



ANALYSIS

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1983, No. 132

An Act to amend the Local Government Act 1974

[16 December 1983]

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 and commencement—(1) This Act may be cited as the Local Government Amendment Act 1983, and shall be read together with and deemed part of the Local Government Act 1974 (hereinafter referred to as the principal Act).

(2) Except as provided in sections 6 (4), 7 (2), 8 (2), 9 (2), 10 (2), and 11 (2) of this Act, this Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

2. Interpretation—Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “administering authority”, and substituting the following definition:

“ ‘Administering authority’, in relation to a united council, means an administering authority appointed under section 115 of this Act; and, in the case of a united council that has a resolution in force under that section to provide its own staff and administrative facilities, means that united council.”.

3. Extraordinary vacancies on district community councils and community councils—Section 98 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977) is hereby amended by repealing subsection (4), and substituting the following subsections:

“(4) Where, for any reason, the extraordinary vacancies on a district community council or community council are such that the number of members of that council is less than the number required by section 108 of this Act to constitute a quorum of the district community council or community council, the territorial authority shall appoint, as members of the district community council or community council, those persons (being persons qualified to be elected as members) chosen to fill the vacancies at a meeting of the electors of the community convened by the territorial authority, and held as soon as practicable after the last of those extraordinary vacancies occurs.

“(4A) Nothing in section 50 or section 51 of the Local Elections and Polls Act 1976 shall apply to the filling of any extraordinary vacancy on a district community council or community council.”

4. Administration of united council—Section 115 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby amended by repealing subsection (3), and substituting the following subsections:

“(3) Subject to subsection (4) of this section, a united council may, from time to time, resolve to revoke the appointment of its administering authority and—

“(a) With the agreement of the authority concerned, appoint another constituent authority or local authority to be its administering authority; or

“(b) Resolve to provide its own staff and administrative facilities.

“(4) Unless the Commission has given its prior consent, no resolution shall be made by a united council under subsection (3) of this section within 3 years after the coming into force of any Order in Council or other instrument referred to in subsection (1) of this section affecting the region.

“(5) A united council may, from time to time, resolve that it will not provide its own staff and administrative facilities and, with the agreement of the authority concerned, appoint one of its constituent authorities or a local authority to be its administering authority.

“(6) Section 117 (which relates to staff) and paragraphs (e) and (f) of section 263 (which relates to transfers of functions, powers, duties, and obligations) of this Act shall apply to any united council (and its staff, inspectors, other officers, and members) that resolves to provide its own staff and administrative facilities as if that council were a regional council.

“(7) Where the administrative arrangements of a united council are changed in accordance with subsection (2), subsection (3), or subsection (4) of this section, that change is hereby deemed to be the transfer of an undertaking for the purposes of section 5 of the Local Authorities (Employment Protection) Act 1963.

“(8) For the purposes of this section the term ‘local authority’ means any catchment board, catchment commission, electric power board, or harbour board whose district is wholly or principally within the region of the united council.”

Cf. 1974, No. 66, s. 115; 1977, No. 122, s. 2

5. Certain provisions relating to administering authorities not to apply where united council undertakes own administration—Section 116 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby amended by adding the following subsection:

“(7) Nothing in this section shall apply in respect of any united council while any resolution of the council under section 115 (3) (b) of this Act remains in force.”

6. Differential rating of reserve and water catchment land—(1) Section 151 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby amended by repealing subsection (4), and substituting the following subsections:

“(4) In any district in which any of those rates are made and levied on a differential basis, the total amount that may be produced by a general rate and any works and services or other separate rate or rates and any rates made and levied under the Auckland Regional Authority Act 1963 that are made and levied on all separately rateable property that is reserve land or water catchment land shall not exceed the total amount that would be produced in respect of that land if the maximum general rate specified in section 136 of this Act were made and levied on a uniform basis on all rateable property in the district.

