



ANALYSIS

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1980, No. 6—*Local*

An Act to repeal the Chatham Islands County Council Empowering Act 1936, to restore the power of the Council to make and levy rates of whatever kind, and to empower the Council to make and levy county dues

[22 December 1980]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Chatham Islands County Council Empowering Act 1980.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Council” means the Chatham Islands County Council:

“County” means the County of Chatham Islands:

“County dues” means the dues authorised to be levied by section 4 of this Act:

“General rate” means the general rate which may be made and levied by a territorial authority pursuant to section 136 of the Local Government Act 1974 (as inserted by section 2 of the Local Government Amendment Act (No. 3) 1977):

“Goods” includes all kinds of movable personal property (including animals) but does not include ships’ stores or aircraft stores:

“Ratepayer” means any person who is an elector of the county having a rating qualification.

3. Power to levy rates—(1) Subject to this section, the power of the Council to make and levy rates of whatever kind upon rateable property within the county shall be restored in and from the financial year commencing on the 1st day of April 1981.

(2) The rating system to be applied within the county on and after the 1st day of April 1981 shall be either the capital value rating system or the land value rating system as determined by the Council by special order.

(3) If, not later than the day before the date fixed for the confirmation of the resolution to make the special order, not less than 15 percent of the ratepayers of the county so request in writing to the principal administrative officer of the Council, a poll of ratepayers shall be taken to ascertain which of the 2 systems of rating specified in subsection (2) of this section shall be applied within the county.

(4) Every signatory to the request shall against his signature state his full name and the address of the property in respect of which he possesses his qualification as a ratepayer.

(5) Upon receipt of a valid request for a poll made in accordance with this section, the principal administrative officer shall, not later than 14 days after receiving the request, deliver it to the Returning Officer for the county.

(6) The Returning Officer shall take the poll on a day fixed by him, being not less than 35 nor more than 42 clear days after the date of the receipt by him of the request for a poll.

(7) On the day appointed a poll shall be taken in the manner provided by the Local Elections and Polls Act 1976 for the taking of polls other than elections, and every ratepayer shall be entitled to vote accordingly.

(8) Where a poll has been taken pursuant to this section the system of rating to be applied within the county shall be

that system which is favoured by the majority of valid votes recorded at the poll; and that system shall be deemed to have come into force on the 1st day of April 1981.

(9) Within 28 days after a poll has been taken under this section, the Returning Officer shall cause the result of the poll to be publicly notified and published in the *Gazette* and conveyed to the Valuer-General.

(10) The provisions of section 17 of the Rating Act 1967 shall apply to any poll taken pursuant to this section.

4. Power to levy county dues—(1) In addition to its power to make and levy rates upon rateable property, the Council is hereby empowered to levy, in accordance with the provisions of this Act, county dues on goods imported into or exported from the county by any means whatsoever.

(2) The Council may from time to time, but not more frequently than once in each financial year, decide by special order to fix scales of county dues payable under this Act.

(3) Without limiting the extent of the powers conferred upon the Council by this section, a resolution to make a special order fixing scales of county dues under this Act may provide for any of the following:

- (a) The fixing of a differential scale of county dues so that higher county dues shall be payable in respect of goods imported into or exported from that portion of the county comprising Chatham Island than are payable in respect of goods imported into or exported from the other Islands within the County;
- (b) The fixing of a differential scale of county dues so that different dues are payable, depending upon whether the goods are carried by sea or by air;
- (c) The exemption of any specified class or classes of goods from the payment of county dues under this Act.

5. Application of proceeds of dues—All money received by the Council from county dues collected in accordance with the provisions of this Act shall form part of the general revenues of the county.

6. Calculation of general rate and application of surplus—(1) The aggregate of the general rate and county dues shall not exceed the sum which the Council could levy by way of a general rate under section 136 (1) of the Local Government Act 1974 (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977).

(2) If the aggregate of the total amount recoverable from the general rate and the total amount recoverable from county dues in any year happens to exceed the maximum amount which the Council is entitled to levy by general rate on every rateable property within the county, and such excess is less than \$1,000, the Council may use the surplus for the general purposes of the Council pursuant to a resolution in that behalf.

(3) If such excess is \$1,000 or greater and is not attributable to any invalidity in the general rate made and levied in that year the surplus shall, at the commencement of the next ensuing financial year, be deemed to be part of the general rate made and levied upon every rateable property within the county in that next ensuing financial year for all purposes, including (but without limiting the generality of the foregoing) the purposes of any enactment which imposes a limitation on the maximum amount in the dollar which the Council is empowered to levy by general rate.

(4) Any such excess which is required to be dealt with in accordance with subsection (3) of this section shall, no later than the last day of that next ensuing financial year, be applied in the manner prescribed by section 122 (1) of the Local Government Act 1974 (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977).

7. Persons liable for county dues—(1) The following persons shall be liable to pay the county dues payable in respect of any goods carried in any ship or aircraft, that is to say:

- (a) The owner of the goods; and
- (b) Any consignor, consignee, shipper, or agent for the sale or custody of the goods; and
- (c) Any person entitled to the possession of the goods either as owner or agent for the owner; and
- (d) In the case of goods landed from a ship or unloaded from an aircraft and not claimed within 7 days thereafter, the owner and master of the ship or, as the case may be, the owner and pilot of the aircraft.

