

LOCAL GOVERNMENT COMMISSION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Local Government Commission Act 1961.

Clause 1 relates to the Short Title.

Clause 2 corrects an incorrect reference in section 14 (6) of the principal Act.

Clause 3: By section 19 of the principal Act, the Local Government Commission in determining any objection to a provisional scheme may uphold the objection wholly or partly, and may abandon or modify the scheme accordingly, or may dismiss the objection.

This clause will enable the Commission, notwithstanding that it dismisses an objection, to modify the scheme to make provision for any matter arising out of the objection.

Clause 4: Subclause (1) will enable the Local Government Appeal Authority to refer a scheme back to the Commission for reconsideration, either generally or with respect to particular matters.

Subclause (2) is intended to make it clear that the Appeal Authority may not amend any scheme to such an extent as to substitute another form of reorganisation for that provided in the scheme.

Subclause (3) is consequential on *subclause (1)*, and provides that when the Appeal Authority refers a scheme back to the Commission for reconsideration, the Commission may make such further investigations and inquiries as it thinks fit, and may abandon the scheme, or confirm it, or modify it, or prepare a new provisional scheme in its place.

If it confirms the scheme, the Commission must give public notice of its decision and must give notice to local authorities and other persons in the same manner as if the confirmation were the approval of the scheme. The provisions of the principal Act applying on the approval of a final scheme (such as appeal rights and the right to request a poll) will then apply, but, if a poll was requested on any proposal in the scheme referred back, it will not be necessary for a fresh request to be made.

If the Commission modifies the scheme referred back, the modified scheme will have the same effect as a provisional scheme, and the provisions of the principal Act as to provisional schemes will apply.

Clause 5: Subclause (1) re-enacts in an amended form section 37 (1) of the principal Act relating to the right of electors to request a poll in certain cases. The new subsection contains the following changes:

- (a) At present, a poll must be held if 15 per cent of the electors of the district or area affected request a poll. The new subsection increases this number to 30 per cent in cases where the electors of the district or area do not exceed 1,000 and to 300 electors in cases where the electors of the district or area exceed 1,000 but do not exceed 2,000. Where the number of electors of the district or area exceeds 2,000, the number required is to be 15 per cent, as at present.
- (b) At present, a poll may be requested within one month after the last day for lodging appeals to the Local Government Appeal Authority against the decision of the Commission. The new subsection provides that a request for a poll must be delivered to the Returning Officer within the same period as that provided for lodging an appeal, instead of waiting a further month. This is intended to enable the steps necessary to give effect to a final scheme to be taken sooner if no appeal or request for a poll is made in respect of the scheme.

Subclause (2) is a consequential amendment to section 38 (1) of the principal Act relating to the date on which a poll must be held.

Clause 6 re-enacts in an amended form section 40 (2) of the principal Act, which provides that when a proposal in a final scheme is rejected at a poll of electors and the Minister requests the Commission to review any other parts of the scheme or any related scheme the Commission may recommend that those parts or the related scheme be proceeded with or be not proceeded with.

This clause re-enacts those provisions, and adds the following new provisions:

- (a) The Commission may recommend that those other parts of the scheme or the related scheme be proceeded with subject to amendment.
- (b) No such amendment may be made relating to any district or area not included in those other parts of the scheme or in the related scheme.
- (c) The Commission may prepare a further provisional scheme in substitution for those other parts of the original scheme or for the related scheme.

Clause 7 is intended to remove doubts as to the jurisdiction of the Commission to issue a provisional scheme in respect of an investigation or inquiry made into a proposal by the former Commission under the Local Government Commission Act 1953. Section 46 (2) of the principal Act provides that inquiries commenced but not completed under the 1953 Act are to be continued and completed under the principal Act. The question has arisen as to whether the new Commission has jurisdiction to issue a provisional scheme in cases where the former Commission had conducted a public inquiry but had not issued a provisional scheme.

This clause re-enacts section 46 (2) in an amended form in order to make it clear that the Commission has such jurisdiction. The amendment is made retrospective to the date of commencement of the principal Act.

Hon. Sir Léon Götz

**LOCAL GOVERNMENT COMMISSION
AMENDMENT**

ANALYSIS

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2. Matters to be provided for in re-organisation scheme	6. Minister may request Commission to review scheme
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A BILL INTITULED

**An Act to amend the Local Government Commission Act
1961**

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

1. **Short Title**—This Act may be cited as the Local Govern-
ment Commission Amendment Act 1963, and shall be read
together with and deemed part of the Local Government
10 Commission Act 1961* (hereinafter referred to as the prin-
cipal Act).

*1961, No. 132
Amendment: 1962, No. 81

2. Matters to be provided for in reorganisation schemes— Section 14 of the principal Act is hereby amended by omitting from subsection (6) the words “subsection (4)”, and substituting the words “subsection (5)”.

