ANALYSIS

1982, No. 166

An Act to amend the Local Government Act 1974

[*17 December 1982*

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 (No. 2) 1982, 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 section 27 (3) 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. Apportionment of loan liabilities—Section 37F of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977) is hereby amended by inserting, after subsection (12), the following subsection:

"(12A) Where a local authority has appropriated or pledged any revenues other than rates of that local authority or any constituent authority for the purpose of securing any loan or the interest thereon, and the loan liability is transferred to any local authority that is empowered by any enactment to make and levy any rate, section 47 of the Local Authorities Loans Act 1956 shall apply in respect of that loan liability as if that local authority had obtained consent under Part I of that Act to raise that loan."

3. Electors not disqualified by change of residence within district—(1) Section 69 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby amended by omitting from subsection (1) (b) the words "or ward or community, as the case may be,".

(2) Section 69 of the principal Act (as so enacted) is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) Nothing in subsection (1) (b) of this section shall confer on any person a residential qualification in respect of any election or poll relating to a ward or community unless he resides in that ward or community on the day before polling day or the day before the first day of the polling period, as the case may be."

4. Mayor or Chairman of district council—Section 91 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby amended by repealing subsection (1), and substituting the following subsections:

"(1) There shall be a Mayor or a Chairman of every district council, and whether there is to be a Mayor or a Chairman may be determined—

"(a) Where the district council is constituted by an Order in Council under section 36 of this Act, in that order:

"(b) Where the district council is constituted under section 54 of this Act, in the special order made under that section.

"(1A) Where the Order in Council referred to in subsection (1) (a) of this section or the special order referred to in subsection (1) (b) of this section does not determine whether there is to be a Mayor or a Chairman of the district council, the matter shall be determined by a special order or subsequent special order, as the case may require.

"(1B) No such Order in Council or special order shall take effect in respect of any election for which the council has made or ought to have made a determination under section 56 of this Act.

"(1C) Once a determination has been made under subsection (1) or subsection (1A) of this section that the district council shall have a Mayor, that determination shall not be varied by any subsequent special order."

5. Transitional provision relating to 1983 triennial general election of members of district council—(1) Notwithstanding the provision in section 91 (1B) of the principal Act (as enacted by section 4 of this Act) that no Order in Council or special order shall take effect in respect of any election for which the council has made a determination under section 56 of the principal Act, such an Order in Council or special order shall, if made before the 30th day of June 1983, take effect in respect of the triennial general election to be held on the 8th day of October 1983.

(2) Where any Order in Council or special order takes effect by virtue of subsection (1) of this section, the council shall make a fresh determination under section 56 of the principal Act, and in that case—

(a) Subsection (1) of that section shall be read as if the words "in the year preceding the year in which a

general election of the council is to be held, but not later than 15 months before the date of that election, by special order determine that the council at that election" had been omitted, and the words "before the 9th day of July 1983 by special order determine that the council at the election to be held on the 8th day of October 1983" had been substituted:

(b) Subsection (2) of that section shall be read as if the words "30th day of September in the year preceding the year in which the general election is to be held" had been omitted and the words "31st day of August 1983" had been substituted.

6. Levying and recovery of certain rates on differential basis—Section 133 (1) 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 definition:

" 'System of rating', in relation to the district of a constituent authority or the district of a territorial authority, includes any system of differential rating in force in that district."

7. Territorial authority general rates—Section 136 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:

"(3) Notwithstanding subsection (1) of this section, no territorial authority shall make and levy a general rate at such a rate that the producing capacity of that rate, when combined with the producing capacity of any uniform annual general charge made and levied in respect of that year on the rateable properties in the district or ward, exceeds the producing capacity of the maximum rate that may be made and levied under subsection (1) of this section if no uniform annual general charge is made and levied on the rateable properties in the district or ward."

8. Community general rate—(1) Section 139 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977) is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) Notwithstanding subsection (1) of this section, no territorial authority shall make and levy a community general rate at such a rate that the producing capacity of that rate, when combined with the producing capacity of any uniform

annual general charge made and levied in respect of that year on the rateable properties in the community, exceeds the producing capacity of the maximum rate that may be made and levied under subsection (1) of this section if no uniform annual general charge is made and levied on the rateable properties in the community or the district or ward of which the community forms part."

(2) Section 139 of the principal Act (as so enacted) is hereby amended by inserting in subsection (2), after the words "this section" the words "and any uniform annual general charge is made and levied under section 157A of this Act in respect of the rateable properties in the community only".

(3) Section 139 of the principal Act (as so enacted) is hereby amended by inserting in subsection (3), after the words "this section", the words "and any uniform annual general charge made and levied under section 157A of this Act in respect of the rateable properties in the community only".

9. Differential rates—(1) Section 147 (2) of the principal Act (as enacted by section 18 of the Local Government Amendment Act 1980) is hereby amended by inserting, after paragraph (b), the following paragraph:

"(ba) The proposed zoning of a property under a proposed district scheme or proposed new district scheme under the Town and Country Planning Act 1977 that has been publicly notified under that Act; but only if—

"(i) No submissions or objections have been made by any body or person under section 45 of that Act concerning the proposed zoning of the property or the zoning of the area in which the property is situated, and the time for the giving of notice of such submissions or objections has expired; or

"(ii) All such submissions or objections have been determined by the council:".

