

Local Government Law Reform Bill

Government Bill

The amendments to this bill recommended by a majority of the Local Government and Environment Committee were negatived by the House on 15 June 2006. The effect of this is to omit the following amendments from the version of the bill reported from the committee (32-2):

- clause 9B, the new section 41A(2) and (3) in clause 9D, and clause 9G, relating to the Dog Control Act 1996:
- clause 17A relating to the Litter Act 1979:
- the amendments to section 12 of the Local Government Act 2002 in clause 28 and the substituted section 139(5) of the Local Government Act 2002 in clause 34:
- the amendments to section 356A(1)(a), the new section 365A(7A), and the amendment to section 365A(10) of the Local Government Act 1974 in clause 53.

This printing of the bill (32-3) reflects only the amendments to the bill recommended unanimously by the committee.

Local Government Law Reform Bill

Government Bill

As reported from the Local Government and
Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Local Government Law Reform Bill and recommends that it be passed with the amendments shown.

Introduction

This bill amends a number of Acts under which local authorities operate. Its purpose is to refine and clarify the existing legislative framework, and enhance the effectiveness of regulatory tools.

Amendments are made to the following Acts:

- Dog Control Act 1996
- Litter Act 1979
- Local Electoral Act 2001
- Local Government Act 2002
- Local Government Act 1974
- Local Government (Rating) Act 2002
- Rates Rebate Act 1973
- Land Transport Act 1998
- Auckland War Memorial Museum Act 1996

We recommend a number of changes to the bill. This commentary addresses the key issues considered, and explains the substantive amendments recommended. The technical and minor amendments recommended are not discussed.

Dog Control Act 1996

Definitions

We recommend amendments to clause 4 which relates to section 2 of the Dog Control Act 1996. At present there are a range of definitions for dogs that assist people with disabilities. Such dogs are subject to some exemptions and some special provisions under the Act, for example “companion dog”, “hearing ear dog”, and “epilepsy assist dog”. We believe that it is preferable to introduce a generic definition of a “disability assist dog”. A disability assist dog is defined as one trained and certified by an approved organisation, as listed in clause 4(1).

We recommend a further amendment to clause 4(1) to allow additions to the list of approved organisations to be made by Order in Council on the recommendation of the Minister for Local Government after consultation with the Minister for Disability Issues.

Menacing dogs

We recommend some changes to the provisions on menacing dogs in clauses 5 and 9. These changes are recommended to address sources of potential confusion for territorial authorities or dog owners, which were raised by submitters.

Territorial authorities retain the power to develop their own policies on the neutering of menacing dogs, but clause 5 also makes that process fully transparent. We recommend amending clause 9, so that an owner who receives notification that a dog has been declared menacing is fully aware that this classification applies nationally. Therefore, if the dog moves to another territorial authority, it may be required to be neutered, depending on the new territorial authority’s menacing dog policy. This applies even if the original notice was issued by an authority which does not require the neutering of menacing dogs.

Additional amendments

Many people made submissions on this part of the bill and we accepted a number of their suggestions.

We recommend inserting new section 33ED, under clause 9, to correct an inconsistency in the current Act. The amendment recommended requires that a territorial authority must classify a dog as either menacing or dangerous if the owner has been convicted of an offence under section 57 (dog attacking) or section 58 (dog causing

serious injury), but the Court has not ordered that the dog be destroyed. The only exemptions to this provision are the rare occasions where the territorial authority is satisfied that the circumstances of the attack are exceptional, and a menacing or dangerous dog classification is not justified.

Most of us recommend the insertion of new clause 9D. Under this recommendation, failure by the owner to notify the local authority that the dog has died would result in a fine or an infringement penalty. Most of us recognise that most owners do notify their territorial authority of their dogs' deaths, in order to receive refunds on their registration fees. Where owners do not, however, it can increase administration costs to territorial authorities.

We recommend a number of additions to Schedule 1 of the Act, to create various new infringement offences, with appropriate penalties.

We recommend amending section 14 of the Dog Control Act to enable dog control officers to enter a dwelling and seize a dog if they are accompanied by a member of the police, and a District Court Judge has issued a warrant. This section applies only if the provisions of the Act under which the dog has been seized does not specify otherwise. This amendment maintains consistency with other more modern legislation, and addresses the situation where a dog owner deliberately keeps an unregistered dog inside a dwelling to prevent its seizure.

Clause 7C is a consequential amendment, required by the introduction of the concept of a "disability assist dog". However, New Zealand National is concerned that clause 7C provides a mechanism which could be abused and manipulated to allow prohibited dogs into New Zealand.

Microchipping of dogs

The provisions to microchip newly registered dogs were due to come into force on 1 July 2006, as part of a range of dog control measures including the establishment of the national dog database. The majority of us do not believe that microchipping will achieve its aims, and think that it will incur unnecessary costs for territorial authorities and dog owners.

The majority of us recommend the insertion of new clause 9B, which repeals and substitutes new section 36A into the Dog Control

Act, as inserted by the 2003 amendment. The effect of these amendments would be to require only dogs classified as menacing or dangerous to be implanted with a microchip transponder.

The majority also recommend the insertion of new clause 9G to require any impounded dogs that are classified as menacing or dangerous to be registered and microchipped before their release. The majority recommend a provision authorising territorial authorities to recover the cost of microchipping these impounded dogs.

The majority also recognise that a significant number of local authorities in New Zealand have strong reservations about the compulsory microchipping provisions.

We received a number of submissions and two petitions on the microchipping provisions.

Views expressed included seeking an exemption for working dogs from the microchipping requirements.

Minority view of New Zealand Labour on microchipping of dogs

New Zealand Labour members consider that the package of measures introduced through the Dog Control Amendment Act 2003, including universal microchipping, are the most effective way to improve dog control and promote more responsible dog ownership. These changes were made by Parliament, supported by other parties as well as New Zealand Labour, in response to wider public calls to stop vicious dog attacks, following the attack on Carolina Anderson. All parties represented on this committee supported the third reading of the Dog Control Amendment Bill in 2003.

New Zealand Labour members consider that microchipping by itself cannot, and has never been intended to, stop dog attacks, just as the current practice of registering dogs via a collar and tag cannot. However, when used in conjunction with the full range of other strengthened dog control measures, such as the national dog database, enhanced powers to seize dogs, and tougher penalties for irresponsible dog owners, the full benefits of microchipping will be felt in local communities.

In the event of an attack, microchipping will allow a dog to be more accurately identified and linked to the owner. These dogs and their owners can then be more effectively dealt with to help prevent any future attacks. Also, the increased powers available to dog control officers means they can more effectively seize dogs, including unregistered dogs, that have attacked a person, or are not receiving

adequate food, water, or shelter. They can also seize registered dogs not under direct control of a person when in public, or not contained properly on a property. Unregistered dogs that are impounded will be microchipped upon their release, giving dog control officers a record of the dog's "misbehaviour". Having an integrated national dog database also means local authorities can easily share information about problem dogs and identify roaming animals that may be from outside their area.

New Zealand Labour members do not support the amendment proposed by the Green Party and New Zealand National to remove microchipping except for dangerous and menacing dogs. All dogs have the potential to bite or attack people or cause a nuisance, not just those classified as dangerous or menacing. New Zealand Labour members consider that limiting microchipping to only dangerous and menacing dogs will significantly reduce the effectiveness of the policy.

New Zealand Labour members were also interested to hear evidence that other countries already require microchipping of dogs, and the current microchipping policy brings New Zealand into line with the approach of a number of other countries to dog control.

For all these reasons, New Zealand Labour members still consider that universal microchipping, as part of a wider package of dog control tools, is the best way to move toward more responsible dog ownership and ultimately safer communities.

Litter Act 1979

Interpretation

Clause 15 amends the definition of "depositing", in relation to, litter in section 2(1) of the Litter Act. We are satisfied that no additional amendments are needed to the definition of "litter" in section 2, which we consider to be sufficiently broad to include materials such as sand and rock in circumstances where they could be considered litter.

Deposit of litter in public place or on private land

The majority recommend a new clause 17A, inserting new section 14A into the Act, to clarify that a territorial authority may retain the infringement fee it receives for an offence, where the infringement notice is issued by a litter control officer appointed by this territorial authority. The majority of us recommend this change because of our

concerns about litter and the dumping of waste. The majority believe it is important that a territorial authority receives appropriate remuneration for assuming the cost of managing litter abatement and enforcement.

Clause 18 raises the maximum fines that the Court can impose on an individual or body corporate for a litter offence. This is the first review of these penalties since 1990, and the amendments make them consistent with the penalties set under other regulatory laws and local government bylaws. We expect the increased penalties would discourage littering, and provide more incentive for territorial authorities to bring prosecutions.

There are various other mechanisms by which territorial authorities may receive funds for clearing litter. Under section 73 of the Public Finance Act 1989, a local authority may receive 90 percent of a fine recovered after prosecution in a court of law. This provision applies to prosecutions territorial authorities bring under the Litter Act. Furthermore, section 20 of the Litter Act allows the Court to order a defendant to make a compensation payment in lieu of a fine to cover the cost of removing the litter. This payment is payable to either the public authority or the occupier of private land.

New Zealand National opposes the application of section 73 of the Public Finance Act to offences under the Litter Act 1979. Local authorities should not retain monies from fines imposed by the courts for litter offences.

Other submissions

We received a number of submissions on the subject of waste management and levies. Although they were outside the scope of the bill, we note that further policy work is being done on waste issues.

Local Electoral Act 2001

One submission from the rural sector expressed concern about the present criteria for ensuring effective and fair local representation when establishing constituencies and wards.

Although this submission was outside the scope of the bill, we note that the Local Government Commission must review the Local Electoral Act 2001 and the Local Government Act 2002 after the local authority elections in 2007. We expect the review to explore representation issues, including the challenges that smaller rural communities face.

We believe that any legislative amendment should follow the review.

When section 19Z of the Local Electoral Act, “Territorial authority or regional councils may resolve to establish Maori wards or Maori constituencies”, was introduced by the Government in 2001, New Zealand National opposed it and the party’s position remains the same.

Local Government Act 2002

Statement of intent for council-controlled organisations

We recommend the insertion of a new clause 29A to exempt an organisation that becomes a council-controlled organisation in the last six months of a financial year from having to produce a statement of intent for that financial year. We believe this amendment addresses the practical difficulties that may arise where an organisation becomes a council-controlled organisation late in the financial year.

Status and powers

The majority recommend minor amendments to clause 28 to expressly provide that local authorities may make emergency relief contributions to overseas communities, and contribute resources to local government initiatives in developing countries.

New Zealand National opposes the amendment to insert a new section 12(6)(d) which allows local authorities to make cash donations to organisations outside New Zealand. New Zealand National is of the view that it is up to the individual to decide whether or not to contribute donations, not something to be determined by the local authority.

Parks

We recommend amending clause 33(1) to clarify the provisions regarding the disposal of parks. The amendment requires a local authority to consult the public before selling or disposing of, or agreeing to sell or dispose of, a park. This amendment also clarifies that “disposal” of a park includes leasehold arrangements of six months or more that have the effect of excluding or substantially interfering with the public’s access to the park, as the effect is similar to a sale or disposal.

The majority recommend an amendment to new section 139(5), as inserted by clause 34. Section 139 provides for the protection of regional parks in perpetuity by Order in Council, except where parts of the park are disposed of for purposes of minor boundary adjustments or more efficient administration of the park, and where such changes do not impact on the park's recreational or conservational value. The recommended amendment ensures that even this type of disposal is notified and consulted on through the special consultative procedure. The majority believe that this will further strengthen the protection of regional parks.