(2) The consignor and consignee of any goods carried in a ship or aircraft shall, until the contrary is shown, be deemed to be the persons so named in the manifest of the ship or aircraft, as the case may be.

8. Right to hold owner's money—Every person referred to in section 7 of this Act who is liable to pay county dues (other than the owner of the goods) may, out of any money in his hands received on account of those goods, or belonging to the owner thereof, retain the amount of dues so paid by him, together with any reasonable expenses he may have incurred by reason of the payment and liability.

9. Bylaws—(1) Without limiting its powers to make bylaws under any other Act, the Council may make bylaws to do all or any of the following things:

- (a) Regulate the time when and place where county dues are to be payable:
- (b) Provide for such other matters as may be necessary to enable the objects of this Act to be carried out effectually.

10. Information to be supplied by importer and exporter—

(1) The master, owner, or agent of every vessel or, as the case may be, the pilot in command of every aircraft shall give to the principal administrative officer of the Council or other person deputed by the Council one or more copies, as that officer or that other person may reasonably require, of the bills of lading, freight lists, or manifest of the goods, or other proper account of all goods intended to be landed from the vessel or aircraft, and the name or names of the consignees to whom the goods are intended to be delivered. Every such bill of lading, freight list, manifest, or other account shall contain full particulars of the number of items, weights, or measurements of the goods, according as freight is payable thereon by number, weight, or measurement.

(2) Every person exporting goods from the county shall, before the goods are loaded on board the vessel or aircraft, as the case may be, deliver to the principal administrative officer of the Council or other person deputed by the Council, a full and true account of all the goods, containing full particulars of the number of items, weights, or measurements of the goods, according as freight is payable thereon by number, weight, or measurement.

11. Offences—(1) If any master, owner, consignor, consignee, shipper, aircraft pilot, or agent evades or attempts to evade the payment of any county dues, or makes a false

declaration in respect of any goods liable to payment of county dues, he commits an offence against this Act, and shall be liable on summary conviction to a fine, either not exceeding \$500, or in case the amount of the county dues which he has evaded or attempted to evade or in respect of which he has made a false declaration exceeds \$500, then not exceeding the amount of those dues.

(2) The imposition on any person of a fine upon his conviction for an offence under subsection (1) of this section shall not preclude the Council from recovering the amount of unpaid dues in respect of any goods to which the offence may have related.

12. Recovery of unpaid dues—The amount of any unpaid dues may be recovered by the Council as a debt in any Court of competent jurisdiction from any person liable to pay them under this Act.

13. Saving of other powers of Council—(1) County dues under this Act may be levied and collected in addition to—

- (a) Any harbour dues which the Council may be empowered to levy pursuant to the provisions of the Harbours Act 1950; and
- (b) Any charges, fees, or dues which the Council may be empowered to charge pursuant to the provisions of the Civil Aviation Act 1964 or regulations in force thereunder; and
- (c) Any charges which the Council may be entitled to prescribe by bylaws made pursuant to the provisions of the Airport Authorities Act 1966.

(2) The Council may appoint the same personnel to collect both county dues and any other fees, charges, or dues which it is empowered to charge or levy by virtue of any other enactment.

14. Repeals and amendments—(1) The Chatham Islands County Council Empowering Act 1936 is hereby repealed.

(2) The following regulations are hereby revoked:

- (a) The Chatham Islands Dues Regulations 1979;
- (b) The Chatham Islands Dues Regulations 1979, Amendment No. 1;
- (c) The Chatham Islands Dues Regulations 1979, Amendment No. 2.

(3) Section 178 of the Local Government Act 1974 (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby repealed.

(4) Section 48A (1) of the Income Tax Act 1976 is hereby amended by repealing the definition of "Chatham Islands dues" (as added by section 5 (1) of the Income Tax Amendment Act 1979), and substituting the following definition:

"'Chatham Islands dues' has the same meaning as county dues as defined in section 2 of the Chatham Islands County Council Empowering Act 1980:".

(5) Section 5 (1) of the Income Tax Amendment Act 1979 is hereby consequentially repealed.

(6) Section 141 (1) of the Income Tax Act 1976 is hereby amended by omitting the words "dues under the Chatham Islands Dues Regulations 1951", and substituting the words "county dues levied under the Chatham Islands County Council Empowering Act 1980".

15. Transitional provisions—(1) Notwithstanding the repeal of the Chatham Islands County Council Empowering Act 1936 and the revocation of the Chatham Islands Dues Regulations 1979, those regulations shall continue in force and operate until the coming into effect of the initial special order fixing scales of county dues under section 4 of this Act.

(2) Nothing in this Act shall be so construed as to preclude the Council from collecting any dues which remain unpaid at the date of coming into effect of the special order to which subsection (1) of this section applies.

(3) For the purposes of allowing—

(a) A rebate of income tax under section 48A of the Income Tax Act 1976; or

(b) A deduction under section 141 of that Act—
the term county dues in those sections shall be deemed to include dues payable under the Chatham Islands County Council Empowering Act 1936 and any Order in Council in force thereunder.