(2) Section 147 (3) of the principal Act (as enacted by section 18 of the Local Government Amendment Act 1980) is hereby amended—

(a) By omitting the expression "subsection (2) (b)", and substituting the expression "paragraph (b) or paragraph (ba) of subsection (2)":

(b) By inserting, after the words "district scheme", the words ", proposed district scheme, or proposed new district scheme, as the case may require,".

(3) Section 147 of the principal Act (as enacted by section 18 of the Local Government Amendment Act 1980) is hereby amended by inserting, after subsection (3), the following subsection:

"(3A) The fact that an appeal is pending against a decision of the council on a submission or objection concerning the proposed zoning of a property or the zoning of the area in which the property is situated shall not prevent the council using the proposed zoning of a property in accordance with subsection (2) (ba) of this section as a criterion for determining a type or group of property for the purposes of subsection (1) of this section; but if the decision on any such appeal changes the proposed zoning of a property or the zoning of the area in which the property is situated the property shall be included in an appropriate zone in accordance with this section with effect from the commencement of the rating year in which the decision on the appeal is given."

10. New sections inserted—(1) The principal Act is hereby amended by inserting, after the heading "*Charges Instead of Rates*" but before section 158 (as enacted by section 2 of the Local Government Amendment Act (No. 3) 1977), the following sections:

"157A. **Uniform annual general charge**—(1) Subject to subsection (2) of this section, the territorial authority may, by resolution, make and levy on every separately rateable property within the district or any ward or community a uniform annual general charge of such amount as shall be prescribed in the resolution, not exceeding in any year—

"(a) $150; or

"(b) Such amount as shall produce to the territorial authority a total amount no greater than the producing capacity of the maximum general rate that may be made and levied under section 136 or section 139 of this Act, as the case may be,—

whichever is the lesser.

"(2) 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 uniform annual general charge under subsection (1) of this section.

"(3) Nothing in this section shall empower the Marlborough County Council to impose a uniform annual general charge in respect of any rateable property within the administrative rating area of the Marlborough County as defined in section 2 of the Marlborough County Council Empowering Act 1965.

"157B. **Reduction or cancellation of uniform annual general charge**—The territorial authority may, on the application of any ratepayer who is the occupier of more than one separately rateable property in the district or a ward or community in the case of a uniform annual general charge made and levied on a ward or community basis, or of its own motion, reduce or cancel the uniform annual general charge in respect of one or more of the separately rateable properties occupied by that occupier in the district, ward, or community if it considers it reasonable in the circumstances to do so."

(2) The Waitemata City Council Empowering (Uniform General Charge) Act 1979 is hereby repealed.

(3) Notwithstanding the repeal by subsection (2) of this section of the Waitemata City Council Empowering (Uniform General Charge) Act 1979, every resolution made under that Act before the coming into force of this section, and every charge made and levied under that Act, shall continue to have effect as if it had been made under section 157A of the principal Act.

11. New heading and sections inserted—(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 heading and sections:

"Lump Sum Contribution to Capital Cost of Works

"164B. **Interpretation**—In sections 164C to 164K of this Act, unless the context otherwise requires,—

" 'Area of benefit' means the district or part of the district of a territorial authority to which a resolution under section 164C of this Act applies:

" 'Ratepayer' has the same meaning as that given to the term 'occupier' in the Rating Act 1967; and includes the Crown or any person by whom a grant in lieu of rates in respect of any work to which those sections apply would be paid:

" 'Separate rate' means a rate made and levied under section 142 or section 143 of this Act:

" 'Separately rateable property' includes any property for which a grant in lieu of rates would be payable in respect of any work to which those sections apply.

"164C. **Territorial authority may resolve to seek lump sum contributions from ratepayers**—Where a territorial authority resolves to undertake any work that will require the council—

"(a) To raise a special loan under the Local Authorities Loans Act 1956; or

"(b) To make and levy a separate rate or a uniform annual charge—

to finance that work, whether in whole or in part, the territorial authority may resolve to invite the ratepayers of its district, or that part of its district that, in the opinion of the council, is likely to benefit from the proposed work, to make a lump sum contribution towards the capital cost of the work.

"164D. **Preparation of cost estimates and calculation of contributions and rates or charges relating to works**—(1) Where a territorial authority has resolved under section 164C of this Act to invite lump sum contributions towards the capital cost of any proposed work, it shall—

"(a) Prepare an estimate of the net capital cost of the work, which shall be the estimated capital cost of the work less the amount (if any) of any subsidies estimated as payable to the territorial authority in respect of the work; and

"(b) Either—

"(i) Divide the estimated net capital cost of the work by the number of separately rateable properties in the area of benefit; or

"(ii) Divide the estimated net capital cost of the work by the proportion which the rateable value of each separately rateable property in the area of benefit bears to the rateable value of all rateable property in the area of benefit;—

and the amount or amounts so calculated shall be the estimated lump sum contribution in respect of the properties concerned.