3. Objections to provisional scheme—Section 19 of the principal Act is hereby amended by adding to subsection (4) the following further proviso: 5

“Provided further that, notwithstanding that an objection is dismissed by the Commission, the Commission, in its discretion, may modify the scheme to make provision for any matter arising out of that objection.” 10

4. Hearing and determination of appeal—(1) Section 36 of the principal Act is hereby amended by inserting in subsection (5), after the words “subject to amendment”, the words “or referring the scheme back to the Commission for reconsideration either generally or with respect to any matters specified by the Appeal Authority”. 15

(2) Section 36 of the principal Act is hereby further amended by adding to subsection (5) the following further proviso: 20

“Provided further that the Appeal Authority shall not amend any scheme so far as it provides for any matter specified in subsection (1) of section 14 of this Act by substituting for the matter so provided for in the scheme any other matter specified in that subsection.” 25

(3) Section 36 of the principal Act is hereby further amended by inserting, after subsection (5), the following subsections:

“(5A) Where under subsection (5) of this section any scheme is referred back to the Commission for reconsideration, the Commission may make such further investigations and inquiries as it thinks fit, and may, in its discretion,— 30

“(a) Abandon the scheme; or

“(b) Confirm the scheme; or

“(c) Modify the scheme, in which case the scheme as so modified shall be deemed to be a provisional scheme prepared in substitution for the scheme so referred back; or 35

“(d) Prepare a further provisional scheme in substitution for the scheme so referred back. 40

“(5B) Where under subsection (5A) of this section the Commission confirms a scheme referred back to it for reconsideration, the provisions of section 21 of this Act shall apply as if the confirmation of the scheme were the approval of the
5 scheme by the Commission:

“Provided that where any request for a poll on any proposal contained in the scheme so referred back has been made within the time prescribed by section 37 of this Act, that request shall continue to have effect as if it had been
10 made with respect to the scheme so confirmed.

“(5c) Where under paragraph (c) or paragraph (d) of subsection (5A) of this section the Commission modifies any scheme or prepares a further provisional scheme, all the provisions of this Act with respect to provisional schemes
15 shall apply with respect to the scheme substituted or deemed to have been substituted for the scheme referred back.”

5. Poll of electors—(1) Section 37 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

20 “(1) Where any final scheme contains a proposal—

“(a) For the union, merger, or abolition of the district of any local governing authority; or

25 “(b) For the exclusion of any area from the district of any local governing authority, whether by the constitution of a new district or by the alteration of the boundaries of any district or districts, not being an alteration of any such boundaries that has been agreed to by all the local governing authorities affected thereby,—

30 a request in writing, signed by not less than thirty per cent of the electors of the district or area in any case where the electors of the district or area do not exceed one thousand, by not less than three hundred electors of the district or area in any case where the electors of the district or area exceed one
35 thousand but do not exceed two thousand, and by not less than fifteen per cent of the electors of the district or area in any case where the electors of the district or area exceed two thousand, that a poll of the electors of the district or area be taken on the proposal in order to ascertain the extent of public opposition
40 may be delivered to the Returning Officer of the district or, as the case may be, the district of which the area forms part, at any time within one month after the date of the giving of public notice of the scheme under section 21 of this Act.”

(2) Section 38 of the principal Act is hereby amended by omitting from subsection (1) the words “not later than three months after the last day for lodging appeals against the decision of the Commission under section 35 of this Act”, and substituting the words “not sooner than fourteen days after the last day for lodging appeals against the decision of the Commission under subsection (3) of section 35 of this Act nor later than three months after that last day”. 5

6. Minister may request Commission to review scheme— Section 40 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection: 10

“(2) In any such case the Commission, in its discretion, may recommend to the Minister that those other parts of the scheme or the related scheme be proceeded with or be not proceeded with, or that those other parts of the scheme or the related scheme be proceeded with subject to such amendments as the Commission considers desirable: 15

“Provided that no amendment to those other parts of the scheme or to the related scheme may be made by the Commission that relates to any district or area not included in those other parts of the scheme or in the related scheme: 20

“Provided further that the Commission may, in its discretion, prepare a further provisional scheme in substitution for those other parts of the scheme or for the related scheme. All the provisions of this Act with respect to provisional schemes shall apply with respect to every substituted scheme so prepared.” 25

7. Investigations and inquiries under repealed Act—Section 46 of the principal Act is hereby amended as from the commencement of that Act by repealing subsection (2), and substituting the following subsection: 30

“(2) This Act shall apply with respect to every investigation or inquiry under the Local Government Commission Act 1953 commenced but not completed by the Local Government Commission at the commencement of this Act, and to every such investigation or inquiry that has been completed at the commencement of this Act and in respect of which no provisional scheme has been prepared before the commencement of this Act; and— 35

“(a) Every such investigation or inquiry shall be continued and completed under this Act; and 40

- 5 “(b) A provisional scheme may be prepared under this Act in respect of any such investigation or inquiry commenced before the commencement of this Act and completed under this Act, and in respect of any such investigation or inquiry that has been completed before the commencement of this Act and in respect of which no provisional scheme has been prepared before the commencement of this Act.”