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1953, No. 110

AN ACT to consolidate and amend the law relating to the review and reorganization of the districts and functions of local authorities. [27 November 1953] Title.

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

1. (1) This Act may be cited as the Local Government Commission Act 1953. Short Title.

(2) This Act shall come into force on the first day of March, nineteen hundred and fifty-four.

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

“ Appeal Authority ” means the Local Government Appeal Authority appointed under this Act: Cf. 1946, No. 28, s. 2

“ Association ” means the Municipal Association of New Zealand Incorporated, the New Zealand Counties Association Incorporated, the New Zealand Drainage and River Boards Association, the New Zealand Catchment Boards Association, the New Zealand Fire Boards Association, the Harbours Association of New Zealand, the Hospital Boards’ Association of New Zealand, and such other bodies as are from time to time declared by the Governor-General by Order in Council to be Associations for the purposes of this Act: Cf. 1949, No. 18, s. 86

“ Commission ” means the Local Government Commission established under this Act: Cf. 1951, No. 81, s. 10 (4)

“ District ” means the district of a local authority:

“ Local authority ” means a County Council, Borough Council, Town Board, Road Board, River Board, Drainage Board, Catchment

Board, Milk Authority, Water Supply Board, Urban Fire Authority, Harbour Board, Hospital Board, Tramway Board, Transport Board, and such other local authorities or public bodies as are from time to time declared by the Governor-General by Order in Council to be local authorities for the purposes of this Act:

“Local governing authority” means a County Council, Borough Council, or Town Board, or the Board of a road district situated in any county in which the Counties Act 1920 is suspended or is not in force:

“Minister” means the Minister of Internal Affairs:

“Nominating Association” means an Association that is for the time being declared by the Governor-General by Order in Council to be a nominating Association for the purposes of this Act:

“Scheme” means a reorganization scheme as provided for in this Act:

“Trading undertaking” means any tramway service, ferry service, or other service for the conveyance of passengers or goods, any gas or electric light undertaking, any power supply undertaking, any milk supply undertaking, and such other undertakings as may from time to time be declared by the Governor-General by Order in Council to be trading undertakings for the purposes of this Act.

## PART I

### REORGANIZATION SCHEMES

#### *Local Government Commission*

**3.** (1) For the purposes of this Act there shall be a Commission, to be called the Local Government Commission.

(2) The Commission shall consist of three members to be appointed by the Governor-General in Council on the recommendation of the Minister, of whom—

(a) One member shall be appointed as Chairman of the Commission:

See Reprint  
of Statutes,  
Vol. V, p. 180

Local  
Government  
Commission.  
*Cf.* 1946, No. 28,  
s. 3

(b) Two members shall be appointed from a panel of persons nominated by the nominating Associations, each of which Associations may from time to time nominate one person for that panel. One of the persons appointed under this paragraph shall be a person having special knowledge of urban local government, and the other shall be a person having special knowledge of rural local government.

(3) The powers of the Commission shall not be affected by any vacancy in its membership.

(4) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1912 or the Superannuation Act 1947 by reason of his being a member of the Commission.

See Reprint  
of Statutes,  
Vol. VII, p. 522  
1947, No. 57

4. (1) Except as otherwise provided in this Act, every member of the Commission shall be appointed for such term, not exceeding three years, as the Governor-General in Council thinks fit, and may from time to time be reappointed.

Term of office  
of members  
of Commission.  
Cf. 1946, No. 28,  
ss. 4, 5

(2) Notwithstanding that the term of office of a member of the Commission has expired, he shall, unless he sooner vacates his office under section six of this Act, continue to hold office until his successor comes into office.

5. Before entering upon the exercise of the duties of their office the members of the Commission shall take and subscribe an oath before a Judge of the Supreme Court that they will faithfully and impartially perform the duties of their office.

Oath to be  
taken by  
members of  
Commission.  
Cf. *ibid.*, s. 6

6. (1) Any member of the Commission may at any time be removed from office by the Governor-General in Council for inefficiency, disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General in Council, or may at any time resign his office by writing addressed to the Minister.

Extraordinary  
vacancies.  
Cf. *ibid.*, s. 7

(2) If any member of the Commission dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) In the case of any extraordinary vacancy the Governor-General in Council may appoint some qualified person to be a member of the Commission for the residue

of the term for which the vacating member was appointed. Every such appointment shall be made in the same manner as the appointment of the vacating member.