New Zealand National is concerned that there is a mandatory requirement for the special consultative procedure to be used by a regional council for minor boundary adjustments to regional parks when the change could be so minor it is not common sense to incur the cost.

Bylaws

We recommend amending clause 37 so that certain minor amendments made to bylaws are exempt from the requirement to use the special consultative procedure when making, amending, or revoking bylaws. The amendment clarifies that only minor amendments that do not change the effect on, or the obligations of, any person are exempted.

We received some submissions from local authorities concerned that the current special consultative procedure provisions are overly prescriptive, and in certain cases require a level of consultation that is disproportionate to what a local authority is trying to do. The special consultative procedure was introduced in 1989, and the provisions updated and expanded in the Local Government Act 2002. We believe that clear and binding consultation guidelines are necessary and in the public interest if a local authority exercises its discretionary powers to determine the liabilities and obligations of residents and ratepayers. The special consultative procedure provides a minimum standard for consultation and has become an accepted part of the public law framework. We therefore believe any amendment to or removal of the special consultative procedure requirements at this stage would be unwise.

We note that the special consultative procedure requirements will be reviewed by the Local Government Commission after the 2007 local authority elections.

Development contributions

We recommend the insertion of a new subsection to clause 43, which relates to section 198 of the Act, to address ambiguities in the current development contribution provisions in subpart 5 of Part 8 of the Local Government Act 2002. This amendment clarifies that development contributions authorised under the Act cannot be challenged through processes under the Resource Management Act 1991, or the Building Act 2004.

We considered a number of submissions on the subject of development contributions. They included some seeking the repeal of section 203(1) of the Local Government Act 2002, with the intention of amending the maximum reserve contribution (currently set at 7.5 percent of the value of additional allotments created by a subdivision, or the value equivalent of 20 square metres of land) in order to make the amount consistent with the development contributions calculated using the methodology in schedule 13 of the Local Government Act 2002. We believe that further policy work is needed on this highly complex issue to ensure that any changes to development contribution provisions retain the current principles of sound and robust asset management practice.

The matter of development contribution powers for regional councils was also raised in submissions. We believe that this is also a highly complex matter, and note that the Government has agreed to the subject being considered as a specific sub-project of the Local Authority Funding Project. A provisional report to the Local and Central Government Forum is proposed for September 2006.

Rating charges

Clause 49 of the bill as originally drafted amends Schedule 10 of the Local Government Act 2002 to address ratepayers' concerns when local authorities apply more than one charge to a single rating unit. Under the bill, a local authority will have to state clearly in its Funding Impact Statement whether it intends to include a uniform annual general charge and, if so, how the charge is to be calculated. If the calculation of the charge is made on the basis of a "separately used or inhabited part of a rating unit", the local authority must provide its definition of this term in the statement.

We recommend no further amendments to this clause. This issue is further discussed in the Petitions section of this commentary.

Long-term council community plans

We recommend the insertion of a new clause 50A to incorporate a transitional provision that no long-term council community plan for the period 2006 to 2016 can be invalidated on the grounds that it does not comply with any amendments made by this bill to the Local Government Act 2002. However, local authorities must comply with any amendments made by this bill when undertaking any future amendment to their long-term council community plan.

Some local authorities raised concerns about the costs and processes attached to the preparation and adoption of a long-term council community plan. While it would be premature to amend these requirements before local authorities complete their first full round of plans, the Local Government Commission's 2007 review will examine the cost-effectiveness of the consultation and planning procedures attached to the plans. We expect issues regarding the auditing and scalability of long-term council community plans to arise.

New Zealand National believes costs to audit long-term council community plan processes are too high for the value the audits add to the long-term council community plans.

Local Government Act 1974

Removal of vehicles from roads

We recommend inserting new section 356A(7A), under clause 53. This change would enable territorial authorities to retain any surplus sale proceeds from the disposal of an abandoned vehicle if the vehicle owner at the time of disposal does not claim these proceeds within 12 months of the disposal date. Territorial authorities can only retain proceeds from the removal of a motor vehicle that is classified under the provisions of new section 356A. We believe this is appropriate, as these abandoned vehicles are likely to be of little or no value.

We recommend inserting "or public place" into new section 356A(1) to clarify that abandoned vehicles may be removed from public places under the control of a territorial authority, as well as being removed from roads. A definition of "public place" is provided in new section 356A(10).

The Green Party does not agree that territorial authorities should be able to impound a vehicle simply because it does not have evidence of current vehicle inspection or licence, or both.

Submitters made a number of additional suggestions on the topic of abandoned vehicles and the costs associated with their disposal. These submissions were outside the scope of the bill.

Local Government (Rating) Act 2002

Amended assessment to give effect to objection to valuation under Rating Valuations Act 1998

We recommend amending new section 41A(2), as inserted by clause 60, to allow regional councils that do not maintain their own rating information database to issue an amended rates assessment within one month of being notified by the territorial authority concerned that it is required.

The clause as drafted requires a local authority to issue an amended rates assessment within one month of any alteration to its rating information database that results in a change to the original amount payable. Many regional councils do not maintain their own database, and rely on territorial authorities in their region to inform them of changes in rating information or valuations. We believe that the recommended change would enable regional councils to issue amended rates assessments in a timely fashion, but without the risk of losing rates revenue.

Lump sum contributions

We recommend that new section 117B(3)(a), as inserted by clause 62, be amended to permit local authorities to adopt and consult on a capital project funding plan through either a long-term council community plan or an annual plan. Although capital works projects, as funded by lump sum contributions, tend to be envisaged well in advance and are more likely to be addressed in a long-term council community plan or amendment to such a plan, we recognise that it is also important for local authorities to have the option of adoption through an annual plan. This amendment will provide local authorities with more flexibility in the design of capital project funding plans, and will reduce compliance costs.

We recommend in clause 56(2) an amendment to section 5 of the Act to clarify that lump sum contributions are not classed as rates. If ratepayers default on a lump sum contribution, they will then be

liable to pay targeted rates under new section 117N, as inserted by clause 62.

The lump sum contribution provisions in the bill have been significantly expanded from those in section 56 of the Local Government (Rating) Act 2002, and some submitters expressed concern that the proposed provisions are overly prescriptive.

In our view, ambiguities in the existing provisions have prevented local authorities from employing the lump sum mechanism, and the proposed new provisions respond directly to local government requests for more certainty. We believe that the new provisions are prescriptive regarding the process for adopting lump-sum schemes, but not the calculation methods; and they would in fact enable local authorities to develop schemes that suit their communities' particular needs.

Rates Rebate Act 1973

Some submitters proposed an extension to the Rates Rebate Scheme to include charges for water and wastewater services provided by a council-controlled organisation with effect from 1 July 2006. We note that the Government has requested further policy work on this issue, to be reported back by November 2007.

New Zealand National is disappointed that another Government programme, as mentioned in a number of submissions, is going to impose another cost on the ratepayers that the local authority can only recover by raising rates.

Land Transport Act 1998

We considered submissions from three territorial authorities requesting the retrospective validation of infringement notices they had issued for special vehicle lane offences between August 2002 and December 2005. The territorial authorities believe this measure is needed to prevent their receiving claims for refunds of infringement fees issued during this period.

We received advice that it is unlikely that many refund claims will be received. We believe that validating legislation is neither necessary nor desirable.

We note that the provisions recommended in this part of the bill expire on 30 June 2009 to allow them to be reviewed at the same time as the Transport Act 1962. We expect this review to address

any apparent inconsistencies associated with the enforcement of different types of vehicle lane.

New Zealand National is opposed to any changes to legislation that would allow either local authorities or Transit New Zealand to become enforcement authorities. The Land Transport Act 1998 as enacted gave certain rights to local authorities and Transit New Zealand. However, New Zealand National believes it was never envisaged that either the local authorities or Transit New Zealand would become an enforcement authority under the purposes of the 1998 Act.

Petitions

Petition 2005/0038 of Kathy White and 363 others, and Petition 2005/0039 of Jan Daffern and 244 others

The first petition requests that the microchipping of dogs be the choice of owners, except where the dog has been officially classified as menacing or dangerous. The second petition seeks the repeal of all legislative requirements to microchip dogs.

The issues raised are discussed elsewhere in the commentary. By majority the concerns of the first petition have been addressed in the bill as reported.

Petition 2002/0179 of Malcolm Anderson and 37 others, and Petition 2005/0019 of Malcolm Anderson

These petitions request that the House clarify the intent of sections 15(1)(b) and 20 of the Local Government (Rating) Act 2002.

With regard to section 15(1)(b), the petitioner asks the House to confirm that no multiple rating charges (uniform annual general charge and wastewater charges) can be made on the basis that a property has the “capability” to be used separately, and that a tenancy, lease, licence, or other agreement is required to justify any secondary charges. We are satisfied that this section and Schedule 3 of the Act clearly state that a property must actually be separately used or inhabited for multiple charges to be levied. Neither this section, nor Schedule 3, makes reference to “capability”.

With regard to section 20, the petitioner requests an amendment to the effect that two or more parts of a single rating unit which are separately used or inhabited, but with no separate tenancy, lease, licence or other agreement, should be treated as a single unit for the setting of rates. This request is inconsistent with the intent of section

20. This section is concerned with two rating units, rather than two or more parts of a single rating unit. It ensures that two rating units being used jointly by the same owner are liable for only one set of rates.

We believe that the issues that have given rise to these petitions turn on matters of fact, such as whether a particular use of part of a rating unit is categorised as a separate use, rather than any defects in the existing legislation.

We considered whether a fixed definition of “separately used or inhabited part of a rating unit” could be added to this bill. Although a generic definition is desirable in principle, it would not address the increasing number of marginal situations, where the correct rating treatment depends on highly case-specific facts. On balance, we believe that it is preferable to leave local authorities with the power to develop their own definitions of this term, to suit the particular circumstances of their communities.

Nevertheless, we consider it important that local authorities notify their definitions of “separately used or inhabited parts of a rating unit” in their Funding Impact Statements, which are subject to the special consultative procedure. These requirements, which are provided for in clause 49 of this bill, allow rating decisions to be made in a transparent way, and provide general ratepayers with advance information on their obligations.

Minority view of New Zealand National

New Zealand National supports many of the provisions of this bill. The provisions we disagree with, discussed in the relevant part of the commentary, arise from a concern that the Labour Government is imposing excessive regulatory compliance costs on local government.

We believe that concerns raised by numerous local authorities in regard to the administration of the rates rebate scheme have not been given due weight. Local authorities are facing significant costs in administering this central government scheme and the Labour Government should make provision for the burden it places on them and the inevitable impact on ratepayers.

New Zealand National opposes the universal microchipping of all dogs. Such a measure will not prevent dog attacks and imposes unnecessary costs on local authorities and dog owners.

Appendix

Committee process

The Local Government Law Reform Bill was referred to the committee on 5 April 2006. The closing date for submissions was 1 May 2006, although some late submissions were accepted, due to the timing of certain local authority meetings. We received and considered 49 submissions from interested groups and individuals. We heard 21 submissions. Hearing of evidence took three hours 56 minutes and consideration took four hours 34 minutes.

We considered two petitions on issues relating to the Dog Control Act 1996, and heard evidence on both.

We considered two petitions on issues relating to the Local Government (Rating) Act 2002, and heard evidence on both.

We received advice from the Department of Internal Affairs, Ministry for the Environment, and Ministry of Transport.