“(4A) In any district in which that rate is made and levied on a differential basis, the total amount that may be produced by a special rate made and levied on all separately rateable property that is reserve land or water catchment land within the special rating area shall not exceed the total amount that would be produced in respect of that land if the amount in the dollar calculated to yield 10 percent more than the annual charges payable in respect of any loans secured by the special rate was made and levied on a uniform basis on the reserve land or water catchment land within the special rating area, as the case may be.”

(2) Section 66 (b) of the Auckland Regional Authority Act 1963 is hereby amended by inserting, before the word “notwithstanding”, the words “, except as provided in section 151 (4) of the Local Government Act 1974,”.

(3) Section 3 (6) (c) of the Local Government Amendment Act 1978 is hereby amended by omitting the words “and also from subsection (4)”.

(4) This section shall come into force on the 1st day of April 1984.

7. Uniform annual general charges on properties only partly in district—(1) The principal Act is hereby amended by inserting, after section 157B (as enacted by section 10 of the Local Government Amendment Act (No. 2) 1982), the following section:

“157C. Where any property is situated partly within the district, ward, or community in which a uniform annual general charge is made and levied and partly outside that district, ward, or community, the territorial authority may, on the application

of the ratepayer of that property or of its own motion, reduce or cancel the uniform annual general charge in respect of that part of the property within the district, ward, or community if it considers it is reasonable in the circumstances to do so.”

(2) This section shall come into force on the 1st day of April 1984.

8. Uniform annual charges in respect of water supply—

(1) Section 158 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby amended by inserting, after subsection (1A) (as enacted by section 22 of the Local Government Amendment Act 1980) the following subsection:

“(1B) No uniform annual charge made and levied under this section shall be levied on any separately rateable property or in respect of any separately occupied portion of a property to which the territorial authority does not supply water, and which receives an ordinary supply of water from another territorial authority within whose district another part of the same property is situated.”

(2) This section shall come into force on the 1st day of April 1984.

9. Uniform annual charges in respect of refuse and nightsoil—

(1) Section 163 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) No uniform annual charge fixed and levied under this section shall be levied on any separately rateable property or in respect of any separately occupied portion of a property to which the territorial authority does not supply refuse or nightsoil collection services, and which receives those services from another territorial authority within whose district another part of the same property is situated.”

(2) This section shall come into force on the 1st day of April 1984.

10. Uniform annual charges instead of rates for certain purposes—

(1) Section 164A of the principal Act (as enacted by section 24 of the Local Government Amendment Act 1980) is hereby amended by adding the following subsections:

“(3) Where any ratepayer is the occupier of more than one separately rateable property in the district or any part of the district in which any uniform annual charge is made and levied

under this section, the territorial authority may, on the application of that ratepayer, or of its own motion, reduce or cancel that uniform annual charge in respect of one or more of those separately rateable properties if it considers it reasonable in the circumstances to do so.

“(4) Where any property is situated only partly within the district or any part of the district in which any uniform annual charge is made and levied under this section, the territorial authority may, on the application of the ratepayer of that property, or of its own motion, reduce or cancel the uniform annual charge in respect of that part of the property that is within the district or part of the district if it considers it reasonable in the circumstances to do so.”

(2) This section shall come into force on the 1st day of April 1984.

11. Annual charges on properties in common occupation—(1) The principal Act is hereby amended by inserting, after section 164A (as enacted by section 24 (1) of the Local Government Amendment Act 1980), the following section:

“164AA. Where any 2 or more separately rateable properties are—

“(a) Occupied by the same ratepayer; and

“(b) Used jointly as a single property; and

“(c) Contiguous, or separated only by a road, railway, drain, water race, river, or stream—

they shall be deemed to be one property for the purposes of the making and levying of any annual charge under any of sections 158, 162, 163, 164, and 164A of this Act.”

(2) This section shall come into force on the 1st day of April 1984.

12. New Part inserted—The principal Act is hereby amended by inserting, after section 269 but before the heading “Part XX”, the following heading and sections:

“PART XIXA

“ADMINISTRATION OF PETROLEUM RATIONING BY REGIONAL COUNCILS AND UNITED COUNCILS

“269A. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“ ‘Council’ means a regional council or a united council:

“ ‘Minister’ means the Minister of Energy:

- “ ‘Petroleum products’ has the same meaning as in the Petroleum Demand Restraint Act 1981.