Deputies of  
members.  
*Cf.* 1946, No. 28,  
s. 8

7. (1) In any case in which the Governor-General in Council is satisfied that any member of the Commission is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General in Council may, in the manner in which that member was appointed, appoint a qualified person to be a deputy to act for the member during his incapacity, and any such deputy shall, while he acts as such, be deemed to be a member of the Commission and (if he is the deputy of the Chairman) to be the Chairman of the Commission.

(2) No such appointment of a deputy and no acts done by a deputy as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Remuneration  
and travelling  
expenses.  
*Cf.* *ibid.*, s. 25  
1951, No. 79

8. There shall be paid out of moneys appropriated by Parliament for the purpose to the members of the Commission remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the Commission were a statutory Board within the meaning of that Act.

Meetings of  
Commission.  
*Cf.* 1946, No. 28,  
s. 9

9. (1) Meetings of the Commission shall be held at such times and places as the Commission or the Chairman thereof from time to time appoints.

(2) At all meetings of the Commission the Chairman and one other member shall form a quorum.

(3) At any meeting of the Commission the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote. The decision of the Commission on any matter shall be determined by a majority of the valid votes recorded thereon.

(4) Subject to the provisions of this Act and of any regulations made under this Act, the Commission may regulate its procedure in such manner as it thinks fit.

**10.** (1) The Commission shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act and of any regulations made under this Act, all the provisions of that Act shall apply accordingly.

Commission to be a Commission of Inquiry.  
*Cf.* 1946, No. 28, s. 10

(2) The Chairman of the Commission, or any other member or the Secretary of the Commission purporting to act by direction or with the authority of the Chairman, may issue summonses requiring the attendance of witnesses before the Commission, or the production of documents, or may do any other act preliminary or incidental to the hearing of any matter by the Commission.

See Reprint of Statutes, Vol. I, p. 1036

**11.** No proceeding of the Commission under this Act shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Commission under this Act shall be liable to be challenged, reviewed, quashed, or called into question in any Court, but there shall be a right of appeal to the Local Government Appeal Authority as hereinafter provided.

Proceedings before Commission not to be questioned except before Local Government Appeal Authority.

**12.** (1) The Secretary of the Commission and any other member of the staff of the Commission may from time to time investigate and report to the Commission on such matters as the Commission directs.

Commission may direct investigations.  
*Cf.* 1946, No. 28, s. 11

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding twenty pounds who, having the custody or possession of any books, papers, accounts, or documents, refuses or fails to allow to have access thereto any person investigating any matter under this section, or who obstructs any such person in the making of the investigation.

**13.** (1) The functions of the Commission shall be to review from time to time the functions and districts of local authorities and, when requested to do so under the provisions of this Act, to inquire into proposals and prepare schemes for the reorganization thereof, and generally to review and to report to the Minister upon such matters relating to local government as may be determined by the Commission or referred to it by the Minister.

Functions of Commission.  
*Cf.* *ibid.*, s. 12

(2) For the purpose of reviewing any such matter relating to local government the Commission may in its discretion hold a public inquiry, and in every such case

the provisions of section seventeen of this Act shall apply as if that inquiry were a public inquiry to which that section applies.

*Schemes for Reorganization*

Matters to be provided for in reorganization schemes.

*Cf.* 1946, No. 28, s. 13

*Cf.* 1947, No. 60, s. 37

*Cf.* 1950, No. 91, s. 20

**14.** (1) A reorganization scheme under this Act may provide for one or more of the following matters:

- (a) The union into one district of two or more adjoining districts, whether districts of the same kind or not:
- (b) The merger of any district in any other district:
- (c) The constitution of a new district or districts:
- (d) The abolition of any district or districts:
- (e) Any alteration of the boundaries of adjoining districts:
- (f) The conversion of a district into a district of a different kind:
- (g) The inclusion in any district of any area adjoining that district:
- (h) The exclusion of any area from any district:
- (i) The transfer of all or any of the functions of any local authority, or all or any of the functions of any local authority exercisable in any portion of its district or elsewhere, to any other local authority:
- (j) The dissolution of any local authority.

(2) A scheme providing for any of the aforesaid matters may also provide for any other matters that may be declared by the Governor-General by Order in Council to be appropriate to such a scheme, and may also provide for any matters incidental to the scheme.

(3) No scheme shall provide for the transfer of the whole or any part of any trading undertaking or of any functions in relation thereto from any local governing authority except upon the union, merger, or abolition of the district of the local governing authority.

