authority affected by a reorganisation application to provide any information that would assist the Commission to carry out an assessment of the application. 20
  - (3) In assessing a reorganisation application, the Commission may undertake inquiries and consultations in relation to the application with any persons or organisations it considers appropriate. 25
  - (4) The Commission may suspend its assessment of a reorganisation application and return the application to the applicant for further work or information.
  - (5) If the application is returned to the applicant under **subclause (4)**,— 30
    - (a) the Commission must identify the aspects that require further work or information; and

Schedule 3—*continued*Part 1—*continued*Subpart 2—*continued*

- (b) the applicant must comply with the Commission's request before resubmitting the application.

**11 Procedure after assessment**

- (1) After completing an assessment of a reorganisation application, the Commission must decide to do 1 of the following: 5
- (a) decline the application:
- (b) proceed to develop a proposal under **clause 12** that would give effect to the proposals in the application:
- (c) proceed to develop a proposal under **clause 12** that would give effect to the proposals in— 10
- (i) the application as modified by the Commission; or
- (ii) the application and 1 or more other applications considered together; or
- (iii) an option considered under **clause 9**. 15
- (2) The Commission must notify the applicant and all affected local authorities of its decision.
- (3) If the Commission declines the application under **subclause (1)(a)**, it must provide the applicant with reasons for its decision. 20

## Part 2

## Reorganisation proposals

*Subpart 1—Preparation of proposals***12 Development of proposal**

- (1) If the Commission decides to proceed with a reorganisation application under **clause 11(1)(b) or (c)**, the Commission must develop a draft reorganisation proposal (a **proposal**). 25
- (2) A proposal must describe, for each local authority to be included in the proposal,—
- (a) the type of local authority; and 30
- (b) the name of the district or region of the local authority; and



Schedule 3—*continued*Part 2—*continued*Subpart 1—*continued*

- (c) the boundaries of the district or region; and
  - (d) the representation arrangements of the local authority; and
  - (e) the names and areas of interest of iwi and hapū in the district or region; and 5
  - (f) any communities and any community boards of the local authority; and
  - (g) any other matters the Commission considers necessary or desirable.
- (3) In preparing a proposal, the Commission may require a local authority affected by the proposal to provide information to assist the Commission to prepare the proposal. 10
- (4) In preparing a proposal, the Commission may undertake inquiries and consultations in relation to the proposal with any persons and organisations it considers appropriate. 15
- (5) In preparing a proposal, the Commission must have regard to the matters specified in **clauses 7 and 8** for the purposes of assessing a reorganisation application.
- 13 Cities** 20
- A proposal may not provide that a territorial authority is to be called a city council unless the district of the territorial authority—
- (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. 25
- 14 Appropriate boundaries**
- In determining boundaries for a proposal, the Commission must ensure that,—
- (a) if practicable, the boundaries of regions conform with catchment boundaries; and 30
  - (b) if practicable, the boundaries of districts conform with the boundaries of regions; and

Schedule 3—*continued*Part 2—*continued*Subpart 1—*continued*

- (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.

**15 Representation**

5

In determining the representation arrangements of a local authority for a proposal, the Commission must—

- (a) provide fair and effective representation for individuals and communities of the local authority; and
- (b) comply with the requirements of the Local Electoral Act 2001; and 10
- (c) take into account the responsibilities, duties, and powers of the local authority.

**16 Communities**

When preparing a proposal, the Commission may consider whether good local government of any affected district would be best promoted by— 15

- (a) a system of communities and the responsibilities, duties, and powers of the community boards in the district; 20
- or
- (b) an alternative to an existing system of communities; or
- (c) a change in the responsibilities, duties, and powers of the community boards in the district.