Committee membership

Steve Chadwick (Chairperson)

John Carter (Deputy Chairperson)

Georgina Beyer

Mark Blumsky

Martin Gallagher

Hon Marian Hobbs

Eric Roy

Hon Dr Nick Smith

Metiria Turei

Hon Mark Burton

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government Law Reform Act 2006.

2 Commencement

- (1) **Section 29** comes into force on 14 October 2007.
- (2) **Section 68** comes into force on 1 July 2006. 5
- (3) **Section 72** comes into force on 1 July 2009.
- (4) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to Dog Control Act 1996

10

3 Principal Act amended

This **Part** amends the Dog Control Act 1996.

4 Interpretation

New (unanimous)

(1AA) The definitions of **companion dog**, **guide dog**, and **hearing ear dog** in section 2 are repealed.

(1) Section 2 is amended by inserting the following definitions in their appropriate alphabetical order:

5

New (unanimous)

“**disability assist dog** means a dog certified by 1 of the following organisations as being a dog trained to assist (or as being a dog in training to assist) a person with a disability:

“(a) Hearing Dogs for Deaf People New Zealand:

“(b) Mobility Assistance Dogs Trust:

10

“(c) New Zealand Epilepsy Assist Dogs Trust:

“(d) Royal New Zealand Foundation of the Blind:

“(e) Top Dog Companion Trust:

“(f) an organisation specified in an Order in Council made under **section 78D**

15

Struck out (unanimous)

“**epilepsy assist dog** means a dog certified by the New Zealand Epilepsy Assist Dogs Trust as being an epilepsy assist dog or as being a dog under training as an epilepsy assist dog

“**register**, as a noun, means a dogs register kept by a territorial authority under section 34

20

Struck out (unanimous)

“**veterinarian** has the meaning given to it in section 4 of the Veterinarians Act 2005”.

(2) Section 2(1) is amended by repealing the definition of **companion dog** and substituting the following definition:

25

Struck out (unanimous)

“**companion dog** means a dog certified as being a companion dog or as being a dog under training as a companion dog by—

- “(a) the Top Dog Companion Trust; or
- “(b) the Mobility Assistance Dogs Trust”.

New (unanimous)

(2) Paragraph (a) of the definition of **working dog** in section 2 is repealed and the following paragraph substituted:

- “(a) any disability assist dog.”.

5 Duty of territorial authorities to adopt policy on dogs

(1) Section 10(3) is amended by inserting the following paragraphs after paragraph (e):

Struck out (unanimous)

“(ea) must state any thresholds, criteria, or procedures that the territorial authority will use when exercising its discretion under section 33E(1)(b) or **section 33EB** (which relate to the neutering of dogs classified as menacing dogs); and

New (unanimous)

“(ea) must state whether dogs classified by the territorial authority as menacing dogs under section 33A or 33C are required to be neutered under section 33E(1)(b) and—

- “(i) if so, whether the requirement applies to all such dogs; and
- “(ii) if not, the matters taken into account by it in requiring any particular dog to be neutered; and

“(eb) must state whether dogs classified by any other territorial authority as menacing dogs under section 33A or 33C are required to be neutered under **section 33EB(2)** if the dog is registered with the territorial authority and—

New (unanimous)

“(i) if so, whether the requirement applies to all such dogs; and

“(ii) if not, the matters taken into account by it in requiring any particular dog to be neutered; and”.

- (2) **Section 10(3)(ea) and (eb)** (as inserted by **subsection (1)**)— 5
- (a) *(does)* do not apply to a dog policy adopted before the commencement of *(this Act)* **this Part**; but
- (b) *(does)* do apply to a dog policy adopted before the commencement of *(this Act)* **this Part** that is amended under section 10(8) of the *(Dog Control Act 1996)* **principal Act** or reviewed under **section 10AA** of the *(Dog Control Act 1996)* **principal Act** (as inserted by **section 6 of this (Act) Part**). 10
- (3) Section 10 is amended by adding the following subsection: 15
- “(10) Subsection (8) applies subject to **section 10AA**.”

6 New section 10AA inserted

The following section is inserted after section 10:

“10AA Local authority must review policy if bylaw implementing policy requires review

- “(1) This section applies if a bylaw to which section 10(6)(a) applies is required (by the operation of section 20(4)) to be reviewed by a territorial authority under **section 158 or (section) 159** of the Local Government Act 2002. 20
- “(2) The territorial authority must review the bylaw by making the determinations required by section 155 of that Act in the context of a reconsideration of the matters in section 10(4) of this Act. 25
- “(3) If, after the review, the territorial authority considers that the bylaw should be amended, revoked, or revoked and replaced, it must— 30

Struck out (unanimous)

“(a) amend its policy under section 10; or

“(b) deal with the bylaw under section 156 of the Local Government Act 2002.

New (unanimous)

- “(a) deal with the bylaw under section 156 of the Local Government Act 2002; and
 “(b) if appropriate, amend its policy under section 10 of this Act.

- “(4) If, after the review, the territorial authority considers that the bylaw should continue without amendment, it must use the special consultative procedure set out in section 83 of the Local Government Act 2002. 5
- “(5) For the purposes of **subsection (4)**, the statement of proposal referred to in section 83(1)(a) of that Act must include— 10
- “(a) a draft of the bylaw to be continued; and
 “(b) the reasons for the proposal, including the determinations made by the territorial authority under **subsection (2)**.”

New (unanimous)

- 6A Power of entry** 15
- (1) Section 14(3) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) the entry is authorised by a warrant given by a District Court Judge on written application on oath; and”
- (2) Section 14 is amended by adding the following subsection: 20
- “(4) This section is subject to any express provision to the contrary in this Act.”

7 Power of dog control officer or dog ranger to feed and shelter dogs

- (1) Section 15(3) is amended by repealing paragraph (b) and substituting the following paragraph: 25
- “(b) may retain custody of the dog until—
- “(i) the dog control officer or dog ranger is satisfied that the dog will be given access to sufficient food, water, and shelter from its owner; or 30
- “(ii) the dog is disposed of under **section 71A**.”
- (2) Section 15(6) is repealed.

New (unanimous)

- | | | |
|-----------|--|----|
| 7A | Maintenance of records and provision of information
Section 30(1)(b) is amended by omitting “in respect of which the infringement fee has been paid” and substituting “(whether or not the infringement fee has been paid)”. | |
| 7B | New section 30AA inserted
The following section is inserted after section 30: | 5 |
| | “30AA Territorial authority may retain information about infringement notice until infringement fee paid | |
| | “(1) A territorial authority may retain any record in relation to an infringement notice issued by it until the infringement fee (or, as the case may be, the fine) has been paid in full. | 10 |
| | “(2) Subsection (1) applies despite anything to the contrary in this Act.” | |
| 7C | Prohibition on import of dogs listed in Schedule 4
Section 30A(5) is amended by repealing paragraph (a) and substituting the following paragraph: | 15 |
| | “(a) any dog— | |
| | “(i) performing the same function as a disability assist dog (if the dog has been certified as being trained to perform that function by a recognised organisation in the country where the person who the dog assists usually resides); and | 20 |
| | “(ii) accompanying and assisting that person or accompanying a person genuinely engaged in the dog’s training; or”. | 25 |
| 8 | New section 32A inserted
The following section is inserted after section 32: | |
| | “32A Dangerous dog classification to extend over New Zealand | |
| | “(1) Every classification as a dangerous dog under section 31 is in force throughout New Zealand. | 30 |
| | “(2) This section is for the avoidance of doubt.” | |

New (unanimous)

- 8A Territorial authority may classify dog as menacing**
 Section 33A(3) is amended by adding “; and” and also by adding the following paragraph:
 “(d) if the territorial authority’s policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of **sections 33EA and 33EB** if the owner does not object to the classification and the dog is moved to the district of another territorial authority.”
- 9 New sections 33EA to (33EC) 33ED and heading inserted**
 The following sections and heading are inserted after section 33E:
- “33EA Menacing dog classification to extend over New Zealand**
 “(1) Every classification as a menacing dog under section 33A or (*section*) 33C is in force throughout New Zealand.
 “(2) This section is for the avoidance of doubt.
- “33EB Territorial authority (other than classifying authority) may require neutering of menacing dog**
 “(1) This section applies if—
 “(a) a dog is classified by a territorial authority as a menacing dog under section 33A or (*section*) 33C; and
 “(b) the territorial authority does not require it to be neutered under section 33E(1)(b); and
 “(c) the dog is later registered with any other territorial authority.
 “(2) No later than 1 month after the dog is registered with the other territorial authority, (*the*) that territorial authority may require, by written notice, the owner of the dog to produce to the territorial authority a certificate issued by a veterinarian certifying—
 “(a) that the dog has been neutered; or
 “(b) that for reasons that are specified in the certificate, it will not be in a fit condition to be neutered before a date specified in the certificate.

- “(3) The owner must produce the certificate to the territorial authority no later than 1 month after receiving the notice.
- “(4) If a certificate under **subsection (2)(b)** is produced to the territorial authority, the owner of the dog must produce to *(it)* the territorial authority, no later than 1 month after the date specified in that certificate, a further certificate under **subsection (2)**. 5
- “**33EC Offence to fail to comply with section 33E(1) or (section) 33EB**
- “(1) Every person who fails to comply with section 33E(1) or **(section) 33EB** commits an offence and is liable on summary conviction to a fine not exceeding \$3,000. 10
- “(2) If a person fails to comply with section 33E(1) or **(section) 33EB**, a dog control officer or dog ranger may—
- “(a) seize and remove the dog concerned from the person’s possession; and 15
- “(b) retain custody of the dog until—
- “(i) the dog control officer or dog ranger is satisfied that the person has demonstrated a willingness to comply with section 33E(1) or **(section) 33EB** (as the case may be); or 20
- “(ii) the dog is disposed of under **section 71A**.

New (unanimous)

“Dangerous and menacing dogs

- “**33ED Territorial authority to classify certain dogs as dangerous or menacing**
- “(1) A territorial authority must classify a dog as a dangerous dog 25
under section 31 or a menacing dog under section 33A if—
- “(a) the owner of the dog has been convicted of an offence against section 57(2) or 57A(2)(a); and
- “(b) no destruction order for the dog has been made by the court concerned. 30
- “(2) **Subsection (1)** applies unless the territorial authority is satisfied that the circumstances of the attack, rush, or startle by the dog (being the circumstances relating to the offence for which the owner was convicted)—
- “(a) were exceptional; and 35

New (unanimous)

“(b) do not, in the territorial authority’s opinion, justify classifying the dog as dangerous or menacing.”

9A Dogs register

(1) Section 34(2)(a) is amended by omitting “the name” and substituting “the full name”. 5

(2) Section 34 is amended by inserting the following subsection after subsection (2):

“(2A) A territorial authority may include in the register any information referred to in subsection (2) in relation to any dog—

“(a) that has previously been, but is not currently, registered with it; or 10

“(b) that is known or believed to be kept in its district.”

9C New section 38 substituted

Section 38 is repealed and the following section substituted:

“38 Registration fee for certain dogs registered on or after 2 August 15

“(1) A territorial authority must reduce the registration fee for a dog, but only if, in a registration year,—

“(a) the dog is less than 3 months old on or after 2 August; or

“(b) the dog is imported into New Zealand for the first time on or after 2 August. 20

“(2) The fee payable for the dog under **subsection (1)** must be calculated by—

“(a) dividing the registration fee payable for a full year by 12; and 25

“(b) multiplying that amount by the number of complete months remaining in the registration year.”

9D New section 41A inserted

The following section is inserted after section 41:

“41A Dead dogs 30

“(1) The owner of a dog must notify the territorial authority with which the dog is registered if the dog dies.