“**269B. Regions for the purposes of this Part**—(1) Unless the Governor-General by Order in Council made under this section determines otherwise,—

“(a) Every region constituted under Part I of this Act; and

“(b) The Auckland Regional District constituted under section 3 of the Auckland Regional Authority Act 1963—

shall be a region for the purposes of this Part of this Act.

“(2) The Governor-General may from time to time, by Order in Council, as from a date specified in the order,—

“(a) Abolish any region or any 2 or more regions specified in subsection (1) of this section, and constitute any new region or regions for the purposes of this Part of this Act under a name or names specified in the order:

“(b) Alter the boundaries of any 2 or more contiguous regions specified in subsection (1) of this section by excluding any district from the region and including it for the purposes of this Part of this Act in another region to which it is contiguous:

“(c) Designate any council to perform the functions and duties and exercise the powers conferred on councils by this Part of this Act where a new region or regions are established under paragraph (a) of this subsection:

“(d) Declare any territorial authority that is not otherwise included in a region to be included in a region and to be a constituent authority of that region for the purposes of this Part of this Act.

“(3) If by any order under subsection (2) of this section any new region is constituted or the boundaries of an existing region are altered the region shall comprise such constituent districts as are specified in the order.

“(4) Subject to the foregoing provisions of this section, if at any time the boundaries of the district of a territorial authority contained in any region for the purposes of this Part of this Act are altered, the alteration shall have effect with respect to the region, and the boundaries of the region shall be deemed to be altered accordingly.

“**269C. Councils to undertake petroleum products rationing**—(1) Subject to any regulations made under section 4 of the Petroleum Demand Restraint Act 1981, every council

shall within its region perform all the functions and duties and may exercise the powers which may, from time to time, be imposed or conferred upon it in relation to petroleum products rationing under the Petroleum Demand Restraint Act 1981 or any regulations for the time being in force under that Act.

“(2) Every council shall perform such administrative functions and maintain such records in relation to petroleum products rationing as the Minister from time to time directs.

“(3) Subject to any approved petroleum products rationing organisation plan prepared in accordance with section 269D of this Act and any approved petroleum products administrative rationing plan prepared in accordance with section 269E of this Act, a council may delegate, in whole or in part, the functions, duties, and powers referred to or imposed or conferred by or under subsection (1) or subsection (2) of this section to one or more of its constituent authorities.

“(4) The delegation of any function, duty, or power by a council under subsection (3) of this section shall not relieve the council from the responsibility for ensuring that petroleum products rationing is administered in the region in accordance with any approved petroleum products rationing organisation plan or approved petroleum products rationing administrative plan, as the case may be.

“**269D. Petroleum products rationing organisation plans**—(1) Notwithstanding that regulations may not have been made under section 4 of the Petroleum Demand Restraint Act 1981, every council shall,—

“(a) Not later than the 1st day of October 1984; or

“(b) Within 6 months after the coming into force of any Order in Council made under section 269B (2) of this Act affecting the region; or

“(c) Within 6 months after the coming into force of any Order in Council made under Part I of this Act constituting the region,—

whichever is the later, prepare and submit to the Minister a petroleum products rationing organisation plan for its region setting out the responsibilities of the council and its constituent authorities in relation to petroleum products rationing in its region.

“(2) Notwithstanding subsection (1) of this section, the Minister may, by notice in the *Gazette*, extend the time within which any council is required to prepare and submit a petroleum products rationing organisation plan under that subsection.

“(3) Every plan prepared under subsection (1) of this section—

“(a) Shall be in accordance with any administrative regulations that have been made under section 4 of the Petroleum Demand Restraint Act 1981 and are for the time being in force; and

“(b) Shall be prepared in accordance with any conditions and shall contain information on such matters and in such detail as the Minister may prescribe from time to time by notice in the *Gazette*.