**17 Consultation on proposal**

(1) As soon as practicable after completing a proposal, the Commission must— 25

- (a) take the action that it considers necessary to ensure that the persons and organisations who may be interested in that proposal are informed of the proposal; and
- (b) give public notice of the proposal, which must— 30

Schedule 3—*continued*Part 2—*continued*Subpart 1—*continued*

- (i) specify 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
- (iii) specify the date by which submissions must be made to the Commission; and 5
- (c) seek the views of—
  - (i) the affected local authorities; and
  - (ii) the applicant; and
  - (iii) the Auditor-General; and 10
  - (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 15
  - (viii) any affected iwi and Māori organisations identified by Te Puni Kōkiri; and
  - (ix) each local authority whose district or region adjoins the district or region of an affected local authority; and 20
  - (x) any other persons or organisations that the Commission considers appropriate.
- (2) A person or organisation that wishes to make a submission on a proposal must make the submission to the Commission by the date specified by the Commission in the public notice. 25
- (3) The Commission must consider each submission received and may hold hearings of submissions or meet with the persons making submissions or their representatives.
- (4) The Commission must grant the opportunity to meet, and be heard by, the Commission on the draft proposal to— 30
  - (a) the affected local authorities; and
  - (b) each local authority whose district or region adjoins the district or region of an affected local authority; and
  - (c) the applicant.

Schedule 3—*continued*Part 2—*continued*Subpart 1—*continued*

- (5) The Commission may also undertake, in a manner that it thinks fit, inquiries and consultations in relation to the proposal with any other persons and organisations it considers appropriate.

**18 Decisions on draft proposals**

- (1) After complying with **clause 17**, the Commission must— 5
- (a) develop and issue a final proposal based on a proposal developed under **clause 12**; or
  - (b) develop and issue a final proposal based on a proposal developed under **clause 12** and subsequently modified by the Commission; or 10
  - (c) decide not to proceed with the proposal and give public notice accordingly.
- (2) Before issuing a final proposal, the Commission must be satisfied that the final proposal is likely to have significant community support. 15

**19 Notification of final proposal**

- (1) As soon as practicable after issuing a final proposal, the Commission must—
- (a) give public notice of the final proposal and, in the notice, specify where copies of the proposal may be inspected; and 20
  - (b) take any other action that it considers necessary to ensure that the persons and organisations specified in **clause 17(1)(c)** are informed of the proposal.
- (2) The Commission must attach to a final proposal a statement explaining— 25
- (a) how the final proposal will promote good local government, having regard to the matters specified in **clause 8**; and
  - (b) the advantages and disadvantages of the final proposal. 30
- (3) The explanatory statement must outline the advantages and disadvantages of the proposal in respect of—
- (a) a proposed new or altered district or region; and

Schedule 3—*continued*Part 2—*continued*Subpart 1—*continued*

- (b) any remaining area of a district or region affected by the proposal; and
- (c) any changes to the responsibilities of the affected local authorities.

*Subpart 2—Polls*

5

**20 Application of this subpart**

This subpart applies to a final proposal that provides for any of the matters specified in section 24(1)(a), (b), (c), and (f).

**21 Petition to require poll**

- (1) If a final proposal has been issued under **clause 18(1)(a) or (b)**, affected electors may demand a poll to determine whether or not the final proposal is to proceed and become a reorganisation scheme. 10
- (2) A poll may be demanded under **subclause (1)** by a petition of 10% or more of electors enrolled as eligible to vote in the affected area. 15
- (3) The Commission must, in the public notice of a final proposal under **clause 19(1)(a)**, advise electors of—
  - (a) the opportunity to demand a poll under this clause; and
  - (b) the requirements relating to the submission of a petition under this clause; and 20
  - (c) the date by which a petition must be received by the Commission; and
  - (d) the affected area.
- (4) The date referred to in **subclause (3)(c)** must be determined by the Commission, but must not be earlier than 40 working days after the first publication of the notice under **clause 19(1)(a)**. 25
- (5) Each person who signs a petition must state, against his or her signature, the person's name and address in sufficient detail to enable the person to be identified as an elector. 30

Schedule 3—*continued*Part 2—*continued*Subpart 2—*continued*

- (6) The chief executive officer of the Commission must send a copy of the petition to the electoral officer in each affected local authority, and the electoral officers must advise the Commission, within the time frame required by the Commission, of— 5
- (a) the number of electors enrolled as eligible to vote in the local authority area; and
  - (b) the number of those electors who have signed the petition.
- (7) To avoid doubt, a petition may be started before a final proposal is issued. 10
- (8) For the purposes of this subpart,—
- affected area** means the area or areas, as determined by the Commission, to which the final proposal applies
- petition**— 15
- (a) means 1 or more petitions submitted to the Commission that relate to the same final proposal; and
  - (b) to avoid doubt, includes a petition referred to in **sub-clause (7)**, if the petition demands a poll in relation to the implementation of a reorganisation application dealing with the same or substantially the same area as the affected area. 20
- 22 Poll to be held**
- (1) If the Commission receives a petition made in accordance with **clause 21**, a poll of electors must be held in the affected area. 25
  - (2) 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.
  - (3) The Commission must ensure that 1 electoral officer is designated to conduct the poll and to declare the official result of the poll under **clause 24**. 30