"(2) Where a territorial authority has resolved under section 164C of this Act to invite lump sum contributions towards the capital cost of any proposed work, it shall—

"(a) Resolve whether it proposes to make and levy annual separate rates or uniform annual charges to cover so much of the estimated net capital cost of the

proposed work as is not met by lump sum contributions, including the annual charges that would be payable on any special loan that might be raised in respect of that cost; and

"(b) Prepare an estimate of the annual separate rate or uniform annual charge, as the case may be, that would be likely to be made and levied in respect of the capital cost of the proposed work if no lump sum contributions were made.

"164E. **Right to make lump sum contribution**—Where the territorial authority has resolved under section 164C of this Act to invite lump sum contributions towards the capital cost of any proposed work, every ratepayer shall be entitled, in respect of each separately rateable property in the area of benefit for which he would be liable to pay a separate rate or uniform annual charge relating to that work, to elect to pay the share of the capital cost of the work assigned to that property by means of a lump sum contribution calculated in accordance with sections 164D (1) and 164I (1) of this Act.

"164F. **Notification to ratepayer of right to make election**—(1) The territorial authority shall, as soon as practicable after the passing of any resolution under section 164C of this Act, give the ratepayer of each separately rateable property in the area of benefit written notice in the form set out in Schedule 5A to this Act or a form of similar effect—

"(a) Setting out the rights of the ratepayer to elect to pay a lump sum contribution towards the capital cost of the work:

"(b) Specifying the period within which the right to make an election may be exercised:

"(c) Specifying the estimated lump sum contribution that would be payable by the ratepayer, the date or dates on which it would be payable, and the penalty that may be imposed for non-payment:

"(d) Advising that the estimated lump sum contribution will be reassessed when the works are completed and the final costs are known:

"(e) Informing the ratepayer of the estimated annual separate rate or uniform annual charge likely to be made and levied and the duration of that rate or charge if no lump sum contributions are made by any ratepayers:

"(f) Advising the ratepayer that an election to make a lump sum contribution has no effect on his liability for maintenance and operation costs of the work:

"(g) Informing the ratepayer that his decision will be irrevocable and binding on all persons who are or may become liable to pay rates in respect of the property.

"(2) The right to make an election to pay a lump sum contribution towards the capital cost of the work shall be available for 2 months after the date of the notice or such longer period as the territorial authority may specify.

"(3) Where no such election is made within the specified period the ratepayer may, at the discretion of the territorial authority, make an election after the specified period has expired.

"(4) Every election under this section shall be irrevocable and shall be binding on all persons who are or may become liable to pay rates in respect of the property.

"164G. **Effect of election to make a lump sum contribution**—(1) Where an election is made in respect of any separately rateable property that a lump sum contribution will be made to the capital cost of any proposed works, and the property is later subdivided into 2 or more separately rateable properties, the liability of the ratepayers of those properties to pay any lump sum contribution that has been calculated under section 164D (1) or section 164I (1) of this Act and has not been paid shall be apportioned in accordance with the manner in which the estimated lump sum contribution has been calculated under section 164D (1) (b) of this Act.

"(2) Where an election is made in respect of any separately rateable property that a lump sum contribution will be made to the capital cost of any proposed works,—

"(a) No special rate shall be deemed to have been made under section 47 of the Local Authorities Loans Act 1956 in respect of that property, but in all other respects that Act shall continue to apply to that property and its ratepayers:

"(b) Except as provided in paragraph (c) of this section, no ratepayer shall be liable in respect of that property for any rate or uniform annual charge made and levied under this Act to meet the cost of the work or the annual charges in respect of any special loan raised to meet the cost of the work:

"(c) Nothing in that election or this Act shall relieve any person from any liability for any rate or uniform annual charge made and levied under this Act to meet maintenance or operating costs in respect of the work.

"164H. **Payment of lump sum contributions**—(1) The territorial authority shall, not earlier than 3 months before the work is to commence, give written notice to the ratepayer of each separately rateable property in respect of which an election to make a lump sum contribution to the capital cost of the work has been made, requiring the payment of the lump sum contribution as estimated in accordance with section 164D of this Act.

"(2) The estimated lump sum contribution shall be paid within 3 months after the date of the notice referred to in subsection (1) of this section or such further period as may be specified in that notice, and may be paid by instalments in such amounts or portions as the territorial authority may specify in that notice.

"164I. **Recalculation of lump sum contribution on completion of work**—The territorial authority shall, as soon as practicable after the completion of any work to which section 164C of this Act applies,—

"(a) Calculate the actual net capital cost of the work, which shall be the actual capital cost of the work less the amount (if any) of any subsidies received or receivable by the territorial authority in respect of the work; and

"(b) Either—

"(i) If the territorial authority calculated the estimated net capital cost in respect of each property under section 164D (1) (b) (i) of this Act, divide the actual net capital cost of the work by the number of separately rateable properties that were in the area of benefit at the time when the estimated net capital cost of the work was calculated under that provision; or

"(ii) If the territorial authority calculated the estimated net capital cost for each property under section 164D (1) (b) (ii) of this Act, divide the actual capital cost of the work by the proportion which the rateable value of each separately rateable property in the area of benefit bore to the rateable value of all rateable property in the area of benefit as at the time when the estimated net capital cost of the work was calculated under that provision;—

and the amount or amounts so calculated shall be the lump sum contribution in respect of the properties concerned.