“(4) In preparing a petroleum products rationing organisation plan under subsection (1) of this section the council shall consult all its constituent authorities and obtain their views on the organisation of petroleum products rationing in the region.

“(5) The council shall prepare a petroleum products rationing organisation plan as soon as practicable following the consultations held under subsection (4) of this section, and shall forward it to the Minister.

“(6) The Minister shall consider every plan submitted to him under subsection (5) of this section, and, after making any changes that appear to him to be necessary or desirable, shall approve the plan.

“(7) Where any council has not prepared a petroleum products rationing organisation plan as required by this section, the Minister may, after consultation with the constituent authorities, prepare a petroleum products rationing organisation plan for the region.

“(8) Every plan approved by the Minister under subsection (6) of this section or prepared by the Minister under subsection (7) of this section shall be the approved petroleum products rationing organisation plan.

“269E. **Petroleum products rationing administrative plans**—(1) Where the Governor-General is satisfied that circumstances exist or are likely to exist in which regulations (other than administrative regulations) could lawfully be made under the Petroleum Demand Restraint Act 1981 in respect of New Zealand or any region or part of a region as defined in or under section 269B of this Act, he may, by Order in Council, require every council or the council of the region in respect of which he is so satisfied to prepare a petroleum products rationing administrative plan.

“(2) Every petroleum products rationing administrative plan shall be based on any approved petroleum products rationing organisation plan for the region and—

“(a) Shall be prepared within such time and contain information on such matters and in such detail as may be specified in the Order in Council made under subsection (1) of this section, or any subsequent Order in Council made under that subsection:

“(b) Shall be in accordance with any administrative regulations that have been made under section 4 of the Petroleum Demand Restraint Act 1981 and are for the time being in force.

“(3) Subsections (4) to (8) of section 269D of this Act shall apply to the preparation of any petroleum products rationing administrative plan as if it were a petroleum products rationing organisation plan.

“(4) Upon any petroleum products rationing administrative plan becoming an approved petroleum products rationing administrative plan under section 269D (8) of this Act as applied by subsection (3) of this section, any approved petroleum products rationing organisation plan for the same region shall expire.

“269F. **Amendment to approved plans**—(1) Where any council proposes to amend any approved petroleum products rationing organisation plan, subsections (4), (5), (6), and (8) of section 269D of this Act shall apply to the preparation and approval of the amendment as if it were a petroleum products rationing organisation plan.

“(2) Where any council proposes to amend any approved petroleum products rationing administrative plan, subsections (4), (5), (6), and (8) of section 269D and section 269E (2) of this Act shall apply to the preparation and approval of the amendment as if it were a petroleum products rationing administrative plan.

“269G. **Regional and united councils and territorial authorities to give effect to operative petroleum products rationing plans**—Every regional council, united council, and territorial authority shall take all necessary measures to give effect to any approved petroleum products rationing organisation plan prepared under section 269D of this Act or any approved petroleum products rationing administrative plan prepared under section 269E of this Act.”

13. Functions of united councils—Section 260 (1) of the principal Act (as enacted by section 2 of the Local Government

Act 1978) is hereby amended by inserting, after the words “or section 266A” (as inserted by section 2 of the Local Government Amendment Act 1981), the words “or Part XIXA”.

14. Amendments to Petroleum Demand Restraint Act 1981—The Petroleum Demand Restraint Act 1981 is hereby amended in the manner indicated in the Schedule to this Act.

15. Agreement that land not be dealt with apart from other land—Section 308 (9) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended—

- (a) By omitting the expression “subsection (4) of”;
- (b) By omitting the word “certificate” where it last occurs, and substituting the word “agreement”.

16. Offences against trade wastes bylaws—The principal Act is hereby amended by repealing section 493 (as enacted by section 2 of the Local Government Amendment Act 1979), and substituting the following section:

“493. (1) Notwithstanding section 683 (1) of this Act and without limiting the power of a District Court to grant an injunction under section 683 (2) of this Act, if any trade wastes bylaw is contravened or not complied with in the case of any trade premises, the occupier of the premises commits an offence and is liable to a fine not exceeding \$10,000 and, if the offence is a continuing one, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence has continued.