“(4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who makes any

New (unanimous)

written statement to a territorial authority to the effect that a dog is dead knowing that statement to be false.”

9E Offence of failing to register dog

- (1) Section 42(1) is amended by omitting “keeps” and substituting “is the owner of”. 5
- (2) Section 42 is amended by repealing subsection (4) and substituting the following subsection:
- “(4) However, a person to whom subsection (3) applies must not dispose of a dog (other than for the purpose of destroying it) unless the dog is first registered under this Act.” 10

9F Change of ownership of registered dog

The heading to section 48 is amended by omitting “registered”.

10 Custody of dog removed for barking

Section 70(1) is amended by omitting “subsection (6)” and substituting “subsection (7)”. 15

11 New sections 71A and 71B inserted

The following sections are inserted after section 71:

“71A Disposal of dog seized under section 15 or (section) 33EC

- 20
- “(1) A territorial authority may sell, destroy, or otherwise dispose of a dog seized by a dog control officer or dog ranger under section 15(1)(c), in any manner it thinks fit,—
- “(a) if—
- “(i) the territorial authority is not satisfied that the dog will be given access to proper and sufficient food, water, or shelter if the dog is returned to the land or premises from where it was removed; and 25
- “(ii) the territorial authority has notified the owner of the dog in writing of its decision under **subparagraph (i)** and the right to appeal against it under **section 71B**; and 30
- “(iii) either—

- “(A) 7 days have elapsed and no appeal has been made; or
- “(B) an appeal has been made under **section 71B** and the District Court has not upheld it; or
- “(b) if— 5
- “(i) the territorial authority has notified the owner of the dog in writing of the matters set out in **subsection (3)**; and
- “(ii) not less than 7 days have elapsed; and
- “(iii) either the dog— 10
- “(A) has not been claimed by its owner; or
- “(B) has been claimed by its owner but any outstanding fees owed in relation to the dog under this Act have not been paid; or
- “(c) if, despite making reasonable efforts, the territorial authority has not identified the owner of the dog and the dog has been in its custody for not less than 7 days. 15
- “(2) A territorial authority may sell, destroy, or otherwise dispose of a dog seized by a dog control officer or dog ranger under **section 33EC**, in any manner it thinks fit,— 20
- “(a) if—
- “(i) the territorial authority is not satisfied that the dog owner has demonstrated a willingness to comply with section 33E(1) or (**section**) **33EB** (as the case may be); and 25
- “(ii) the territorial authority has notified the owner of the dog in writing of its decision under **subparagraph (i)** and the right to appeal against it under **section 71B**; and
- “(iii) either— 30
- “(A) 7 days have elapsed and no appeal has been made; or
- “(B) an appeal has been made under **section 71B** and the District Court has not upheld it; or
- “(b) if— 35
- “(i) the territorial authority has notified the owner of the dog in writing of the matters set out in **subsection (3)**; and
- “(ii) not less than 7 days have elapsed; and
- “(iii) either the dog— 40

- “(A) has not been claimed by its owner; or
“(B) has been claimed by its owner but any outstanding fees owed in relation to the dog under this Act have not been paid; or
“(c) if, despite making reasonable efforts, the territorial authority has not identified the owner of the dog and the dog has been in its custody for not less than 7 days. 5
- “(3) A notice under **subsection (1)(b)(i) or subsection (2)(b)(i)** must state that—
- “(a) the owner’s dog is in the custody of the territorial authority; and 10
“(b) unless the dog is claimed and any outstanding fees paid no later than 7 days after the owner receives the notice, *(it)* the territorial authority may sell, destroy, or otherwise dispose of the dog. 15
- “(4) A territorial authority—
- “(a) may apply any proceeds from the disposal of a dog under this section towards any fees owing in relation to the dog under this Act; and
“(b) must apply the surplus in accordance with section 9. 20
- “(5) If the territorial authority has, under section 68(1)(b), set fees for the sustenance of impounded dogs, it may—
- “(a) apply those fees to the sustenance of a dog kept in custody under this section; and
“(b) require the fees to be paid before the dog is returned under this section. 25
- “(6) **Subsection (5)** is subject to any order made by a Court under **section 71B(4)(b)**.
- “(7) The disposal of a dog under this section does not cancel the liability of the former owner of the dog to pay any fees owing in relation to the dog under this Act. 30
- “71B District Court to determine appeal**
- “(1) The owner of a dog to whom **section 71A(1)(a)(ii) or (2)(a)(ii)** applies may appeal to the District Court against the territorial authority’s decision. 35
- “(2) An appeal must be lodged no later than 7 days after the owner receives a notice under **section 71A(1)(b)(i) or (2)(b)(i)**.

“(3) The Court must consider the matters specified in **section 71A(1)(a)(i) or (2)(a)(i)**, as the case may be, and any submission by the territorial authority concerned.

“(4) The Court may—

“(a) uphold the territorial authority’s decision or order the return of the dog; 5

“(b) make an order in respect of any fees owing in relation to the dog under this Act.”

Struck out (unanimous)

12 Guide dogs, hearing ear dogs and companion dogs

(1) The heading to section 75 is amended by omitting “**ear dogs**” and substituting “**ear dogs, epilepsy assist dogs,**”. 10

(2) Section 75 is amended by omitting “ear dog” in both places where it appears and substituting in each case “ear dog, epilepsy assist dog,”.

New (unanimous)

12 New section 75 substituted 15

Section 75 is repealed and the following section substituted:

“75 Disability assist dogs

“(1) Any disability assist dog accompanying and assisting a person with a disability, or accompanying a person genuinely engaged in the dog’s training, may enter and remain— 20

“(a) in any premises registered under regulations made under section 120 of the Health Act 1956; or

“(b) in any public place.

“(2) However, the person whom the dog is accompanying must comply with any reasonable conditions imposed by the occupier or person controlling the premises or place in relation to the entry or presence of the dog. 25

“(3) This section overrides any enactment or bylaw prohibiting or regulating the entry or presence of dogs in relation to the premises and places referred to in **subsection (1).**” 30

New (unanimous)

12A New section 78D inserted

The following section is inserted after section 78C:

“78D Regulations authorising organisation to certify dogs as disability assist dogs

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify an organisation as an organisation that may certify dogs as disability assist dogs. 5
- “(2) The Minister must not make a recommendation under **sub-section (1)** unless he or she has consulted the Minister for Disability Issues.” 10

12B New Schedule 1 substituted

Schedule 1 is repealed and the schedule set out in **Schedule 1AA of this Act** is substituted.

13 Consequential amendments to principal Act

- (1) Section 10(2) is amended by omitting “the register kept by the territorial authority under section 34” and substituting “its register”. 15
- (2) Section 10(6)(a) is amended by inserting “under section 20” after “bylaws”.
- (3) Section 32(1)(c) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”. 20
- (4) Section 33E(1)(b) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”.
- (5) Section 33E(2) to (4) is repealed.
- (6) Section 35(2)(f) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”. 25
- (7) Section 40(2) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”.
- (8) Section 64(1)(b) is amended by omitting “registered veterinary surgeon” and substituting “veterinarian”. 30
- (9) Section 66(2)(c) is amended by omitting “for the time being in force under section 34”.
- (10) Section 69(1) is amended by—

- (a) omitting “sections 70 and 71,” and substituting “sections 70, 71, and **71A**,”; and
- (b) omitting “Act” in the last place it appears and substituting “section”.

Part 2

5

Amendments to Litter Act 1979

14 Principal Act amended

This **Part** amends the Litter Act 1979.

15 Interpretation

Paragraph (b) of the definition of **depositing** in section 2(1) is amended by omitting “dropped or, without reasonable excuse,” and substituting “dropped, or”.

10

16 Territorial authority may require occupier of private land to clear litter

(1) Section 10(10)(a) and (b) (*is*) are amended by omitting “or neglects” (*in each case*).

15

(2) Section 10(11) is amended by—

- (a) omitting from paragraph (a) “\$50” and substituting “\$500”; and
- (b) omitting from paragraph (a) “or neglect”; and
- (c) omitting from paragraph (b) “\$200” and substituting “\$2,000”; and
- (d) omitting from paragraph (b) “or neglect”.

20

17 Territorial authorities may adopt infringement notice provisions

Section 13(4) is amended by omitting “\$100” and substituting “\$400”.

25

18 Deposit of litter in public place or on private land

(1) Section 15 is amended by repealing subsection (1) and substituting the following subsections:

30

“(1) Every person commits an offence and is liable, in the case of an individual, to a fine not exceeding \$5,000 or, in the case of a body corporate, to a fine not exceeding \$20,000, who deposits any litter or, having deposited any litter, leaves it—

- “(a) in or on a public place; or

35

- “(b) in or on private land without the consent of its occupier.
- “(1A) **Subsection (1)** is subject to subsection (2).”
- (2) Section 15(2) is amended by—
- (a) omitting from paragraph (a) “\$750” and substituting “\$7,500”; and 5
 - (b) omitting from paragraph (b) “\$5,000” and substituting “\$30,000”.
- 19 Wilful breaking of bottles or glass**
- Section 16 is amended by omitting “\$750” and substituting “\$7,500”. 10
- 20 Offences in respect of Officers**
- (1) Section 17(1) is amended by omitting “\$500” and substituting “\$1,500”.
- (2) Section 17(1)(b) is amended by omitting “Without lawful excuse,”. 15
- 21 New sections 19A and 19B inserted**
- The following sections are inserted after section 19:
- “19A Strict liability for certain offences**
- “(1) In prosecuting an offence against a provision of this Act (other than an offence against section 16 or (*section*) 17(1)(a)), the prosecution does not need to prove that the defendant intentionally committed the offence. 20
- “(2) This section is for the avoidance of doubt.
- “19B Defences to strict liability offences**
- “(1) It is a defence in any prosecution referred to in **section 19A** if the defendant proves— 25
- “(a) that the act or omission of the defendant was due to an event—
 - “(i) beyond the defendant’s control (including natural disaster, mechanical failure, and sabotage); and 30
 - “(ii) that could not reasonably have been foreseen or provided against by the defendant; or
 - “(b) that—
 - “(i) the act or omission of the defendant was taken or occurred in an emergency and was reasonably necessary for— 35

- “(A) protecting the safety and welfare of a person; or
- “(B) preventing serious damage to property; and
- “(ii) after the emergency, the defendant took all reasonable steps to remove the litter or, as the case may be, comply with any notice or requirement in relation to the litter. 5
- “(2) The defences set out in this section are the only defences available to a defendant.”

Part 3

10

Amendments to Local Electoral Act 2001

- 22 Principal Act amended**
- This **Part** amends the Local Electoral Act 2001.
- 23 Territorial authority or regional council may resolve to establish Māori wards or Māori constituencies** 15
- Section 19Z(4) is amended by omitting “clauses 2(4)” and substituting “clauses 2(5)”.
- 24 Schedule 1A amended**
- (1) Clause 2(5) of Schedule 1A is amended by omitting “other”.
 (2) Clause 4(4) of Schedule 1A is amended by omitting “other”. 20

Part 4

Amendments to Local Government Act 2002

- 25 Principal Act amended**
- This **Part** amends the Local Government Act 2002.
- 26 Interpretation** 25
- (1) Section 5(1) is amended by inserting the following definition (*after the definition of **annual plan***) in its appropriate alphabetical order:
- “**bylaw** means a bylaw made by a local authority under any enactment”. 30
- (2) Section 5(1) is amended by repealing the definition of **community facilities** and substituting the following definition:
- “**community facilities** has the meaning set out in section 197”.