"164J. **Refund of or increase in lump sum contribution**—The territorial authority shall, within 3 months after recalculation of lump sum contributions under section 164I of this Act,—

"(a) If the recalculated lump sum contribution is less than the amount of the estimated lump sum contribution paid in respect of that property, refund the difference between those amounts to the ratepayer for the time being of that property:

"(b) If the recalculated lump sum contribution is greater than the estimated lump sum contribution, give written notice to the ratepayer for the time being of each separately rateable property in respect of which a lump sum contribution is payable, requiring that ratepayer to pay the balance owing in respect of that property within 3 months of that notice or such further period as may be specified in that notice, and in one payment or by instalments as the territorial authority may specify in that notice.

"164K. **Lump sum contribution deemed to be separate rate**—(1) Every lump sum contribution required to be paid in accordance with section 164H or section 164J of this Act is hereby deemed for all purposes to be a separate rate.

"(2) Notwithstanding subsection (1) of this section, in the application of sections 71 and 74 of the Rating Act 1967 to any lump sum contribution every reference in those sections to the term 'six months' shall be read as if it were a reference to the term '3 months or such greater period as may have been specified by the territorial authority for the making of the payment.'

"(3) Any notice required to be given under section 164F (1), or section 164H (1), or section 164J of this Act shall be given in a manner provided for the delivery of rates assessments under section 65 (3) of the Rating Act 1967; and every such notice shall be deemed to be delivered if it is so given."

(2) The principal Act is hereby amended by inserting, after the Fifth Schedule (as inserted by section 7 (1) (b) of the Local Government Amendment Act (No. 3) 1977), the Schedule 5A set out in the First Schedule to this Act.

(3) The following enactments are hereby repealed:

(a) The Silverpeaks County Council (Lump Sum Contributions) Empowering Act 1981:

(b) The Ellesmere County Council (Lump Sum Contributions) Empowering Act 1982:

(c) The Thames-Coromandel District Council (Lump Sum Contributions) Empowering Act 1982:

(d) The Geraldine Borough Council (Lump Sum Contributions) Empowering Act 1982.

(4) Notwithstanding the repeal by subsection (3) of this section of any Act mentioned in that subsection, every resolution made under any such Act before the coming into force of this section, every notice issued under any such Act, and every estimate or assessment of a lump sum contribution under any such Act, shall continue to have effect as if it had been made under the principal Act.

12. Consolidated special rate not to include rate in respect of work for which lump sum contributions obtained—Section 174 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) No consolidated special rate made under subsection (1) of this section shall include any rate made in respect of any work for which any right to make an election under section 164E of this Act to pay a lump sum contribution has been exercised by any ratepayer."

13. Consolidated rate not to include rate in respect of work for which lump sum contribution obtained—Section 175 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) No consolidated rate made under subsection (1) of this section shall include any rate made in respect of any work for which any right to make an election under section 164E of this Act to pay a lump sum contribution has been exercised by any ratepayer."

14. Financial records—(1) Section 202 of the principal Act (as enacted by section 27 (1) of the Local Government Amendment Act 1980) is hereby amended by repealing paragraph (d) of subsection (6) and substituting the following paragraphs:

"(d) Any uniform annual charge levied under any of the provisions of sections 157A, 158, 160, 162, 163, 164, and 164A of this Act; and

"(e) Any lump sum contributions made under section 164H or section 164J (b) of this Act—"

(2) Section 202 of the principal Act (as so enacted) is hereby amended by inserting in subsection (7) (e), after the word "Act", the expression "; and", and adding the following paragraph:

"(f) Every uniform annual general charge levied in any community under section 157A of this Act—".

15. Definition of "development plan"—Section 270 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by omitting the definition of the term "development plan", and substituting the following definition:

" 'Development plan' means a development plan submitted or prepared under section 293 of this Act showing such particulars as the council or regional council or united council to which the plan is submitted or by which the plan is prepared considers necessary—

"(a) To enable the assessment of the amount of the contribution payable under section 294 of this Act, or the development levy payable under section 294A of this Act; and

"(b) For the application of sections 280, 281, 283, 289, 291, 292, and 302 of this Act to the development:".

16. Development plans—(1) The principal Act is hereby amended by repealing section 293 (as enacted by section 2 of the Local Government Amendment Act 1978), and substituting the following section:

"293. (1) Where the owner of any land in the district proposes to develop the land, he shall, before any work involving the disturbance of the land surface or the excavation of the land for the purpose of the development or other work in respect of the development (other than work authorised by the council or necessary investigative work) is commenced, notify the council in writing of the proposed development.

"(2) Subject to subsection (7) of this section, the council may, before the development is commenced or at any time before the completion of the development, require the owner to submit to it a development plan, with such additional copies as the council may require.

"(3) Subject to subsection (7) of this section, where the council believes that the assessed value of any development that is solely or principally for administrative, commercial, or industrial purposes or any combination of those purposes exceeds or is likely to exceed $50 million, the council shall require the owner to submit a development plan; and the council shall refer a copy of the development plan to the Valuer-General and the united council or the regional council.

"(4) If at any time a united council or regional council believes that a development that is solely or principally for administrative, commercial, or industrial purposes or any combination of those purposes and has or is likely to have an assessed value in excess of $50 million is to take place or is taking place within its region, and that a development plan has not been submitted to the territorial authority concerned, the united council or regional council may, subject to subsection (7) of this section, require the owner of the land to be developed to submit a development plan to the united council or regional council; and the united council or regional council shall refer a copy of the development plan to the Valuer-General.