Schedule 3—*continued*Part 2—*continued*Subpart 2—*continued*

- (4) The costs of the poll are to be apportioned among the affected local authorities on the basis of the number of electors on the electoral rolls of the affected local authorities.

**23 Timing of poll**

- (1) A poll required by **clause 22** must be held on a date determined by the Commission in accordance with this clause. 5
- (2) In determining the date on which a poll is to be held, the Commission must consult the electoral officer required to conduct the poll.
- (3) The Commission must, as soon as practicable after complying with **subclause (2)**, give written notice of the date determined under **subclause (1)** to the Secretary, to the chief executive of each affected local authority, and to the electoral officer required to conduct the poll. 10
- (4) The electoral officer who receives written notification under **subclause (3)** must, within 7 days after receiving the notification, give public notice of— 15
- (a) the poll; and
- (b) the place or places at which the final proposal and the explanatory statement may be inspected. 20
- (5) The date determined under **subclause (1)** for the conduct of the poll must,—
- (a) if written notice under **subclause (3)** is to be given on or after 28 September and before 21 November in any year, be a day not earlier than 10 February and not later than 17 February in the following year; and 25
- (b) if written notice under **subclause (3)** is to be given on or after 21 November and before 16 December in any year, be a day not earlier than 7 March and not later than 14 March in the following year; and 30
- (c) if written notice under **subclause (3)** is to be given on or after 16 December in any year and before 13 January in the following year, be a day not earlier than 4 April and not later than 11 April in that following year; and

Schedule 3—*continued*Part 2—*continued*Subpart 2—*continued*

- (d) 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.

**24 Official result of poll**

The electoral officer must,—

5

- (a) when declaring the official result of the poll under section 86 of the Local Electoral Act 2001, include a statement of—

(i) the total number of electors on the roll or rolls compiled for the purpose of the poll; and

10

(ii) the total number of valid votes cast:

- (b) as soon as practicable after declaring the result, notify the Secretary, the chief executive of each affected local authority, and the Commission of the result.

**25 Fate of proposal after poll**

15

- (1) If more than 50% of the valid votes cast in the poll are for a final proposal, the Commission must prepare a reorganisation scheme to give effect to the proposal.
- (2) In every other case, the final proposal must not proceed.

*Subpart 3—Advertising*

20

**26 Interpretation**

In this subpart, unless the context otherwise requires,—

**advertising** means advertising in any medium

**poll period**, in relation to a poll under **clause 22**, means the period commencing on the day after the date on which public notice of the final proposal is first given and ending with the close of the day on which the poll is held

25

**publish**, in relation to advertising,—

- (a) means to bring to the notice of a person in any manner, including (but not limited to)—

30

(i) displaying in any medium:



Schedule 3—*continued*Part 2—*continued*Subpart 3—*continued*

- (ii) distributing by any means:
  - (iii) delivering to an address:
  - (iv) leaving at a place:
  - (v) sending by post or otherwise:
  - (vi) printing in a newspaper or other periodical: 5
  - (vii) broadcasting by any means:
  - (viii) disseminating by means of the Internet or any other electronic medium:
  - (ix) storing electronically in a way that is accessible to the public: 10
  - (x) incorporating in a device for use with a computer:
  - (xi) inserting in a film or video; but
  - (b) excludes addressing 1 or more persons face to face.
- 27 Advertising in relation to polls**
- (1) A local authority affected by a final proposal may not, at any time in a poll period, publish any advertising that promotes or opposes the implementation of the final proposal or a provision of the final proposal. 15
  - (2) This clause does not apply to—
    - (a) any investigations or research undertaken by, or on behalf of, the local authority that relate to the final proposal or its effects; or
    - (b) the making of submissions or other representations to the Commission by the local authority; or
    - (c) the publication of any news or comment relating to the final proposal or the poll in any medium by any person other than the local authority. 25
- 28 Authorisation of advertising**
- (1) A person may not publish advertising that promotes or opposes the implementation of the final proposal or a provision of the final proposal unless the advertising contains a statement setting out the name and address of the person who initiated or instigated the publication of the advertising. 30