Struck out (unanimous)**27 Exempted organisations**

(1) Section 7 is amended by repealing subsection (2) and substituting the following subsection:

“(2) The Minister may make a recommendation only if, in the Minister’s opinion, the organisation’s accountability under the enactment under which it is established, or any other enactment, is of a similar nature and effect to that required of a council-controlled organisation under this Act.”

5

New (unanimous)**27 Exempted organisations**

(1) Section 7(1) is amended by omitting “established under an enactment,”.

10

(2) Section 7 is amended by repealing subsection (2) and substituting the following subsection:

“(2) The Minister may make a recommendation only if—

“(a) the organisation is subject to monitoring and reporting requirements under an enactment; and

15

“(b) in the Minister’s opinion, the organisation’s accountability under that enactment is of a similar nature and effect to that required of a council-controlled organisation under this Act.”

20

28 Status and powers

Section 12(6) is amended by adding “; or” and also by adding the following paragraphs:

“(d) prevent a local authority from making a donation (whether of money, resources, or otherwise) to another local authority or to a person or organisation outside its district or region—

25

“(i) if the local authority considers, on reasonable grounds, that the donation will benefit its district or region, or the communities within its district or region; or

30

“(ii) if the local authority considers, on reasonable grounds, that a benefit will be conferred on the local government sector as a whole; or

“(iii) for emergency relief; or”.

29 Local governance statements

Section 40(1) is amended by inserting the following paragraph after paragraph (b):

“(ba) the bylaws of the local authority, including for each 5
bylaw, its title, a general description of it, when it was
made, and, if applicable, the date of its last review
under **section 158 or (section) 159**; and”.

New (unanimous)

29A Statements of intent for council-controlled organisations

Section 64 is amended by adding the following subsection: 10

“(6) Despite this section, an organisation that becomes a council-
controlled organisation not more than 6 months before the end
of a financial year is not required to prepare a statement of
intent for that financial year.”

30 New section 86 substituted 15

Section 86 is repealed and the following section substituted:

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

“(1) This section applies to the following:

“(a) making a bylaw to which **section 156** applies: 20

“(b) amending a bylaw to which **section 156** applies (other
than under **subsection (2)** of that section):

“(c) revoking a bylaw to which **section 156** applies.

“(2) Where the special consultative procedure is used in relation to
an activity described in **subsection (1)**, the statement of proposal 25
referred to in section 83(1)(a) must include,—

“(a) as the case may be,—

“(i) a draft of the bylaw as proposed to be made or
amended; or

“(ii) a statement that the bylaw is to be revoked; and 30

“(b) the reasons for the proposal; and

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

New (unanimous)**30A Certain decisions to be taken only if provided for in long-term council community plan**

Section 97(2)(a) is amended by omitting “the council’s” and substituting “its”.

31 Policy on partnerships with private sector

5

(1) Section 107(2)(a)(ii) is amended by omitting “council organisations” and substituting “council-controlled organisations”.

(2) Section 107(2)(b) is amended by inserting “by,” after “or services to,”.

10

32 Prohibition on borrowing in foreign currency

Section 113 is amended by adding the following subsection as subsection (2):

“(2) Subsection (1) does not apply to an incidental arrangement in relation to an investment in currency other than New Zealand currency.”

15

Struck out (unanimous)**33 Restrictions on disposal of parks**

(1) Section 138(1) is amended by omitting “subpart” and substituting “section”.

(2) Section 138(2) is amended by omitting “or agrees to sell the park or part of it” and substituting “or disposes of, or agrees to sell or dispose of, the park or part of it”.

20

New (unanimous)**33 New section 138 substituted**

Section 138 is repealed and the following section substituted:

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

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

New (unanimous)

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

34 New sections 139 and 139A substituted

Section 139 is repealed and the following sections are substituted:

“139 Protection of regional parks

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

- “(4) An Order in Council does not prevent a regional council from disposing of part of the regional park to which the order applies—
- “(a) to make a minor boundary adjustment to it;
- “(b) for the more efficient administration of it. 5
- “(5) However, **subsection (4)** applies only if the retention of the land would not materially enhance the conservation or recreational values of the park.
- “(6) Any land within the meaning of **subsection (1)(b)** that is included in an Order in Council— 10
- “(a) retains its classification under the Reserves Act 1977; and
- “(b) remains subject to that Act; and
- “(c) if the land is to be sold or disposed of under **subsection (4) of this section**, must first be dealt with under sections 24 and 25 of that Act. 15
- “(7) An Order in Council must specify the regional park or the part of the regional park to which the order applies—
- “(a) by name and legal description, if it is practicable to do so; or 20
- “(b) by name and a detailed description of the location of the land, in any other case.
- 139A Further provision in relation to regional parks**
- “(1) An Order in Council made under **section 139** may be varied to include a reference to any land included in the regional park after the Order is made. 25
- “(2) The provisions of **section 139** apply, with all necessary modifications, to an Order in Council varied under **subsection (1)**.”
- 35 General provisions applying to bylaws**
- (1) The heading to section 151 is amended by adding “**made under this Act**”. 30
- (2) Section 151 is amended by inserting the following subsection before subsection (1):
- “(1AA) This section applies to a bylaw only if it is made under this Act.” 35

36 Determination whether bylaw is appropriate

- (1) The heading to section 155 is amended by inserting “**made under this Act**” after “**bylaw**”.
- (2) Section 155 (*of the principal Act*) is amended by inserting the following subsection before subsection (1):
- “(1AA) This section applies to a bylaw only if it is made under this Act.”

5

37 New section 156 substituted

Section 156 is repealed and the following section substituted:

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

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- “(1) A local authority must use the special consultative procedure (as modified by section 86) in—
- “(a) making a bylaw under this Act;
- “(b) amending a bylaw made under this Act;
- “(c) revoking a bylaw made under this Act.
- “(2) Despite **subsection (1)(b)**, a local authority may, by resolution publicly notified,—

15

Struck out (unanimous)

- “(a) make editorial changes to a bylaw that do not affect its general intent and purpose:

20

New (unanimous)

- “(a) make minor changes to, or correct errors in, a bylaw, but only if the changes or corrections do not affect—
- “(i) an existing right, interest, title, immunity, or duty of any person to whom the bylaw applies; or
- “(ii) an existing status or capacity of any person to whom the bylaw applies:

25

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

- 38 Heading above section 158 amended**
The heading above section 158 is amended by adding “*made under this Act or the Local Government Act 1974*”.
- 39 New sections 158 to 160A substituted**
Sections 158 to 160 are repealed and the following sections substituted: 5
- “158 Review of bylaws made under this Act or the Local Government Act 1974**
- “(1) A local authority must review a bylaw made by it under this Act (other than a bylaw deemed to be made under this Act by section 293) no later than 5 years after the date on which the bylaw was made. 10
- “(2) A local authority must review a bylaw made by it under the Local Government Act 1974 (other than a bylaw deemed to be made under this Act by section 293)— 15
- “(a) no later than ~~(5 years after)~~ 1 July 2008, if the bylaw was made before 1 July 2003; and
- “(b) no later than 5 years after the bylaw was made, if the bylaw was made after 1 July 2003.
- “159 Further reviews of bylaws every 10 years** 20
A local authority must review a bylaw made by it under this Act or the Local Government Act 1974 no later than 10 years after it was last reviewed as required by **section 158** or this section.
- “160 Procedure for and nature of review** 25
- “(1) A local authority must review a bylaw to which **section 158 or (section) 159** applies by making the determinations required by section 155.
- “(2) For the purposes of **subsection (1)**, section 155 applies with all necessary modifications. 30
- “(3) If, after the review, the local authority considers that the bylaw—
- “(a) should be amended, revoked, or revoked and replaced, it must act under **section 156**;
- “(b) should continue without amendment, it must use the special consultative procedure. 35

- “(4) For the purposes of **subsection (3)(b)**, the statement of proposal referred to in section 83(1)(a) must include—
- “(a) a copy of the bylaw to be continued; and
 - “(b) the reasons for the proposal; and
 - “(c) a report of any relevant determinations by the local authority under section 155.
- “(5) This section does not apply to any bylaw to which **section 10AA of the Dog Control Act 1996** applies.
- “**160A Bylaw not reviewed within specified time frame revoked** 10
- A bylaw that is not reviewed as required under **section 158 or (section) 159**, if not earlier revoked by the local authority concerned, is revoked on the date that is 2 years after the last date on which the bylaw should have been reviewed under that section.” 15
- 40 Powers of arrest, search, and seizure in relation to bylaw prohibiting liquor in public place**
- Section 169(1) is amended by inserting the following definition (*before the definition of liquor*) in its appropriate alphabetical order: 20
- “**bylaw** means a bylaw made under section 147(2)”.
- 41 Power to restrict water supply**
- Section 193(1) is amended by repealing paragraph (ba) and substituting the following paragraph:
- “(ba) fails to comply with any bylaw of a local authority that relates— 25
- “(i) to water, water pipes, waterworks, water races, or water supply; and
 - “(ii) to the person’s land or building; or”.
- 42 Interpretation** 30
- (1) Section 197 is amended by omitting “subpart,” and substituting “subpart and Schedule 13,”.
- (2) Section 197 is amended by inserting the following definition (*after the definition of allotment*) in its appropriate alphabetical order: 35

“**community facilities** means reserves, network infrastructure, or community infrastructure for which development contributions may be required in accordance with section 199”.

43 Power to require contributions for developments

- (1) Section 198(1) is amended by omitting “before” and substituting “when”. 5

New (unanimous)

- (2) Section 198(1)(b) is amended by omitting “authority); and” and substituting “authority):”. 10
- (3) Section 198 is amended by repealing subsection (3) and substituting the following subsections: 10
- “(3) A requirement for a development contribution under subsection (1)(a) or (1)(b) is not—
- “(a) a condition of a resource consent that gives rise to any right of objection or appeal; or
- “(b) as the case may be, a matter that gives rise to any right to apply to the chief executive for a determination under the Building Act 2004. 15
- “(4) **Subsection (3)** is for the avoidance of doubt.
- “(5) In this section,—
- “**building consent authority** means a person whose name is entered in the register referred to in section 273(1)(a) of the Building Act 2004 20
- “**chief executive** has the meaning given to it in section 7 of the Building Act 2004.”

44 Damage to local authority works or property

Section 232(1) is amended by repealing paragraph (d) and substituting the following paragraphs:

- “(d) a drainage work; or
- “(e) anything forming part of, or connected with, any works or property not referred to in paragraphs (a) to (d).” 30

45 Offences punishable on summary conviction

Section 239 is amended by adding the following subsection as subsection (2):

“(2) A District Court presided over by 2 or more Justices has jurisdiction in respect of any summary offence that is a breach of a bylaw made under section 147.”

46 Bylaws

Section 293 is amended by adding the following subsection: 5

“(3) Every bylaw to which this section applies that is not revoked or that does not expire before 1 July 2008, is revoked on that date.”

47 Schedule 3 amended

(1) Clause 10(1)(c) of Schedule 3 is amended by omitting “must”. 10

(2) Clause 59 of Schedule 3 is amended by repealing subclause (2) and substituting the following subclause:

“(2) In preparing a reorganisation scheme, the Commission may also provide for the constitution of any community under Schedule 6.” 15

48 Schedule 7 amended

(1) Schedule 7 is amended by inserting the following clause before clause 32:

“**32AA Meaning of officer** 20

For the purposes of clauses 32, 32A, and 32B, **officer** means—

“(a) a named person; or

“(b) the person who is for the time being the holder of a specified office.” 25

(2) Clause 32B(1)(a) of Schedule 7 is amended by omitting “section” and substituting “clause”.