"(5) In any case where a person fails to comply with a requirement under subsection (4) of this section to submit a development plan within 3 months after the making of that requirement, the united council or regional council that made the requirement may prepare a development plan for the development; and the provisions of this Part of this Act shall apply as if that plan had been submitted by the owner of the land to be developed.

"(6) Where any united council or regional council prepares a development plan under subsection (5) of this section, it may recover the costs and expenses incurred in the preparation of that plan from the owner of the land to be developed.

"(7) Where an outline plan has been submitted to the council under section 125 of the Town and Country Planning Act 1977, and that plan contains sufficient particulars to enable the assessments under sections 294 and 294A of this Act to be made and sections 280, 281, 283, 289, 291, 292, and 302 of this Act to be applied to the development, any requirement under this section to submit a development plan shall be deemed to be satisfied.

"(8) Any development plan required to be submitted under this section or prepared by a council or regional or united

council under this section may, at the discretion of the council or regional or united council to which it is to be submitted or by which it is to be prepared, be submitted or prepared in stages.

"(9) Where any part of the land being developed or to be developed has a frontage to any State highway or Government road or adjoins any New Zealand Railways Corporation railway, the council shall send a copy of the development plan to the District Commissioner of Works for the locality in which the land is situated for his information.

"(10) Where any part of the land being developed or to be developed has a frontage to any regional road and the council is not otherwise required to submit a copy of the development plan to the united council or regional council, the council shall send a copy of the development plan to the united council or regional council, as the case may be, for its information.

"(11) The owner of the land shall notify the council in writing of any variation to the proposed development and any cancellation of all or part of the development.

"(12) Where any notification of a variation to a proposed development is given to the council it may exercise its powers and shall exercise its functions under this Part of this Act as if the proposed development had been varied accordingly."

(2) Section 294A (1), paragraphs (a) and (b) of section 294D (2), subsections (2) and (4) of section 294E and section 294I (1) of the principal Act are hereby consequentially amended by omitting in each case the expression "section 293 (5)", and substituting the expression "section 293 (3)".

(3) Section 9 of the Local Government Amendment Act 1981 and section 14 of the Local Government Amendment Act (No. 2) 1981 are hereby consequentially repealed.

17. Calculation of development levy—(1) Section 294A of the principal Act (as enacted by section 12 (1) of the Local Government Amendment Act 1981) is hereby amended—

(a) By inserting in subsections (1), (2) (b), (3), and (5) (b), after the word "rate" in each case, the words "or amount":

(b) By inserting in subsection (3), after the words "this section shall", the words ", after the making of any amendment or reduction under section 294FA of this Act,".

(2) Section 294A of the principal Act (as so enacted) is hereby amended by repealing subsection (9), and substituting the following subsection:

"(9) Where a territorial authority has set a reserves contribution under section 294 of this Act in respect of any development, the united council or regional council shall, subject to section 294FA (2) of this Act, set the development levy at a rate or amount that will yield to that territorial authority an amount not less than the amount of the reserves contribution."

18. Determination of actual capital value of development—Section 294F of the principal Act (as enacted by section 12 (1) of the Local Government Amendment Act 1981) is hereby amended by repealing subsection (1), and substituting the following subsection:

"(1) When any development that has an assessed value in excess of $50 million is complete, the actual capital value of the development as at the date of its completion shall be determined—

"(a) By the united council or regional council, if the council and the owner of the developed land so agree; or

"(b) In the absence of such agreement, by the Valuer-General."

19. Amendment of development levy when development completed—The principal Act is hereby amended by inserting, after section 294F (as enacted by section 12 (1) of the Local Government Amendment Act 1981), the following section:

"294FA. (1) When the actual capital value of a development has been determined under section 294F of this Act, the united council or regional council may amend the rate or amount of the development levy payable in respect of the development, but not to a rate or amount—

"(a) That will yield to any territorial authority an amount less than the amount of any reserves contribution set under section 294 of this Act in respect of that development by that territorial authority; or

"(b) That exceeds 0.5 percent of the actual capital value of the development.

"(2) When the actual capital value of a development has been determined under section 294F of this Act and that value is such that the amount of the reserves contribution or development levy exceeds 0.5 percent of that value, the council, united council, or regional council shall reduce the reserves contribution or development levy to an amount that does not exceed that rate."

20. Application of development levy—(1) Section 294H of the principal Act (as enacted by section 12 (1) of the Local Government Amendment Act 1981) is hereby amended by inserting, after subsection (1), the following subsections:

"(1A) Where the united council or regional council has accepted any payment that has been made in anticipation of the fixing of a development levy, that money may be paid and applied to any of the purposes to which a development levy may be applied under this section.

"(1B) Nothing in subsection (1A) of this section shall have the effect of reducing any amount payable to the territorial authority under subsection (1C) of this section once the actual capital value of the development has been determined.

"(1C) The united council or regional council shall pay to the territorial authority within whose district the development is situated—

"(a) The amount of the development levy assessed in relation to the first $50 million of the actual capital value of the development, which amount shall be calculated as if the development levy had been fixed at a uniform rate in respect of the actual capital value of the development; or

"(b) An amount of development levy equal to the amount of any reserves contribution set by the territorial authority under section 294 of this Act in respect of the development—

whichever is the greater."