Schedule 3—*continued*Part 2—*continued*Subpart 3—*continued*

- (2) In **subclause (1)**, **address** means,—
- (a) in relation to an individual,—
- (i) the full street address of the place where the individual usually lives; or
- (ii) the full street address of any other place where the individual can usually be contacted between the hours of 9 am and 5 pm on any working day: 5
- (b) in relation to a body corporate or unincorporated,—
- (i) the full street address of the body's principal place of business; or 10
- (ii) the full street address of the body's head office.

## Part 3

## Reorganisation schemes

*Subpart 1—Preparation of reorganisation schemes*

15

**29 Preparation of reorganisation scheme**

- (1) This clause applies to a final proposal that is issued under **clause 18** and notified under **clause 19** and in relation to which—
- (a) no poll is held because— 20
- (i) the reorganisation proposal does not include any of the matters specified in section 24(1)(a), (b), (c), or (f); or
- (ii) the requirements for a petition under **clause 21** have not been met; or 25
- (b) a poll has been held and more than 50% of the valid votes cast in the affected area are for the reorganisation proposal.
- (2) The Commission must prepare a reorganisation scheme that—
- (a) includes any of the matters appropriate to the scheme that are specified in **clause 30**; and 30
- (b) in the Commission's opinion will promote good local government.

Schedule 3—*continued*Part 3—*continued*Subpart 1—*continued*

- (3) In preparing a reorganisation scheme, the Commission—
- (a) must consult the Secretary; and
  - (b) may consult or make inquiries of any other persons or organisations that it thinks fit.

*Subpart 2—Contents of and provisions that  
apply to reorganisation schemes* 5

**30 Provisions for inclusion in reorganisation schemes**

In preparing a reorganisation scheme, the Commission—

- (a) must include the matters specified in **clause 12(2)**; and
- (b) must include the provisions that are necessary to give effect to the scheme and, in particular, must—
  - (i) include the provisions specified in **clause 31** 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 any affected district or region, or for the discharge of the responsibilities of the local authority of any such district or region, or for any other matter that is necessary or desirable to give effect to the provisions; and
- (c) may provide that the provisions of **clause 34**—
  - (i) apply to the scheme with modifications; or
  - (ii) do not apply; and
- (d) 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
- (e) may make provision for any arrangements the Commission considers necessary or desirable to assist in the transition to a new local authority, including but not limited to—
  - (i) the establishment of a transition committee or committees under **clause 32**; and

Schedule 3—*continued*Part 3—*continued*Subpart 2—*continued*

- (ii) the appointment by a transition committee of an interim chief executive to a new local authority; and
- (f) may specify a period for the purposes of **clause 3**; and
- (g) may incorporate any other matters that it considers necessary or appropriate to give effect to the proposal. 5

**31 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: 10
- (b) provisions necessary for the first or any election or appointment of members of a local authority or community board affected by the scheme:
- (c) 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: 15
- (d) provisions dealing with the requirements and application of long-term plans, annual plans, and annual reports as provided for under this enactment: 20
- (e) provisions dealing with the requirements in any enactment that relate to plans, programmes, and strategies, including (but not limited to) regional land transport programmes and regional land transport strategies under the Land Transport Management Act 2003: 25
- (f) provisions dealing with—
  - (i) the administration of an existing, proposed, or operative district plan or regional plan under the Resource Management Act 1991: 30
  - (ii) the administration of any designations, resource consents, and notices of requirement under the Resource Management Act 1991, but subject to sections 81 to 180 of that Act:

Schedule 3—*continued*Part 3—*continued*Subpart 2—*continued*

- (g) if an area is included in the district of another territorial authority, provisions that 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: 5
- (h) if a new district or region is constituted, provisions that 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: 10
- (i) provisions for committees for the first term of the new local authority and membership and responsibilities of those committees:
- (j) 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: 20
- (k) provisions concerning rating in a new district or region, or enlarged district or region, which may—
- (i) specify the date by which a single integrated rating system must be adopted in the district or region; and 25
- (ii) specify the valuation system for any general rate forming part of the initial integrated rating system; and
- (iii) specify the basis on which rates may be set and assessed within the district or region between the date the order takes effect and the date specified under **subparagraph (i)**, which may include the use of different rating systems for specified rates, or for specified rates in different parts of the district or region; and 30 35

Schedule 3—*continued*Part 3—*continued*Subpart 2—*continued*

- (iv) make such other provision for the transition to, or implementation of, the single integrated rating system as the Commission considers desirable:
  - (l) 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 the district or region being abolished or part of it on the other local authority until the next triennial general election of members of the other local authority. 5
- 32 Provisions to enable effective transition** 10
- If provision is made for the establishment of a committee or committees to assist the transition to a new local authority, the Commission may—
- (a) determine, or provide for the determination of, the membership of each committee: 15
  - (b) appoint, or provide for the appointment of, the chairperson of each committee:
  - (c) determine the functions and powers of each committee:
  - (d) require each committee to take any other steps the Commission considers necessary for the transition to the new local authority: 20
  - (e) apportion costs of the functioning of each committee between the affected local authorities:
  - (f) apportion costs of the appointment of the interim chief executive: 25
  - (g) take any steps the Commission considers necessary to monitor, and make recommendations in relation to, the transition to the new local authority.

Schedule 3—*continued*Part 3—*continued**Subpart 3—Implementation and effect of reorganisation schemes***33 Application**

This subpart applies in relation to a reorganisation scheme on and from the date the scheme is given effect to by an Order in Council under section 25. 5

**34 Provisions that apply to reorganisation scheme unless modified or excluded**

The following provisions apply to a reorganisation scheme unless amended by the reorganisation scheme or declared by the reorganisation scheme not to apply: 10

- (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,— 15
  - (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: 20
  - (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: 25
  - (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: 30
- (b) the responsibilities, duties, and powers of the mayor, chairperson, and chief executive of the former local authority must be exercised by the mayor, chairperson, and chief executive of its successor:

Schedule 3—*continued*Part 3—*continued*Subpart 3—*continued*

- (c) all real and personal property vested in an abolished local authority vests in its successor, subject to all existing encumbrances:
- (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: 5
- (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 to be treated as 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: 10 15 20
- (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: 25
- (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: 30
- (h) the rights or interests of creditors of a district or region must not be affected: 35



Schedule 3—*continued*Part 3—*continued*Subpart 3—*continued*

- (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 until those rolls or records are made by that local authority, and, until that time, the Local Government (Rating) Act 2002 applies: 5
- (j) except in the circumstances specified in clause 1, 2, 4, or 5 of Schedule 7, 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. 15

**35 Effect of Order in Council giving effect to reorganisation scheme**

An Order in Council giving effect to a reorganisation scheme does not affect— 20

- (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 25
- (b) the area within which, and the purposes for which, any unexpended loan money may be expended.

**36 Power to amend basis of certain rates**

- (1) Despite **clause 35**, 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 30

Schedule 3—*continued*Part 3—*continued*Subpart 3—*continued*

the meaning of the Local Authorities Loans Act 1956) raised by any of the former authorities.

- (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. 5
- (3) This clause does not authorise any alteration to the area over which any special loan is secured. 10

**37 No compensation payable if responsibility transferred**

- (1) 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. 15
- (2) This clause applies subject to **clauses 38 and 42**.

**38 Payment if trading undertaking transferred**

- (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 any payment for the transfer of the trading undertaking should be made by the transferee to the transferor and, if so, the amount of the payment. 20 25
- (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. 30

Schedule 3—*continued*Part 3—*continued*Subpart 3—*continued*

- (4) The Commission may make a determination under this clause subject to any conditions that it considers desirable.

**39 Certain matters not affected by transfer of responsibilities, duties, or powers**

A reorganisation scheme does not—

- (a) place a local authority or other person in breach of contract or confidence or otherwise make the local authority or other person guilty of a civil wrong; or
- (b) give 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) place 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) release a surety wholly or in part from an obligation; or
- (e) invalidate or discharge a contract or security.