(4) Any two or more districts shall be deemed to be adjoining districts and any area shall be deemed to adjoin a district for the purposes of this Act, notwithstanding that they may be separated by a road, any river or harbour, the sea, or any other natural feature.

15. (1) The Commission may from time to time, at the request of the Minister or of any local authority, consider a proposal that a reorganization scheme should be prepared in respect of any district or districts or any area or areas, and, if a scheme is to be prepared, the matters to be provided for in the scheme.

*Commission may investigate proposals for a scheme.*

*Cf. 1946, No. 28, ss. 14, 24*

(2) Where a request is made under any enactment other than this Act to the Governor-General or to any local authority or other person, whether by petition or in such other manner as may be prescribed or permissible, asking for any action to be taken for the purpose of or with a view to giving effect to any proposals which could be provided for in a scheme under this Act, the request shall be referred to the Commission, and no such action shall be taken under the enactment unless the Commission so recommends.

(3) Where the Commission does not make any such recommendations in respect of any such proposals, the Commission shall deal with the request as if it were a request made under subsection one of this section.

(4) Subsections two and three of this section shall be read subject to the provisions of section seven of the Electric Power Boards Amendment Act 1952.

1952, No. 74

16. (1) Where the Commission decides to consider any such proposal as aforesaid, it shall, in such manner as it thinks fit, ascertain whether or not all local authorities likely in the opinion of the Commission to be affected by the proposal are in agreement on the proposal.

*Commission to investigate possibility of agreement on proposal.*

(2) Where the Commission considers that no such agreement exists, it shall convene a meeting of representatives of all the local authorities likely in the opinion of the Commission to be affected by the proposal, for the purpose of discussing the proposal and of negotiating an agreement thereon.

(3) Any one or more members of the Commission may represent the Commission at that meeting, which shall be presided over by the Chairman of the Commission or in his absence by some other member of the Commission appointed by him.

(4) After the Commission has ascertained in accordance with the foregoing provisions of this section whether or not agreement can be reached by the local authorities likely to be affected by the proposal, the

Commission may undertake, in such manner as it thinks fit, further investigations and negotiations in relation to the proposal, separately or jointly with one or more local authorities or other interested persons.

(5) After the Commission has completed its investigations and negotiations in accordance with the foregoing provisions of this section, it may, in its discretion,—

- (a) Prepare a provisional reorganization scheme providing for all or any matters to which the proposal relates; or
- (b) Hold a public inquiry as to whether or not a scheme should be prepared; or
- (c) Decide not to proceed with the proposal.

Notice to be given of every public inquiry.  
Cf. 1946,  
No. 28, s. 15

**17.** (1) Not less than one month before it commences any such public inquiry the Commission shall give public notice thereof. Every such notice shall state that representations on the matters to be inquired into may be made by any person either in writing or at the inquiry.

(2) The Commission shall also give notice of every public inquiry to the Minister, to the local authority of every district likely in the opinion of the Commission to be affected by the inquiry, and to every person or body having statutory authority to make decisions or recommendations in respect of the union, merger, constitution, alteration, or abolition of any of those districts:

Provided that the failure to give notice to any such person or body shall not affect the validity of any scheme prepared as a result of the inquiry.

Provisional scheme may be prepared.  
Cf. *ibid.*, s. 16  
(1)

**18.** After completing any such public inquiry the Commission may, if it thinks fit, prepare a provisional reorganization scheme providing for all or any of the matters inquired into.

Public notice of scheme to be given.  
Cf. *ibid.*, s. 16  
(2)

**19.** As soon as a provisional scheme has been approved by the Commission, the Commission shall give public notice of the scheme and of the place or places where it may be inspected and of the right of objection hereinafter provided for, and shall also give notice thereof to the persons and bodies referred to in subsection two of section seventeen of this Act.

**20.** (1) Any person or body interested and, where a public inquiry has been held, any party to the inquiry as a result of which any provisional scheme is prepared, shall have a right of objection to the scheme, and may give notice in writing to the Commission of the objection and of the grounds thereof at any time within one month after the first public notification of the scheme, or within such further time as may in any case be allowed by the Commission.

Objections to provisional scheme.  
*Cf.* 1946, No. 28, s. 17

(2) The Commission shall as soon as practicable consider all such objections, and may, if it thinks fit, hold a public inquiry or a further public inquiry, as the case may be, for that purpose.

(3) On the holding of any public inquiry under subsection two of this section the Commission shall consider all objections to the provisional scheme and such other evidence submitted as the Commission considers relevant to the matters being inquired into.