(2) Section 294H of the principal Act (as so enacted) is hereby amended by omitting from subsection (2) the words "assessed on the first $50 million of the value of the development shall be paid to the territorial authority within whose district the development is to be constructed and", and substituting the words "payable to the territorial authority in whose district the development is situated".

(3) Section 294H of the principal Act (as so enacted) is hereby amended by omitting from subsection (3) the words "on the value of the development in excess of $50 million", and substituting the words "that is not payable to a territorial authority under subsection (1C) of this section".

(4) Section 294A (5) (c) of the principal Act (as enacted by section 12 (1) of the Local Government Amendment Act 1981) is hereby amended by inserting, after the word "levy", the words "or payment".

21. Powers relating to roads—Section 320 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by omitting the word "form", and substituting the words "lay out".

22. Disposal of land not required for road—Section 345 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by inserting, after subsection (2), the following subsections:

"(2A) Where the council acting under subsection (2) of this section requires the amalgamation of the land sold with the adjoining land under one certificate of title—

"(a) The separate parcels of land included in the one certificate of title by virtue of that requirement shall not be capable of being disposed of individually or of again being held under separate certificates of title, except with the consent of the council:

"(b) Where that adjoining land is already subject to a registered instrument under which a power to sell, a right of renewal, or a right or obligation is lawfully conferred or imposed, the land sold shall be deemed to be and always have been part of the land that is subject to that instrument, and all rights and obligations in respect of, and encumbrances on that adjoining land shall be deemed also to be rights and obligations in respect of, or encumbrances on, that land sold.

"(2B) On the issue of a certificate of title to the land referred to in subsection (2A) of this section, the District Land Registrar shall enter on the certificate of title a memorandum that the land to which it relates is subject to paragraph (a) of that subsection, and, if the circumstances so require, that it is subject to paragraph (b) of that subsection."

23. Supply of gas outside district—Section 520 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by adding the following paragraph:

"(d) A territorial authority may, with the consent of the Governor-General given by Order in Council, and subject to any conditions specified in that order, supply compressed natural gas or liquefied petroleum gas within the district of any other territorial authority specified in that order:

"Provided that the consent of the Governor-General shall not be given unless—

"(i) In his opinion, an adequate supply of compressed natural gas or, as the case may be, liquefied petroleum gas is not available in the district and will not be available in the district within a reasonable period from any other person carrying on or about to commence to carry on business within the district; and

"(ii) The territorial authority in whose district the compressed natural gas or liquefied petroleum gas is to be supplied has consented to the supply of that gas by the other territorial authority."

24. Annual fee payable in respect of community centres—(1) Section 610 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by omitting the expression "$10 or such higher amount as may be fixed", and substituting the expression "$20, or such higher amount as may be fixed in respect of any particular area".

(2) Section 610 (2) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by omitting the expression "$10, or such higher amount as may be fixed", and substituting the expression "$20, or such higher amount as may be fixed in respect of any particular area".

25. Licensing of certain buildings—(1) Section 636 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by omitting from the definition of the term "residential institution" in subsection (1) the words "but, except for the purposes of subsection (3) of this section, does not include—" and paragraphs (h), (i), and (j) of that definition, and substituting the following words and paragraphs:

"and, for the purposes of subsection (3) of this section, but for no other purpose of this section or section 636A of this Act, includes—

"(h) A youth camp, youth hostel, short-stay hostel, ski lodge, or similar accommodation, that is not operated for private pecuniary gain or profit:

"(i) An alpine hut, trampers' hut, or similar accommodation:".

(2) Section 636 of the principal Act (as so enacted) is hereby amended by repealing subsection (3), and substituting the following subsections:

"(3) Sections 629, 630, 632, 633, and 634 of this Act, and the Fifteenth Schedule to this Act (except clauses 2 (c) and 3) shall apply to every apartment building and residential institution as if—

"(a) An application had been made in accordance with those provisions for a licence in respect of that building or institution, or the apartment building or residential institution was a licensed building within the meaning of those provisions, as the case may require; and

"(b) The reference in section 635 of this Act to section 628 of this Act were a reference to this section.

"(3A) Nothing in clause 2 of the Fifteenth Schedule to this Act (as applied by subsection (3) of this section) shall impose any obligation on the council to issue a licence unless the council is satisfied that all the provisions of any bylaws applying to that apartment building or residential institution have been complied with."

26. Prescription of fees by bylaw or by resolution—(1) The principal Act is hereby amended by inserting, after section 690, the following section:

"690A. (1) The council may, from time to time, by bylaw or by resolution publicly notified, prescribe the fees payable in respect of any certificate, authority, approval, consent, or service given, or inspection made by the council under this Act or any other enactment in any case where that provision or enactment contains no provision authorising the council to charge a fee, and does not provide that the certificate, authority, approval, consent, service, or inspection is to be given or made free of charge.

"(2) Any such bylaw or resolution may provide for the refund, remission, or waiver of any such fee in specified situations or in such situations as the council may determine.

"(3) Any bylaw made under subsection (1) of this section may confer upon the council the power to prescribe by resolution publicly notified the fees that may be prescribed under that subsection.