“(2) Any person who has been convicted of an offence against subsection (1) of this section shall, in addition to any penalty for which he may be liable for the offence, be liable to pay to the local authority the costs of remedying any damage to the sewerage drains or trade wastes treatment, reception, or disposal works of the local authority caused in the course of committing the offence.

“(3) The costs referred to in subsection (2) of this section shall be assessed by a District Court Judge and shall be recoverable summarily as if they were a fine.

“(4) Nothing in this section shall prevent the council from recovering any amount that it is entitled to recover under section 695 of this Act to the extent that it is not included within any assessment under subsection (3) of this section or has not been recovered under that subsection.

Cf. 1974, No. 66, s. 493; 1979, No. 59, s. 2

17. Parking in pedestrian malls—Section 336 (14) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by omitting from the definition of the term “parking” the words “exceeding 5 minutes”.

18. Powers of council in relation to recreation and community development—(1) Section 601 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by omitting from subsection (1) the words “inhabitants of the district or any part thereof”, and substituting the word “public”.

(2) Section 601 of the principal Act (as so enacted) is hereby amended by omitting from subsection (5) (a) the words “inhabitants of the district or any part thereof” from both places where they occur, and substituting in both places the word “public”.

19. Power to issue building permit where land subject to inundation—Section 641A (1) of the principal Act (as enacted by section 22 of the Local Government Amendment Act (No. 2) 1981) is hereby amended by inserting, after the words “subsidence, or slippage,”, the words “or to inundation arising from the erosion, subsidence, or slippage of that land.”

20. Amendments to Seventh Schedule—The Seventh Schedule to the principal Act (as enacted by section 7 of the Local Government Amendment Act (No. 3) 1977) is hereby amended—

- (a) By omitting from item 3 the words “Rotorua City (D)”, and substituting the words “Rotorua District (D)”;
- (b) By omitting from item 3 the words “Rotorua County”;
- (c) By omitting from item 4 the words “Otorohanga County (D)”, and substituting the words “Otorohanga District (D)”;
- (d) By omitting from item 5 the words “Hawera County” and the words “Hawera Borough”, and substituting the words “Hawera District”;
- (e) By omitting from item 9 the words “Patangata County”;
- (f) By omitting from item 15 the words “Rangiora County”, and substituting the words “Rangiora District”;
- (g) By omitting from item 16 the words “Waimairi County”, and substituting the words “Waimairi District”;
- (h) By omitting from item 20 the words “Riverton Borough”.

SCHEDULE

Section 14

AMENDMENTS TO PETROLEUM DEMAND RESTRAINT ACT 1981

Section Amended	Amendment
Section 2	<p>By repealing paragraph (b) of the definition of the term "administrative regulations", and substituting the following paragraphs:</p> <p>"(b) Which do not impose obligations on—</p> <p style="padding-left: 40px;">(i) Any body that is not a regional council, united council, or territorial authority within the meaning of the Local Government Act 1974; or</p> <p style="padding-left: 40px;">(ii) Any person other than in his capacity as an officer or employee of the Crown or any such body; and</p> <p>"(c) Which do not prescribe offences:".</p>
Section 4 (2)	<p>By inserting, after paragraph (k), the following paragraph:</p> <p>"(ka) Provide for the payment of the reasonable costs incurred by regional and united councils and territorial authorities under Part XIXA of the Local Government Act 1974 in preparing and giving effect to petroleum products rationing organisation plans and petroleum products rationing administrative plans, and administering any scheme for the rationing of petroleum products:".</p>
Section 14	<p>By inserting in subsection (1), before the words "any of the powers", the words "or any regional or united council or territorial authority within the meaning of the Local Government Act 1974".</p> <p>By omitting from subsection (2) the words "(being a person in the service of the Crown)", and substituting the words "under subsection (1) of this section".</p>

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This Act is administered in the Department of Internal Affairs.

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