49 Schedule 10 amended

(1) Clause 10(1)(c) of Schedule 10 is amended by repealing subparagraphs (ii) and (iii) and substituting the following subparagraph: 30

“(ii) a statement as to whether a uniform annual general charge is to be included and, if so, a statement—

“(A) as to how the charge is to be calculated; 35
and

- “(B) of the local authority’s definition of a separately used or inhabited part of a rating unit, if the charge is to be calculated on this basis; and”.
- (2) Clause 10(1)(d) of Schedule 10 is amended by repealing subparagraph (iii) and substituting the following subparagraph: 5
- “(iii) for each category, a statement—
- “(A) as to how liability for the targeted rate is to be calculated; and
- “(B) of the local authority’s definition of a separately used or inhabited part of a rating unit, if the rate is to be calculated on this basis; and”. 10
- (3) Clause 13(c) of Schedule 10 is amended by repealing subparagraphs (ii) and (iii) and substituting the following subparagraph: 15
- “(ii) whether a uniform annual general charge is to be included and, if so,—
- “(A) how the charge is to be calculated; and
- “(B) the local authority’s definition of a separately used or inhabited part of a rating unit, if the charge is to be calculated on this basis; and”. 20
- (4) Clause 13(d) of Schedule 10 is amended by repealing subparagraph (iii) and substituting the following subparagraph: 25
- “(iii) for each category,—
- “(A) how liability for the targeted rate is to be calculated; and
- “(B) the local authority’s definition of a separately used or inhabited part of a rating unit, if the rate is to be calculated on this basis; and”. 30

Consequential amendment to Local Government Act 1974

- 50 Consequential amendment to Local Government Act 1974** 35
- The (*Local Government Act 1974 is amended by inserting the*) following section (*before section 684*) is inserted before section 684 of the Local Government Act 1974:

“684AA Certain provisions of Local Government Act 2002 to apply to bylaws made under this Act

“(1) Despite anything to the contrary in the Local Government Act 2002, sections 150, 151, 155, and **156 of that Act** apply, with all necessary modifications, to any bylaw made under this Act. 5

“(2) This section does not limit any other provisions of that Act that apply to a bylaw made under this Act.”

New (unanimous)

Transitional provision

50A Transitional provision for long-term council community plans for period beginning on 1 July 2006 10

Any amendments made by **this Part** that have the effect of requiring an amendment to a long-term council community plan (to ensure that it complies with the requirements of the principal Act, as amended by **this Part**)—

(a) do not apply to a long-term council community plan to which section 280 of the principal Act applies, whether it is adopted before or after the commencement of **this Part**; but 15

(b) do apply to any amendment made to a long-term council community plan to which section 280 of the principal Act applies that is adopted after the commencement of **this Part**. 20

Part 5

Amendments to Local Government Act 1974

51 Principal Act amended 25

This **Part** amends the Local Government Act 1974.

52 Removal of abandoned vehicles from roads

(1) Section 356(2)(a) is amended by omitting “may authorise any person to” and substituting “may, or may authorise any person to,”. 30

(2) Section 356(2)(b) is amended by omitting “authorised by the council”.

(3) Section 356(2)(h) is amended by omitting “by the council” in the first place where it appears.

53 New sections 356A and 356B inserted

The following sections are inserted after section 356:

“356A Further provision in relation to removal of vehicles from roads

- “(1) This section applies in relation to a motor vehicle if— 5
- “(a) the vehicle is found on a road within a territorial authority’s district; and
- “(b) the vehicle has—
- “(i) an evidence of vehicle inspection and a licence label affixed to it, but each document has expired by more than 31 days; or 10
- “(ii) an evidence of vehicle inspection affixed to it that has expired by more than 31 days and no licence label affixed to it; or
- “(iii) a licence label affixed to it that has expired by more than 31 days and no evidence of vehicle inspection affixed to it; or 15
- “(iv) neither an evidence of vehicle inspection nor a licence label affixed to it.
- “(2) The territorial authority— 20
- “(a) may, or may authorise any person to, remove the vehicle; and
- “(b) if it does so, must—
- “(i) store it for 10 days (the **10-day period**); and
- “(ii) during that time, make reasonable efforts to notify the last registered owner of the vehicle— 25
- “(A) that it has removed the vehicle; and
- “(B) that the vehicle is in storage; and
- “(C) of the territorial authority’s powers under **subsection (7)**. 30
- “(3) However, if the territorial authority is satisfied that the condition of the vehicle is such that it is of little or no value, it may dispose of the vehicle without complying with **subsection (2)(b)**.
- “(4) A vehicle must not be removed under this section until a member of the police has been notified of the proposed removal. 35
- “(5) If a vehicle is claimed by any person lawfully entitled to it before the end of the 10-day period, the territorial authority must release the vehicle to the person.

- “(6) **Subsection (5)** applies only if any costs incurred by the territorial authority for removing and storing the vehicle are first paid.
- “(7) If a vehicle is not claimed under **subsection (5)**, the territorial authority may— 5
- “(a) dispose of it (by sale or otherwise) at any time after the 10-day period has expired; and
- “(b) recover from the vehicle’s last registered owner any costs incurred by the territorial authority as a result of removing, storing, and disposing of the vehicle (less 10 any amount received on the disposal of it).
- “(8) Any person to whom a vehicle is disposed of under this section becomes the lawful owner of the vehicle.
- “(9) Nothing in this section limits or affects anything in section 239 of the Public Works Act 1981. 15
- “(10) For the purposes of this section,—
- “**evidence of vehicle inspection** has the meaning given to it in section 2(1) of the Land Transport Act 1998
- “**territorial authority**, in relation to a State highway that is under the control of Transit New Zealand, means Transit New Zealand. 20
- “**356B Relationship between section 356 and section 356A**
- In any circumstances where a territorial authority is authorised to remove a motor vehicle under both section 356 and (**section**) **356A**, the territorial authority may only exercise its powers under **section 356A**.” 25
- 54 Amendment to Local Government Amendment Act 1992**
- Section 58(5) to (10) of the Local Government Amendment Act 1992 is repealed.

Part 6 30

Amendments to Local Government (Rating) Act 2002

- 55 Principal Act amended**
- This **Part** amends the Local Government (Rating) Act 2002.

56 Interpretation

- (1) Section 5 is amended by inserting the following definitions in their appropriate alphabetical order:

“**capital project** has the meaning set out in **section 117A**

“**lump sum contribution** has the meaning set out in **section 117A**”.

New (unanimous)

- (2) The definition of **rate** in section 5 is amended by adding “; but” and also by adding the following paragraph:

“(c) does not include a lump sum contribution”.

57 Rating information database

10

Section 27(4) is amended by adding “; and” and also by adding the following paragraph:

“(c) any information required under **section 117K(1)** that relates to the unit.”

58 Objections to rating information database

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Section 29 is amended by adding the following subsections:

- “(4) A person may not object under this section to the correctness or otherwise of any information contained in the database that relates to an objection to the valuation of a rating unit under the Rating Valuations Act 1998.

20

- “(5) **Subsection (4)** is for the avoidance of doubt.”

59 Rates records

Section 37 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) A local authority must keep and maintain a rates record for each rating unit in its district that clearly shows—

25

“(a) the amount of the ratepayer’s liability for rates in respect of that unit; and

“(b) any information required under **section 117K(2)** that relates to the unit.”

30

60 New section 41A inserted

The following section is inserted after section 41:

“41A Amended assessment to give effect to objection to valuation under Rating Valuations Act 1998

- “(1) A local authority must issue an amended rates assessment for a rating unit if— 5
- “(a) it has issued a rates assessment in respect of the rating unit for a financial year; and
- “(b) after issuing the assessment, it has— 10
- “(i) altered the information in relation to the rating unit in its district valuation roll under section 39 of the Rating Valuations Act 1998 for that year; and
- “(ii) consequentially altered the information in relation to the rating unit in its rating information database for that year; and 15
- “(c) the alteration in the database gives rise to a difference between the amount of rates that was originally assessed and the amount that would have been payable for that year if the information entered in the database had been the information referred to in **paragraph (b)(ii)**. 20

Struck out (unanimous)

- “(2) An amended assessment must be issued no later than 1 month after the alteration concerned was made to the rating information database.

New (unanimous)

- “(2) An amended assessment must be issued— 25
- “(a) no later than 1 month after the alteration concerned was made to the rating information database; or
- “(b) in the case of a regional council to which section 27(7) applies, no later than 1 month after the regional council receives notification of the alteration from the territorial authority concerned. 30

- “(3) If the amended assessment is for an amount that is less than the amount originally assessed, the local authority must

- refund to the person who paid the rates any rates paid in excess of the amount payable on the amended assessment.
- “(4) However, a local authority is not required to make a refund if it does not have the contact details of the person who paid the rates. 5
- “(5) If the amended assessment is for an amount that is more than the amount originally assessed, the local authority may recover the excess rates payable on the amended assessment.
- “(6) However, a local authority may only recover the amount if the person who paid the original assessment is also the person to whom the amended assessment is issued.” 10

61 Contents of rates assessment

Section 45 is amended by inserting the following subsection after subsection (1):

- “(1A) If the ratepayer has elected to make a lump sum contribution to a local authority’s capital project, the rates assessment must also identify the targeted rates for the financial year for which, as a result of the election, no liability attaches to the rating unit.” 15

62 New Part 4A inserted 20

The following Part is inserted after Part 4:

“Part 4A

“Lump sum contributions

“117A Interpretation

In this Part, unless the context otherwise requires,— 25

“**capital project**—

“(a) means a project or work the expenditure for which is not recognised by generally accepted accounting practice as being operating expenditure; and

“(b) includes a loan in relation to a project or work 30

“**capital project funding plan** or **funding plan** means a capital project funding plan adopted by a local authority under **section 117B(3)**

“**election** means an election made by an eligible ratepayer under **section 117H(1)** 35

“**eligible ratepayer** means the ratepayer in respect of a rating unit that is identified in a capital project funding plan as being a rating unit that is liable to fund the capital project concerned

“**invitation** means an invitation made by a local authority to its eligible ratepayers under **section 117F**

5

“**lump sum contribution** means a payment made by an eligible ratepayer under this Part for the purposes of contributing to a capital project of a local authority.

“**117B Local authority may fund capital project by lump sum contributions**

10

“(1) A local authority may fund, or partially fund, a capital project by lump sum contributions from its ratepayers.

“(2) **Subsection (1)** applies if, and only if, the local authority has adopted a capital project funding plan for the capital project.

“(3) A funding plan must—

15

Struck out (unanimous)

“(a) be adopted as part of the local authority’s long-term council community plan or as an amendment to its long-term council community plan; and

“(b) commence at the start of a financial year; and

“(c) contain the matters required under **section 117E(1)**.

20

New (unanimous)

“(a) commence at the start of a financial year; and

“(b) contain the matters required under **section 117E(1)**; and

“(c) be adopted as part of the local authority’s—

“(i) annual plan; or

“(ii) long-term council community plan (or as an amendment to its long-term council community plan).

25

“(4) In developing a funding plan, a local authority must give equal weight to the financial interests of those ratepayers who may elect to make a lump sum contribution and those who may decide not to do so.

30

“(5) This section is subject to **section 117C**.

“117C Requirement to pay lump sum contribution must not be imposed on ratepayers

No local authority may require a ratepayer to pay a lump sum contribution to a capital project unless—

“(a) it has invited the ratepayer to do so under **section 117F**; 5
and

“(b) the ratepayer has elected to do so under **section 117H**.