"(4) The fees prescribed under subsection (1) of this section shall be such as to recover no more than the reasonable costs incurred by the council in respect of the matter for which the fee is charged.

"(5) The council shall ensure that copies of all bylaws and resolutions made under subsection (1) or subsection (3) of this section are available for public inspection free of charge at the office of the council during ordinary office hours."

(2) Section 684 (1) (49) of the principal Act is hereby consequentially repealed.

27. Remuneration of Chairman and members of Auckland Regional Authority—(1) Section 717 (1) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by omitting the expression "217", and substituting the expression "213".

(2) Section 16 of the Auckland Regional Authority Act 1963 is hereby repealed.

(3) This section shall come into force on the 1st day of April 1983.

28. References to County of Fiord repealed—(1) The principal Act is hereby amended in the manner indicated in Part I of the Second Schedule to this Act.

(2) The enactments specified in Part II of the Second Schedule to this Act are hereby amended in the manner indicated in that Part of that Schedule.

(3) Section 718 of the principal Act is hereby repealed.

(4) The Third Schedule to the Local Government Amendment Act 1979 is hereby amended by repealing so much of Part III as relates to section 5 of the Tramways Act 1908.

29. References to repealed Act repealed—The Third Schedule to the Local Government Amendment Act 1979 is hereby amended by repealing so much of Part III as relates to the Chatham Islands County Council Empowering Act 1936.

Amendments to Other Acts

30. Amendment to Local Authorities Loans Act 1956—Section 47 of the Local Authorities Loans Act 1956 is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) Any special rate deemed to have been made under subsection (1) of this section shall be deemed not to have been made upon the rateable value of any rateable property in respect of which the right to make an election under section

164E of the Local Government Act 1974 to pay a lump sum contribution has been exercised by any ratepayer in respect of the work for which the special loan was raised."

31. Amendments to Rating Act 1967—(1) Section 54 (2) of the Rating Act 1967 is hereby amended by inserting, after paragraph (ca) (as inserted by section 57 (1) of the Local Government Amendment Act 1980), the following paragraph:

"(cb) The fact that an election has been made under section 164F of the Local Government Act 1974 to make a lump sum contribution to the capital cost of any works and—

"(i) The estimated or recalculated lump sum contribution, as the case may be:

"(ii) The date or dates on which the contribution is payable and the amounts payable on those dates:

"(iii) The amount of the lump sum contribution that has been received:".

(2) Section 57 (1) of the Rating Act 1967 is hereby amended by inserting, after paragraph (da) (as inserted by section 57 (2) of the Local Government Amendment Act 1980), the following paragraph:

"(db) That any matter required to be included in the rate records under section 54 (2) (cb) of this Act is not so included or has been incorrectly included:".

32. Amendment to Local Elections and Polls Act 1976—Section 37 of the Local Elections and Polls Act 1976 (as substituted by section 15 (1) of the Local Elections and Polls Amendment Act 1982) is hereby amended by inserting, after paragraph (c), the following paragraph:

"(ca) In the case of an election relating to a ward or community, the elector has qualified as an elector and the name of the elector is entered on a roll for the territorial authority in whose district the ward or community is situated, but is not entered on a roll in respect of that ward or community; or".

SCHEDULES

Section 11 (2) FIRST SCHEDULE

"SCHEDULE 5A

Section 164F "FORM RELATING TO LUMP SUM CONTRIBUTIONS

[*Name of ratepayer*]
[*Address of ratepayer*]

1. You are the ratepayer for the property included in valuation assessment No. ....., the address and legal description of which is: [*Insert address and legal description of property*].

2. This property is in an area where the [*Insert name of Council*] has resolved to [*Insert a description of the proposed work*].

3. To finance the work, the Council has resolved, in accordance with section 164C of the Local Government Act 1974, to give all ratepayers in the area the option to pay their share of the capital cost of the work, by means of a lump sum contribution rather than by means of separate rates or uniform annual charges.

4. You may exercise that option during the period commencing with [*Date*] and ending with the close of [*Date which must be at least 2 months after the date of the notice*].

5. The amount of the lump sum contribution in respect of your property is estimated to be $....., and if you choose to make a lump sum contribution, this is the amount you will be initially asked to pay. If you choose to make a lump sum contribution the Council has the power to require it to be paid in one payment or by instalments, after giving you 3 months' notice.

   When the work is completed and the final costs and extent of subsidies actually received are known the contribution will be reassessed, and either you will be required to pay a further amount or you will receive a refund of any excess.

   THE AMOUNT SHOWN AS THE LUMP SUM CONTRIBUTION IN RESPECT OF YOUR PROPERTY IS THEREFORE AN ESTIMATE ONLY

6. If you do not choose to make a lump sum contribution in respect of your property it will be subject to [*a separate rate*] [*a uniform charge*] to finance the capital cost of the work.

   [*Delete whichever of the following sentences is inapplicable*]

   The separate rate based on the current rateable value of [*Insert rateable value*] your property is estimated at not less than [*Insert amount*] for [*Insert number of years*]

   [*or*]

   The uniform annual charge is estimated at not less than [*Insert amount*] for [*Insert number of years*].

7. The separate rate or uniform annual charge detailed above is calculated as that necessary to meet the capital costs of the scheme (including the annual charges on any loan which the Council may need to raise to finance the scheme) if no lump sum contributions were made.

