



ANALYSIS

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1999, No. 4—*Local*

An Act to authorise the Hawke's Bay Regional Council to distribute surplus funds to its ratepayers and territorial authorities within its region [14 October 1999]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Hawke's Bay Regional Council (Surplus Funds Distribution) Empowering Act 1999.

(2) This Act comes into force on the day after the date on which it receives the Royal assent.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Actual payer” means a person—

(a) Who is not a ratepayer; and

(b) Who, as determined by the Council, has paid rates made by the Council:

“Council” means the Hawke's Bay Regional Council:

“Ratepayer” means—

(a) A person whose name appears in the “occupiers” column of the rate records of the Council; or

(b) Where a territorial authority has agreed to collect rates for the Council under section 127 of the Rating Powers Act 1988, a person whose name

appears in the “occupiers” column of the rate records of the territorial authority:

“Territorial authority” means a territorial authority the district of which is wholly or partly in the Council’s region.

(2) Unless the context otherwise requires, terms used in this Act have the same meaning as in the Local Government Act 1974.

3. Power to distribute surplus funds—(1) The Council may, from time to time, resolve that funds of the Council are surplus funds and may be distributed under this Act.

(2) A resolution under subsection (1) must identify the surplus funds.

(3) Before distributing, under section 4, the surplus funds that the resolution relates to, the Council must comply with the special consultative procedure in section 716A of the Local Government Act 1974.

(4) Subsection (3) is complied with if—

- (a) The Council undertook consultation before this Act comes into force; and
- (b) The consultation would have complied with subsection (3), had it been undertaken after this Act comes into force.

4. Manner of distribution—(1) Some or all of the funds resolved to be surplus funds under section 3(1) may be distributed by the Council to the persons specified in 1 or more of the following paragraphs:

- (a) All ratepayers;
 - (b) A group of ratepayers selected in such manner as the Council determines;
 - (c) One or more actual payers selected in such manner as the Council determines;
 - (d) One or more territorial authorities.
- (2) For the purposes of subsection (1), the Council may—
- (a) Determine the basis for allocating a distribution of surplus funds, including (without limitation) allocating surplus funds in proportion to the rateable value of properties;
 - (b) Determine the manner of a distribution of surplus funds, including (without limitation) in satisfaction or part satisfaction of rates owing by ratepayers;

- (c) Determine, in relation to a rateable property with more than 1 ratepayer, which ratepayer or ratepayers are to receive the distribution of surplus funds in respect of the property:
- (d) Specify a date for determining the persons to whom a distribution of funds is to be made under this Act.
- (3) Funds must not be distributed under this Act to a territorial authority unless—
 - (a) The Council specifies the purposes to which the funds are to be applied; and
 - (b) The territorial authority agrees to apply the funds to those purposes.

5. Distribution not dutiable gift—(1) A distribution of funds under this Act is not a dutiable gift for the purposes of the Estate and Gift Duties Act 1968.

(2) Subsection (1) applies only to the extent that the distribution of funds does not exceed amounts received by the Council from dividends with imputation credits attached of the maximum amount that may be attached under section ME 8 of the Income Tax Act 1994.