“117D Consequences for local authority if capital project funding plan adopted

“(1) Once a local authority has adopted a capital project funding 10
plan for a capital project,—

“(a) it must not fund the project in any way other than in
accordance with the funding plan; and

“(b) the proceeds from any targeted rates collected under the 15
funding plan must not be used for any purpose other
than the project.

“(2) **Subsection (1)** applies subject to any express provisions to the
contrary in the invitation for the project.

“Capital project funding plans

“117E Contents of capital project funding plan 20

“(1) A local authority must include the matters set out in **Part 1 of
Schedule 3A** in a capital project funding plan.

“(2) A local authority may include any other matter in a funding
plan—

“(a) that it sees fit; and 25

“(b) that is not inconsistent with this Act or any other
enactment.

“Invitations to make lump sum contribution

“117F Invitations to make lump sum contribution 30

“(1) For the purposes of **section 117B**, a local authority may invite 30
lump sum contributions for a capital project from its
ratepayers.

“(2) An invitation must—

“(a) be in writing; and

“(b) be delivered to each eligible ratepayer not less than 35
1 month before the date specified in the invitation as

- being the final date for the ratepayer to elect to make a lump sum contribution; and
- “(c) contain the matters required under **section 117G(1)**.
- “(3) A local authority must not include any term in an invitation that would have the effect of— 5
- “(a) offering different terms to individual eligible ratepayers, a class of eligible ratepayers, or classes of eligible ratepayers; or
- “(b) inviting lump sum contributions from its eligible ratepayers on terms that are inconsistent with the funding plan for the capital project concerned. 10

“117G Contents of invitation

- “(1) An invitation must—
- “(a) contain all the terms that would apply to the eligible ratepayer if the ratepayer elected to make a lump sum contribution in respect of the rating unit; and 15
- “(b) include any other information that the local authority considers necessary to enable the eligible ratepayer to make an informed choice about making a lump sum contribution to the project. 20
- “(2) Without limiting **subsection (1)**, an invitation must include the matters set out in **Part 2 of Schedule 3A**.

“Elections to make lump sum contribution

- “117H Eligible ratepayer may elect to make lump sum contribution 25**
- “(1) Having received an invitation, an eligible ratepayer may elect to make a lump sum contribution to the capital project concerned in respect of the rating unit concerned.
- “(2) An election must be— 30
- “(a) in writing; and
- “(b) signed by the ratepayer or an authorised representative of the ratepayer; and
- “(c) returned to the local authority concerned no later than the date specified in the invitation as being the final date for a ratepayer to elect to make a lump sum contribution. 35
- “(3) A rating unit in respect of which the eligible ratepayer does not elect to make a lump sum contribution will be liable for

the targeted rates specified in the invitation that relate to the category of rating unit to which the unit belongs and—

- “(a) that apply to a rating unit in respect of which the ratepayer has not elected to make a lump sum contribution; and 5
- “(b) that apply to a rating unit whether or not the ratepayer in respect of the rating unit has elected to make a lump sum contribution.

“117I Lump sum contribution invoice

- “(1) This section applies to a rating unit in respect of which the eligible ratepayer has elected to make a lump sum contribution to a local authority’s capital project. 10
- “(2) The local authority must deliver to the ratepayer in respect of the rating unit—
 - “(a) an invoice for the full contribution, if the lump sum contribution is to be paid in one amount; or 15
 - “(b) an invoice for each instalment, if the lump sum contribution is to be paid in instalments.
- “(3) An invoice must be delivered to the ratepayer no later than 1 month before the date on which payment is due (being the date specified in the invitation concerned). 20
- “(4) An invoice—
 - “(a) must be a separate document from any rates invoice delivered to the ratepayer; but
 - “(b) may be delivered at the same time as the rates invoice. 25

“117J Consequences for eligible ratepayer (*and other persons*) (and any future ratepayers) of election to make lump sum contribution

- “(1) A rating unit in respect of which the eligible ratepayer has elected to make a lump sum contribution for a capital project is not liable for the targeted rates specified in the invitation concerned as being targeted rates that do not apply to the rating unit. 30
- “(2) The obligations assumed by an eligible ratepayer who elects to make a lump sum contribution in respect of a rating unit— 35
 - “(a) run with the land; and
 - “(b) are binding on every person who is for the time being the ratepayer responsible for the rating unit.

- “(3) **Subsection (2)** applies until the date that is the later of—
 “(a) the date that the contribution is paid in full; or
 “(b) the date that any recalculation of the contribution is made.

“Local authority must record certain matters

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“117K Local authority must record elections and lump sum contributions in rating information database and rates records

- “(1) A local authority must record the following information in its rating information database for each rating unit in respect of which an eligible ratepayer has elected to make a lump sum contribution: 10
 “(a) that an election has been made; and
 “(b) that the rating unit is not liable for the targeted rates specified in the invitation concerned as being targeted rates that do not apply to the rating unit. 15
- “(2) A local authority must record the following information in its rates records for each rating unit in respect of which an eligible ratepayer has elected to make a lump sum contribution: 20
 “(a) that an election has been made; and
 “(b) the terms of the invitation concerned; and
 “(c) the information relating to due dates and amounts of payment included in any invoice delivered to the ratepayer under **section 117I**; and
 “(d) the date and amount of any lump sum contribution payments made in respect of the rating unit. 25

“Change of ownership of rating unit

“117L Local authority must notify new ratepayer of liability in respect of rating unit for lump sum contribution

- “(1) This section applies if— 30
 “(a) a rating unit is liable for a lump sum contribution; and
 “(b) the ratepayer in respect of the rating unit changes because the local authority is notified,—
 “(i) under section 31, of a change in ownership of the rating unit; or 35
 “(ii) under section 32, of the surrender or termination of a lease or licence in relation to the rating unit; or

- “(iii) under section 33, of the transfer or assignment of a lease or licence in relation to the rating unit.
- “(2) A local authority that is notified of a matter described in **subsection (1)** must notify, in writing, the person who becomes the ratepayer for the rating unit of all the information referred to in **section 117K(2)**. 5
- “(3) The local authority must also provide to the person a copy of the terms of the election made by the eligible ratepayer as set out in the invitation concerned.

“*Recalculation of lump sum contributions* 10

“**117M Recalculation of lump sum contributions**

- “(1) A local authority may make 1 recalculation of the lump sum contributions to a capital project.
- “(2) A recalculation must be made in accordance with the factors and methodologies specified in the invitation concerned. 15
- “(3) A recalculation must not be made until the final cost of the project is known.
- “(4) A local authority must, no later than 1 month after a recalculation,—
- “(a) if the liability (*in relation to each contribution decreases, credit any excess contribution to the rates record*) from the lump sum contributions decreases, refund the excess to the ratepayer for each rating unit in respect of which a contribution was made; or 20
- “(b) if the liability (*in relation to each contribution*) from the lump sum contributions increases, deliver an invoice (for the additional contribution to the ratepayer in respect of) to the ratepayer for each rating unit (for) in respect of which a contribution was made. 25

Struck out (unanimous)

- “(5) If **subsection (4)(a)** applies, the local authority must apply the credited amounts in the following order: 30
- “(a) paying any arrears owing in respect of the rating unit for the current financial year:
- “(b) paying any arrears owing in respect of the rating unit for 1 or more previous financial years: 35

Struck out (unanimous)

- “(c) as a credit in the rates records against future rates in respect of the rating unit.
- “(6) If **subsection (5)(c)** applies,—
- “(a) the ratepayer in respect of the rating unit may apply to the local authority, in writing, for a refund of the credited amount; and 5
- “(b) the local authority must, as soon as practicable, make the refund.
- “(7) Any invoice to which **subsection (4)(b)** applies must specify a due date for payment that is not less than 1 month after the date on which the invoice is delivered. 10
- “*Late payment or non-payment of lump sum contribution*
- “**117N Late payment or non-payment of lump sum contribution**
- “(1) This section applies if— 15
- “(a) an eligible ratepayer has elected to make a lump sum contribution to a capital project in respect of a rating unit; and
- “(b) the eligible ratepayer (or any other person who is for the time being the ratepayer) in respect of the rating unit does not pay the contribution, or a contribution instalment, by its due date (including any amount due under **section 117M(4)(b)**. 20
- “(2) The local authority concerned may either— 25
- “(a) cancel the election; or
- “(b) recover the amount owing in a court of competent jurisdiction as a debt due.
- “(3) If the local authority cancels the election it must amend the entries in its rating information database and rates records in relation to the rating unit, for each year that it has recorded information under **section 117K**, to reflect the fact that the rating unit is liable, for each of those years, for the targeted rate or targeted rates referred to in **section 117K(1)(b)**. 30
- “(4) The local authority must record any amount paid as a lump sum contribution in respect of the rating unit as a payment of the rates referred to in **subsection (3)**— 35

- “(a) for the first year that the rating unit was liable for those rates; and
- “(b) as being paid at the date that the lump sum contribution was paid.
- “(5) The local authority must record any surplus amount resulting from the operation of **subsection (4)** as a payment of the rates referred to in **subsection (3)**— 5
- “(a) for the next year that the rating unit was liable for those rates; and
- “(b) as being paid at the date that the lump sum contribution was made. 10
- “(6) The local authority must continue to apply any surplus amount in the manner set out in **subsection (5)** until either—
- “(a) no surplus remains; or
- “(b) no rates remain unpaid. 15
- “(7) If, after the operation of **subsections (5) and (6)**,—
- “(a) a deficit for any financial year concerned is shown in the rates record, the local authority must treat the amount or amounts as unpaid rates for the purposes of sections 46(2)(i), 57, and 58: 20
- “(b) a surplus remains, the local authority must credit the rates record.
- “(8) **Subsection (7)(a)** is subject (in any particular case) to the local authority applying its rates remission policy under section 85.

Struck out (unanimous)

- “(9) The local authority may apply any credit to which **subsection (7)(b)** applies in the manner set out in **section 117M(5)**. 25

New (unanimous)

- “(9) The local authority must apply any credit under **subsection (7)(b)** in the following manner and order of priority:
- “(a) pay any arrears owing in respect of the rating unit for 1 or more previous financial years: 30
- “(b) pay any arrears owing in respect of the rating unit for the current financial year:
- “(c) record a credit in the rates record against future rates in respect of the rating unit.

New (unanimous)

“(9A) If **subsection (9)(c)** applies,—

“(a) the ratepayer in respect of the rating unit may apply to the local authority, in writing, for a refund of the credited amount; and

“(b) the local authority must, as soon as practicable, make the refund.”

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“(10) The local authority must issue an amended rates assessment for each year in respect of which it has amended the rates records under this section.”

63 New Schedule 3A inserted

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The *(schedule)* **Schedule 3A** set out in *(the Schedule)* **Schedule 1 of this Act** is inserted after Schedule 3.

Transitional provisions

64 Transitional provision in relation to amended rates assessments for errors in rating information database or rates record

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The amendments made by **sections 58 and 60** of *(this Act)* **this Part** do not apply to any objection under section 29 of the *(Local Government (Rating) Act 2002)* principal Act made before the commencement of *(this Act)* **this Part**.

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New (unanimous)

64A Transitional provision in relation to long-term council community plans for period beginning on 1 July 2006

Any amendments made by **this Part** that have the effect of requiring an amendment to a long-term council community plan (to ensure that it complies with the requirements of the principal Act, as amended by **this Part**)—

25

(a) do not apply to a long-term council community plan to which section 280 of the Local Government Act 2002 applies, whether it is adopted before or after the commencement of **this Part**; but

30

New (unanimous)

- (b) do apply to any amendment made to a long-term council community plan to which section 280 of the Local Government Act 2002 applies adopted after the commencement of **this Part**.