The final rate or uniform annual charge depends upon the rate of interest applying during the currency of the loan, the extent of any subsidies actually received, and the final capital cost of the works. [*Delete either or both of the following sentences if inapplicable.*]

In the case of a separate rate, the effect on your property could also vary as a result of any change in its valuation.

In the case of a system of lump sum contributions based on equal contributions from all separately rateable properties in the area of benefit in accordance with section 164D (1) (b) of the Local Government Act 1974, the [*separate rate*] [*uniform annual charge*] in respect of your property could also vary according to the values of the properties in respect of which payments are made.

THE AMOUNTS SHOWN AS LIKELY SEPARATE RATES OR UNIFORM ANNUAL CHARGES ARE THEREFORE ESTIMATES ONLY

8. Please note that the amounts shown in paragraphs 5 and 6 are for the capital cost of the work only and do not cover maintenance and operating costs. Whatever decision you make on the question of a lump sum contribution, your property will be subject to any rates or uniform annual charges struck to cover the maintenance and operation of the works.

9. To make an election please sign the enclosed slip and return it to the Council. If you post it please make sure this is done in time for it to be received not later than [*Insert second date given in paragraph 4*].

10. Whatever decision you make will be binding on everyone who, now or in the future, is or will be liable to pay rates in respect of the property.

11. If you elect to make a lump sum contribution you cannot change your decision after [*Insert second date given in paragraph 4*]. If the scheme proceeds you will be given at least 3 months notice of when payment is due, and if you do not pay the amount required on or before the due date or due dates you may be charged a penalty of up to 10 percent.

12. By electing to make a lump sum contribution to the capital cost of the work if it proceeds you are not surrendering any rights to object to the proposed work or to object to any loan being raised for the work.

13. If you do not return the slip and the work proceeds [*a separate rate*] [*a uniform annual charge*] will apply to your property as indicated in paragraph 6. You may apply to the Council to change to a lump sum capital contribution before any loan is raised, but any such change is at the discretion of the Council.

14. If you have any questions relating to your right to elect to make a lump sum contribution in respect of the work please contact [*Name or designation of council officer*] at [*Address and telephone number of officer*].

Dated this day of 19

.....
(Title of principal administrative officer)

(Name of territorial authority)

(Principal Administrative Officer)
(Territorial Authority)

In respect of the property at [*Insert address*], of which I am the ratepayer, I elect to make a lump sum contribution towards the capital costs of the [*Insert description of works*].

.....
(Signature of ratepayer or authorised agent)

Section 28 (1), (2)

SECOND SCHEDULE

ENACTMENTS AMENDED

Part I—Amendments to Principal Act

Provision of Principal Act Amended	Amendment
Section 2 (1)	By omitting from paragraph (c) of the definition of the term "local authority" the words "to the County of Fiord or": By omitting from the definition of the term "territorial authority" the words "or to land in the County of Fiord".
Section 270 (1) (as enacted by section 2 of the Local Government Amendment Act 1978)	By omitting from the definition of the term "council" the words "or to land in the County of Fiord".
Section 306 (as enacted by section 2 of the Local Government Amendment Act 1978)	By omitting from subsection (3) (d) the words "in the County of Fiord or": By omitting from subsection (4) the words "land in the County of Fiord or".
Section 315 (1) (as enacted by section 2 of the Local Government Amendment Act 1978)	By omitting from the definition of the term "council" the words "or to land in the County of Fiord".
Seventh Schedule (as inserted by section 7 (1) (b) of the Local Government Amendment Act (No. 3) 1977)	By omitting from clause 20 the words "Fiord County".

SECOND SCHEDULE—*continued*

Part II—Amendments to Other Acts

Amended Act	Amendment
1908, No. 199—The Tramways Act (1957 Reprint, Vol. 15, p. 855)	By repealing section 5.
1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)	By omitting from the definition of the term "local authority" in section 45 (as substituted by section 8 of the Local Government Amendment Act 1979) the words "the County of Fiord and to".
1953, No. 118—The National Roads Act 1953 (R.S. Vol. 3, p. 801)	By omitting from the definition of the term "local authority" the words "; and in respect of any county where the whole of the Counties Act 1956 is not in force includes the Minister".
1962, No. 36—The Civil Defence Act 1962 (Reprinted 1976, Vol. 3, p. 2379)	By omitting from the definition of the term "local authority" in section 2 (as amended by section 2 (3) of the Civil Defence Amendment Act 1975) the words "; and, in relation to the County of Fiord, means the Minister of Works and Development".
1975, No. 39—The Civil Defence Amendment Act 1975 (Reprinted 1976, Vol. 3, p. 2440)	By repealing section 2 (3).
1977, No. 111—The Wild Animal Control Act 1977	By omitting from paragraph (b) of the definition of the term "local authority" in section 2 the words "the County of Fiord and".
1978 No. 15—The Noxious Plants Act 1978	By omitting from the definition of the term "local authority" in section 2 (1) the words "the County of Fiord and"
1981, No. 35—The Public Works Act 1981	By omitting from the definition of the term "territorial authority" in section 2 the words "or to any land in the County of Fiord".

This Act is administered in the Department of Internal Affairs.