



## ANALYSIS

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1972, No. 12—*Local*

**An Act to amend the Auckland Regional Authority Act 1963**  
 [20 October 1972]

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

**1. Short Title**—This Act may be cited as the Auckland Regional Authority Amendment Act 1972, and shall be read together with and deemed part of the Auckland Regional Authority Act 1963 (hereinafter referred to as the principal Act).

**2. Interpretation**—Section 2 of the principal Act is hereby amended—

(a) By inserting, after the definition of the term “Authority”, the following definition:

“‘Cattle’ has the same meaning as in the Public Works Act 1928:”:

- (b) By inserting, after the definition of the term “financial year” (as inserted by section 2 (1) of the Auckland Regional Authority Amendment Act 1970), the following definition:

“‘Forest produce’ has the same meaning as in the Forests Act 1949:”

- (c) By inserting, after the definition of the term “outer area”, the following definition:

“‘Passenger service’ means the business or activity of public passenger transport and any activity related thereto; but does not include a goods service or a taxicab service within the meaning of the Transport Act 1962:”

**3. Vacancies**—(1) Section 13 of the principal Act is hereby amended by repealing paragraph (h) of subsection (1), and substituting the following paragraphs:

“(h) Is convicted of any offence punishable by imprisonment for a term of 2 years or more; or

“(i) Is convicted of any offence punishable by imprisonment for a term of less than 2 years and is sentenced to imprisonment for that offence.”

(2) The said section 13 as hereby further amended by omitting from subsection (2) the words “and (h)”, and substituting the words “(h) and (i)”.

**4. Ouster of office**—(1) Section 14 of the principal Act is hereby amended by inserting in subsection (1), after the words “under this Act”, the words “or any other Act or was on the date on which he was declared to have been elected incapable under this Act or any other Act”.

(2) The said section 14 is hereby further amended by omitting from subsection (2) the words “incapable under this Act”, and substituting the words “or was incapable as aforesaid”.

(3) The said section 14 is hereby further amended by repealing subsection (5), and substituting the following subsections:

“(5) If under this section a Magistrate’s Court adjudges that any member of the Authority be ousted of his office—

“(a) The decision shall not take effect until the expiration of the time for appealing against the decision and, in the event of an appeal against the decision, until the appeal is determined; and

“(b) The member concerned shall be deemed to have been granted leave of absence until the expiration of that time, and shall not be capable of acting as a member of the Authority during the period of that leave of absence.

“(6) If any person does any act as a member of the Authority while on leave of absence pursuant to subsection (5) of this section, he commits an offence and shall be liable on summary conviction to a fine not exceeding \$100.”

**5. Regional parks**—Section 37 of the principal Act (as substituted by section 3 (1) of the Auckland Regional Authority Amendment Act 1970) is hereby amended—

(a) By omitting from subsection (4) the words “all the powers vested in borough councils by section 305 of the Municipal Corporations Act 1954; and those powers shall be”:

(b) By adding to the said subsection (4) the words “the power to establish and maintain botanical gardens and all the powers vested in borough councils by section 305 of the Municipal Corporations Act 1954”.

**6. Power to acquire shares in companies operating passenger services**—The principal Act is hereby further amended by inserting, after section 45, the following section:

“45A. (1) Subject to the provisions of this section and of part VII of the Transport Act 1962, the Authority shall have, and shall be deemed always to have had, the power to purchase, acquire, hold, and dispose of the shares and other rights in any company incorporated under the Companies Act 1955 carrying on or providing a passenger service within the district or any part thereof or partly within and partly without the district and, while the Authority holds such shares or rights, the following provisions of this section shall, notwithstanding anything to the contrary in any Act or rule of law, apply and shall be deemed always to have applied:

“(a) In the case of a private company 1 share, and in the case of a company which is not a private company 6 shares, shall be held in trust for the Authority, by officers of the Authority nominated by it, on such terms and conditions as it thinks fit, and all remaining shares in the capital of such company shall be held by the Authority in its own name:

- “(b) The Memorandum of Association of any such company shall be deemed to authorise the company to do such things as the Authority may do in connection with passenger services whether pursuant to the provisions of this Act or of the Auckland Transport Board Act 1928 or of any other Act, to dispose of any real or personal property, to pay dividends to the Authority (which dividends shall be included in the accounts referred to in paragraph (i) of this section), and to do such other things as are authorised by this section, but not to carry on any other business, undertaking, or activity, whatsoever:  
“Provided that if anything done by the company would, if done by the Authority, be subject to an objection or appeal under this or any other Act, the same rights of objection or appeal may be exercised in all respects as if that thing had been done by the Authority:
- “(c) The Authority may exercise all the rights, powers, and remedies vested in shareholders by the Companies Act 1955 or by the Memorandum of Association or the Articles of Association of any such company for the purpose of conducting the business and affairs of the company in accordance with and subject to the provisions of this section and of disposing of such shares or rights and of winding up such company, but not for any other purpose:
- “(d) Only elected members of the Authority shall be capable of being appointed as and remaining directors of any such company, and for all purposes the Board of Directors shall be deemed to be a committee of the Authority and each meeting of directors shall be deemed to be a meeting of such a committee:
- “(e) The Authority shall have, and shall be deemed always to have had, the power to borrow money as authorised by section 56 of this Act for the purpose of acquiring or taking up any such shares or rights or paying any calls or other payments on or in respect of any such shares or rights, or of making loans or other payments, and the costs of raising, and the incidental costs of, such loan and the interest payments and principal repayments in respect thereof shall be included in the accounts referred to in paragraph (i) of this section:

- “(f) No such company shall be empowered to borrow money otherwise than from the Authority as herein provided, but nothing in this Act shall affect any borrowing lawfully made or done by the company before the specified date which shall be the date of the commencement of this section or the date on which the Authority purchases or acquires such shares or rights, whichever is the later:
- “(g) The Authority may advance to any such company, out of money held or lawfully borrowed by the Authority, such sum or sums as the Authority may from time to time consider necessary or expedient for the conduct of the business of the company under this section or for the due and proper winding up of the company or disposal of the assets of the company; and such advances shall be included in the accounts referred to in paragraph (i) of this section:
- “(h) For the purposes of calculating the amounts which the Authority may from time to time lawfully borrow, but for no other purpose, the income and expenditure and the estimated income and expenditure of every such company may be taken into account as if it were the income and expenditure of the Authority:
- “(i) The value of any subsidy or other assistance given by the Authority to any such company pursuant to the Auckland Transport Board Act 1928 or the Auckland Transport Board Empowering Act 1934 shall be included in the accounts kept by the Authority in respect of its passenger services pursuant to section 61 of this Act, and all sums of money included in such accounts pursuant to the provisions of this section shall be taken into account in the estimate required by section 58 of this Act:
- “(j) Notwithstanding anything in the Companies Act 1955, the accounts of every such company shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act 1953 in respect of public money and public stores and the audit of local authorities’ accounts; and sections 46 to 52 of this Act shall apply to every such company as if references in those sections to the Authority were references to the company.

“(2) Nothing in subsection (1) of this section shall authorise—

“(a) Any company to which that subsection applies to do anything which the Authority is not authorised to do; or

“(b) The Authority to do anything as a shareholder, except for the purpose of winding up the company, which it would not otherwise be entitled to do.

“(3) The Authority shall take all such steps as may be necessary to ensure that every company to which this section applies is wound up within 6 months after the commencement of this section or within 1 year after the date on which the Authority acquired the shares in the company, whichever is the later, or within such longer period as the Minister of Local Government may in any case allow.”

**7. Miscellaneous powers of Authority**—The principal Act is hereby further amended by inserting, after section 45A (as inserted by section 6 of this Act), the following section:

“45B. (1) On any land or part thereof vested in or controlled by the Authority (other than land subject to the Reserves and Domains Act 1953 but including land vested in the Authority under that Act in trust for aerodrome purposes) the Authority may—

“(a) Make provision for the establishment, culture, growth, protection, maintenance, management, and utilisation of forests and for purposes incidental thereto, and sell or otherwise dispose of any forest produce at such prices or at such rates and subject to such conditions as may be determined by the Authority:

“(b) Plant and tend shrubs and other plants and expend money in any manner for encouraging such planting:

“(c) Run and manage cattle and other livestock and grow and sell crops:

“Provided that such powers shall be exercised only if the Authority or a committee thereof considers it desirable so to do for the purpose of keeping the land in good heart or otherwise in the interests of good husbandry, or for the purpose of establishing or preserving a rural character or atmosphere on and in the vicinity of the land.

“(2) The exercise of the powers conferred on the Authority by this section shall for all purposes be deemed to form part of the Authority’s powers and functions in relation to the particular undertaking, service, or activity of the Authority in connection with which the land concerned in each case is vested in or controlled by the Authority; and the income and expenditure in connection with the exercise of the powers conferred by this section shall be brought into account accordingly.”