Amendments to other enactments

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65 Amendment to Auckland War Memorial Museum Act 1996

Section 24 of the Auckland War Memorial Museum Act 1996 is repealed.

66 Amendments to Local Government Act 2002 consequential to insertion of new Part 4A in principal Act

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- (1) Section 5(1) of the Local Government Act 2002 is amended by inserting the following (*definition after the definition of long-term council community plan*) definitions in their appropriate alphabetical order:

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New (unanimous)

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

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

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New (unanimous)

- (1A) Section 96 of the Local Government Act 2002 is amended by adding the following subsection:

“(5) This section applies subject to **Part 4A of the Local Government (Rating) Act 2002.**”

- (1B) Section 97 of the Local Government Act 2002 is amended by adding the following subsection:

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New (unanimous)

“(3) Nothing in this section applies to a decision of a local authority to fund a capital project by lump sum contributions if the local authority has complied with **section 117B(3)(c)(i) of the Local Government (Rating) Act 2002.**”

- (2) Section 103(2) of the Local Government Act 2002 is amended by inserting the following paragraph after paragraph (b):
“(ba) lump sum contributions:” 5
- (3) Clause 10(1)(d) of Schedule 10 of the Local Government Act 2002 is amended by adding the following subparagraph:
“(v) whether lump sum contributions will be invited in respect of the targeted rate; and” 10
- (4) Clause 13(d) of Schedule 10 of the Local Government Act 2002 is amended by adding “; and” and also by adding the following subparagraph:
“(v) whether lump sum contributions will be invited in respect of the targeted rate.” 15

Part 7**Amendments to Rates Rebate Act 1973**

- 67 Principal Act amended**
This **Part** amends the Rates Rebate Act 1973. 20
- 68 Interpretation**
- (1) The definition of **rates** in section 2(1) is amended by—
(a) inserting “or uniform annual general charge” after “targeted rate”; and
(b) repealing paragraph (a). 25
- (2) The definition of **residential property** in section 2(1) is amended by omitting “rateable” and substituting “rating”.

Part 8**Amendments to Land Transport Act 1998**

- 69 Principal Act amended**
This **Part** amends the Land Transport Act 1998. 30

70 Interpretation

- (1) Section 2(1) is amended by repealing the definition of **enforcement authority** and substituting the following definition:
- “**enforcement authority**, in relation to an infringement offence, means— 5
- “(a) the New Zealand Police, in any case;
- “(b) the Authority, in the case of an infringement offence for which an infringement notice is issued by an employee of the Authority or on behalf of the Authority: 10
- “(c) Transit, in the case of an infringement offence—
- “(i) that relates to the use of a special vehicle lane; and
- “(ii) for which an infringement notice is issued by an employee of Transit or on behalf of Transit: 15
- “(d) a local authority, in the case of an infringement offence—
- “(i) that relates to the use of a special vehicle lane; and
- “(ii) for which an infringement notice is issued by an employee of the local authority or on behalf of the local authority: 20
- “(e) a public road controlling authority that is an enforcement authority for the purposes of an Order in Council made under section 46 of the Land Transport Management Act 2003, in the case of an infringement offence that is a toll offence”. 25
- (2) Section 2(1) is amended by inserting the following definition in its appropriate alphabetical order:
- “**special vehicle lane** has the meaning given to it in clause 1.6 of the Land Transport (Road User) Rule 2004”. 30

71 Provisions relating to infringement fees

Section 141 is amended by inserting the following subsection after subsection (3):

- “(3A) However, an enforcement authority that is Transit or a local authority may also retain the portion of the infringement fees received by it under this Act— 35
- “(a) that the Minister of Finance from time to time approves; and

“(b) that are fees received in respect of an infringement offence in relation to the use of a special vehicle lane.”

72 Repeal of amendments made by this Act to sections 2(1) and 141 of principal Act

- (1) The following provisions are repealed: 5
- (a) **paragraphs (c) and (d)** of the definition of **enforcement authority** in section 2(1) of the (*Land Transport Act 1998*) principal Act (as inserted by **section 70 of this Act**); and
- (b) **section 141(3A)** of the (*Land Transport Act 1998*) principal Act (as inserted by **section 71 of this Act**). 10
- (2) **Subsection (1)** does not affect any proceedings commenced by a local authority or Transit, or any infringement fees collected (or to be collected) by a local authority, before the commencement of this section. 15
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New (unanimous)

Schedule 1AA s 12B
New Schedule 1 substituted in Dog Control Act 1996

Schedule 1 s 65(1)
Infringement offences and fees

Section	Brief description of offence	Infringement fee (\$)	5
18	Wilful obstruction of dog control officer or ranger	750	
19(2)	Failure or refusal to supply information or wilfully providing false particulars	750	
19A(2)	Failure to supply information or wilfully providing false particulars about dog	750	10
20(5)	Failure to comply with any bylaw authorised by the section	300	
23A(2)	Failure to undertake dog owner education programme or dog obedience course (or both)	300	15
24	Failure to comply with obligations of probationary owner	750	
28(5)	Failure to comply with effects of disqualification	750	
32(2)	Failure to comply with effects of classification of dog as dangerous dog	300	20
32(4)	Fraudulent sale or transfer of dangerous dog	500	
33EC(1)	Failure to comply with effects of classification of dog as menacing dog	300	
33F(3)	Failure to advise person of muzzle and leashing requirements	100	25
36A(5)	Failure to implant microchip transponder in dangerous or menacing dog	300	
41	False statement relating to dog registration	750	
41A(3)	Failing to notify death of dog	100	
41A(4)	Falsely notifying death of dog	750	30
42	Failure to register dog	300	
46(4)	Fraudulent procurement or attempt to procure replacement dog registration label or disc	500	
48(3)	Failure to advise change of dog ownership	100	
49(4)	Failure to advise change of address	100	35
51(1)	Removal, swapping, or counterfeiting of registration label or disc	500	
52A	Failure to keep dog controlled or confined	200	
53(1)	Failure to keep dog under control	200	
54(2)	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	300	40

New (unanimous)

Schedule 1—*continued*

Section	Brief description of offence	Infringement fee (\$)	
54A	Failure to carry leash in public	100	
55(7)	Failure to comply with barking dog abatement notice	200	5
62(4)	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	300	
62(5)	Failure to advise of muzzle and leashing requirements	100	
72(2)	Releasing dog from custody	750	10

Schedule 1 s 63
New Schedule 3A of Local Government (Rating) Act
2002

Schedule 3A ss 117E(1), 117G(2)
Lump sum contributions 5

Part 1

Matters to be included in capital project funding plan

A capital project funding plan must—

- (a) specify the capital project; and
- (b) state its proposed start date; and 10
- (c) state—
 - (i) its total estimated cost; and
 - (ii) the estimated amount to be funded by—
 - (A) lump sum contributions;
 - (B) targeted rates (including targeted rates in relation to any loan or loans if the funding for the project will be or will include a loan or loans); 15
 - (C) other revenue of the local authority (if any); and
- (d) if 1 or more targeted rates are to be set to fund the project, state— 20
 - (i) the categories of rating unit to be liable for each rate; and
 - (ii) the estimated total number of rating units liable for each rate; and
 - (iii) how the liability for each targeted rate is to be calculated; and 25
 - (iv) the circumstances (if any) under which the categories of rating unit to be liable for each rate will change; and
 - (v) the circumstances (if any) under which the calculation of each targeted rate will change; and 30
- (e) state—
 - (i) how lump sum contributions will be calculated; and
 - (ii) the proposed timetable for inviting the contributions (including the proposed latest date by which an eligible ratepayer may elect to make a contribution); and 35
 - (iii) the proposed due date or dates for the contribution payments; and

Schedule 3A—*continued*Part 1—*continued*

- (iv) the targeted rate or targeted rates that a rating unit would be liable for, the estimated amount of those rates, and the estimated number of years (*in*) for which those rates would be required, if a lump sum contribution was not made in respect of the unit; and 5
- (v) the targeted rate or targeted rates that a rating unit would be liable for even if a lump sum contribution was made in respect of the unit; and
- (f) include any matters that the local authority must be satisfied of before it will proceed with either the project or the (*inviting*) invitation of lump sum contributions (including any minimum level of contributions required) from its eligible ratepayers; and 10
- (g) state—
- (i) the estimated date— 15
- (A) of the completion of the project;
- (B) on which the total costs of the project will be known; and
- (ii) whether at the date on which the total costs of the project will be known, the lump sum contributions made to the project will be recalculated; and 20
- (iii) if so,—
- (A) what factors would cause a recalculation (for example, a change in the estimated cost of the project or the number of rating units funding the project); and 25
- (B) how the recalculation would be made; and
- (C) how any refunds or further contributions (as the case may be) would be dealt with; and
- (h) state the proposed date that the funding plan will expire (which must not be a date that is earlier than the date on which the total costs of the project have been paid). 30

Schedule 3A—continued**Part 2****Matters to be included in invitation to make lump sum contribution**

An invitation must—

- | | | |
|-----|--|----|
| (a) | specify the capital project that the lump sum contribution will fund or partially fund; and | 5 |
| (b) | specify the targeted rate or targeted rates that the rating unit would be liable for, the estimated amount of those rates, and the estimated number of years (<i>in</i>) <u>for</u> which those rates would be required, if a lump sum contribution was not made in respect of the unit; and | 10 |
| (c) | state the targeted rate or targeted rates that the rating unit would be liable for even if a lump sum contribution was made in respect of the rating unit; and | |
| (d) | state the estimated total amount of the lump sum contribution to be paid and how it will be calculated; and | 15 |
| (e) | state whether the local authority will be recalculating the lump sum contribution once the total costs of the project are known and, if so,— | |
| | (i) what factors would cause a recalculation (for example, a change in the estimated cost of the project or the number of rating units funding the project); and | 20 |
| | (ii) how the recalculation would be made; and | |
| | <u>(iii) how any refunds or further contributions (as the case may be) would be dealt with; and</u> | 25 |
| (f) | summarise the consequences for the ratepayer in relation to making a lump sum contribution— | |
| | (i) if the rating unit is subdivided: | |
| | (ii) if the rating unit is sold or the ratepayer otherwise is no longer the ratepayer in respect of the rating unit: | 30 |
| | (iii) if the number of rating units contributing to the cost of the capital project changed: | |
| | (iv) if the calculation of any targeted rate applying to the rating unit changed: | |
| | (v) if the cost of the capital project changed; and | 35 |
| (g) | state the date for payment of a lump sum contribution or, if the payment is to be by instalments, the dates for payment; and | |
| (h) | state the consequences for the ratepayer of any late payment of a lump sum contribution; and | |

Schedule 3A—*continued*Part 2—*continued*

- (i) state how and the final date by which the ratepayer must elect to make a lump sum contribution; and
- (j) include any matters that the local authority must be satisfied of before it will proceed with either the project or the *(inviting) invitation* of lump sum contributions (including any minimum level of contributions required) from its eligible ratepayers; and 5
- (k) specify any other terms applying to the making of a lump sum contribution by the ratepayer. 10

Legislative history

29 March 2006	Introduction (Bill 32–1)
5 April 2006	First reading and referral to Local Government and Environment Committee
12 June 2006	Reported from Local Government and Environment Committee (Bill 32–2)
15 June 2006	Majority amendments not agreed, second reading (Bill 32–3)