**40 Registers**

- (1) The Registrar-General of Land or other person charged with the keeping of books or registers is not required 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 the Registrar-General of Land 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 the instrument—
- (a) is executed, or purports to be executed, by the transferee; and
- (b) is related to property held by the transferor; and

Schedule 3—*continued*Part 3—*continued*Subpart 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.

**41 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. 5
- (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 control of the part excluded from its district or region; and 10 15
- (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,— 20
- (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 25
- (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 30
- (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

Schedule 3—*continued*Part 3—*continued*Subpart 3—*continued*

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. 5
- (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. 10
- 42 Apportionment of assets and liabilities**
- (1) If an Order in Council or a reorganisation scheme does not make provision for the apportionment of the assets and liabilities of the local authorities affected by the order, the local authorities may, by agreement, determine the manner in which those assets and liabilities must be apportioned. 15
- (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. 20 25
- (3) For the purpose of deciding an application to the Commission under **subclause (2)**, the Commission—
- (a) must consult the Auditor-General and the local authorities directly affected; and 30
- (b) may make the inquiries that it thinks fit; and

Schedule 3—*continued*Part 3—*continued*Subpart 3—*continued*

- (c) 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, and assets and liabilities to be transferred 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
- (5) An order of the Commission under **subclause (2)** may be enforced as if it were an agreement between the local authorities concerned. 10
- (6) For the purposes of the Income Tax Act 2007, the Goods and Services Tax Act 1985, and the Accident 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 district, region, or functions are wholly transferred to that local authority. 15
- 43 Apportionment of fuel tax revenue**
- (1) This clause applies if, under an Order in Council giving effect to a reorganisation scheme,— 20
- (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 25
- (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. 30
- (2) Despite Part 11 of the Local Government Act 1974, the component authorities whose districts have respectively been in-

Schedule 3—*continued*

Part 3—*continued*

Subpart 3—*continued*

creased and decreased in area and the component authority for  
the newly constituted district may, by agreement, determine  
the basis on which the proceeds of a final tax levied under that 5  
Part 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.

(3) **Clause 42(3) to (5)** apply as if an order of the Commission  
under **clause 41(2)** were an order determining an issue under 10  
**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 15  
altered by the Order in Council or other instrument.

## Schedule 2

s 28

### Consequential amendments

#### Local Electoral Act 2001 (2001 No 35)

In section 19Z(5)(b), replace “section 255(1)(b) or Schedule 15” with “**section 258G or 258J**”. 5

In section 19ZG(2)(c) and (4)(c), replace “section 255(1)(b) or Schedule 15” with “**section 258G or 258J**”.

In section 24A(3) and (4), replace “section 255(1)(b) or Schedule 15” with “**section 258G or 258J**”.

In section 24D(3) and (4), replace “section 255(1)(b) or Schedule 15” with “**section 258G or 258J**”. 10

In section 27(4)(b), replace “section 255(1)(b) or Schedule 15” with “**section 258G or 258J**”.

In section 34(1)(c) and (2)(c), replace “section 255(1)(b) or Schedule 15” with “**section 258G or 258J**”. 15

#### Local Government (Auckland Council) Act 2009 (2009 No 32)

Replace section 10(b) with:

“(b) better enabling the Auckland Council to give effect to the purpose of local government within the local board area.” 20

In section 32A, replace “sections 254 to 257” with “**Part 10**”.

In section 32A, replace “those sections and Part 1 of Schedule 15 of that Act apply” with “that Part applies”.

#### Receiverships Act 1993 (1993 No 122)

In the Schedule, clause 3, replace “Commissioner appointed under section 255 or section 258 of the Local Government Act 2002 or to a commission appointed under clause 14 of Schedule 15 of that Act” with “Commission appointed under **section 258D** of the Local Government Act 2002”. 25



**Receiverships Act 1993 (1993 No 122)**—*continued*

In the Schedule, clause 4, replace “the appointment of a Commissioner under section 255 or section 258 of the Local Government Act 2002 or to a commission appointed under clause 14 of Schedule 15 of that Act” with “a Commission appointed under **section 258D** of the Local Government Act 2002”.

5