**8. Method of keeping accounts of reserves for replacements, renewals, etc.**—(1) Section 50 of the principal Act (as substituted by section 5 (1) of the Auckland Regional Authority Amendment Act 1970) is hereby amended—

(a) By omitting from paragraph (a) of subsection (2) the words “or money applied in pursuance of paragraphs (a) or (b) of subsection (2) of section 72 of this Act”:

(b) By omitting from paragraph (b) of subsection (2) the words “or the expenditure of money applied in pursuance of paragraphs (a) or (b) of subsection (2) of section 72 of this Act”.

(2) This section shall be deemed to have come into force on the 31st day of March 1971.

**9. Annual estimate of Authority’s income and expenditure**—

(1) Section 58 of the principal Act (as substituted by section 6 (1) of the Auckland Regional Authority Amendment Act 1970) is hereby amended by omitting from subsection (1) the words “Authority’s undertakings, services, or activities for”, and substituting the words “undertakings, services, and activities which the Authority at the commencement of, or at any time during, the ensuing financial year is carrying on or conducting, or proposing to carry on or conduct, and in respect of”.

(2) This section shall be deemed to have come into force on the 31st day of March 1972.

**10. How assessments to be calculated**—(1) Section 61 of the principal Act is hereby amended—

(a) By omitting from subsection (2) the words “payable in respect of”, and substituting the words “payable or, in the case of undertakings, services, and activities proposed to be carried on or provided, estimated to be payable, in respect of”:

- (b) By inserting in paragraph (a) of the said subsection (2), after the words “carried on”, the words “or proposed to be conducted or carried on,”:
- (c) By inserting in paragraph (h) of the said subsection (2) (as added by section 7 (2) of the Auckland Regional Authority Amendment Act 1964), after the words “carried on”, the words “or proposed to be conducted or carried on,”:
- (d) By omitting from subsection (4) the words “carried on”, and substituting the words “or is proposed to be conducted or carried on”:
- (e) By omitting from the said subsection (4) the words “so benefited”, and substituting the words “so benefited or proposed to be so benefited”.

(2) This section shall be deemed to have come into force on the 31st day of March 1972.

**11. Repeal of spent provisions**—(1) The principal Act is hereby further amended by repealing—

- (a) Subsection (3) of section 22:
- (b) Subsection (2) of section 23:
- (c) Subsection (2) of section 27:
- (d) Subsection (3) of section 38:
- (e) Subsection (6) of section 40:
- (f) Subsection (8) of section 42:
- (g) Subsections (5) and (7) of section 43:
- (h) Subsection (5) of section 44:
- (i) Subsection (6) of section 45:
- (j) Section 71.

(2) Section 5 of the Auckland Regional Authority Amendment Act 1964 is hereby repealed.

**12. Differential rating by Waitemata County Council**—The principal Act is hereby further amended by inserting, after section 66A (as inserted by section 10 of the Auckland Regional Authority Amendment Act 1969), the following sections:

**“66B. Differential rating by Waitemata County Council where assessments are calculated in respect of some only of ridings or county towns**—(1) Where, in respect of the Waitemata County Council, any assessment is calculated and arrived at in accordance with the provisions of paragraph (a) of subsection (2) of section 61 of this Act and the service or

activity for which the said assessment is made is for the benefit of some riding or ridings only of the County of Waitemata or of some county town or county towns only of the said County then, for the purpose of enabling it to make and of making payment of such assessment, the Waitemata County Council shall be entitled to make and levy a rate of such amount in the dollar on the value of all rateable property within the riding or ridings or county town or county towns for the benefit of which such service or activity is conducted or carried on as will be sufficient to pay the total of such sums, including the costs of and incidental to the making and collection of the said rate.

“(2) The power conferred on the Waitemata County Council by subsection (1) of this section shall be in addition to all other powers conferred on local authorities by section 66 of this Act, provided that the said power so conferred on the Waitemata County Council by subsection (1) of this section shall be exercisable on any occasion only in lieu of the exercise of any such other powers.

“(3) Any rate struck in accordance with the provisions of subsection (1) of this section may be of different amounts in the dollar in different ridings or county towns within the said County.

“66c. **Consolidated rating by Waitemata County Council**— For the purpose of making any payment to the Authority, the Waitemata County Council may, where any such payment includes more than one assessment calculated in accordance with any of the provisions of section 61 of this Act, make and levy a consolidated rate in any riding or ridings or county town or county towns of such an amount in the dollar as will be sufficient to pay the total of so much of such assessments as in consequence of the exercise of its rating powers under this Act by the Waitemata County Council is attributable to such riding or ridings or county town or county towns, including the costs of and incidental to the making and collection of the said consolidated rate.”

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