(4) On the determination of any such objection the Commission may uphold the objection wholly or partly, and may abandon or modify the scheme accordingly, or may dismiss the objection:

Provided that the Commission may, if it thinks fit, prepare and approve a further provisional scheme in substitution for that to which objection has been made. All the provisions of this Act with respect to provisional schemes shall apply with respect to every substituted scheme so prepared and approved.

**21.** After all objections to any provisional scheme have been disposed of the Commission may finally approve the scheme, which shall then become a final scheme.

Final scheme.  
*Cf.* *ibid.*, s. 18

**22.** (1) Where any provisional or final reorganization scheme contains a proposal—

Poll of electors required in certain cases.  
*Cf.* *ibid.*, s. 19

(a) For the union, merger, or abolition of the district of any local governing authority; or

(b) For the exclusion of any area from the district of any local governing authority, whether by the constitution of a new district or by the alteration of the boundaries of any district or districts,—

the Commission may, if it thinks fit, include in the scheme a recommendation that a poll of the electors of that district or that area, as the case may be, should be taken on the proposal.

(2) Where any final reorganization scheme contains any such proposal as is mentioned in subsection one of this section, but does not contain a recommendation that a poll of the electors of the district or area be taken on the proposal, a request in writing that such a poll be taken, signed by not less than five per cent of the electors of the district or area, as the case may be, may be delivered to the Returning Officer of the district or, as the case may be, the district of which the area forms part, at any time within one month after the last day for lodging appeals against the decision of the Commission under section thirty-three of this Act, or, in any case where an appeal against the decision is made to the Local Government Appeal Authority, within one month after the date of the decision of the Appeal Authority.

(3) For the purposes of subsection two of this section—

(a) The number of electors of any district or of any riding, ward, or other subdivision shall be the number of electors on the roll of that district, riding, ward, or subdivision:

(b) The number of electors of any area that is not a riding, ward, or other subdivision shall be the number of electors on the roll of the district of which that area forms part who possess a qualification in respect of that area— as stated in each case in a certificate by the Clerk of the local authority, whose certificate shall be final.

(4) Every poll of the electors of any district or of any area that is recommended in any final scheme or is requested in accordance with this section shall be taken on a day to be appointed in that behalf by the local authority of the district or, as the case may be, of the district of which the area forms part, being not later than three months after the last day for lodging appeals against the decision of the Commission under section thirty-three of this Act, or, in any case where an appeal against the decision is made to the Appeal Authority, within three months after the date of the decision of the Appeal Authority.

(5) Subject to the provisions of this section, the provisions of the Local Elections and Polls Act 1953 shall, as far as they are applicable, apply to every poll under this section.

(6) Where any such poll is required to be taken of the electors of any area that forms a part of the district of a local governing authority and is not a riding or ward or other subdivision, a special roll shall be prepared comprising the names of all persons in that part entitled to vote at any election of the members of the local governing authority; and that roll shall be prepared—

(a) By preparing a separate roll for the purpose;  
or

(b) By striking out from an official copy of the roll of electors of the local governing authority the name of every person who is not entitled to vote at the poll, and the name of every other person whose name appears on the roll more than once (except where that name first appears); or

(c) By indicating by appropriate words, abbreviations, or marks on an official copy of the roll of electors of the local governing authority the name of every person whose name appears on the roll and who is entitled to vote at the poll.

(7) Notwithstanding anything in any other Act, every elector shall have one vote only at each poll at which he is entitled to vote under this section.

(8) Where a final reorganization scheme relating to an area that forms a part of the district of a local governing authority has been approved by the Commission before the commencement of this Act but no Order in Council to give effect thereto has been made before the commencement of this Act, a request under subsection two of this section may be made within one month after the commencement of this Act that a poll of electors be taken on any proposal contained in the scheme, and in every such case a poll of electors shall be taken accordingly under this section within three months after the commencement of this Act.

**23.** (1) Effect shall not be given to any scheme in so far as it relates to any proposal on which a poll of electors is required to be taken or two or more polls are required to be taken as provided in section twenty-two of this Act if not less than sixty per cent of the valid votes recorded at any such poll are against the proposal.

Scheme not to be carried into effect if rejected by sixty per cent of voters.

*Cf.* 1946, No. 28, s. 20

(2) Every Returning Officer who conducts a poll under section twenty-two of this Act shall, as soon as practicable after the close of the poll, send to the Secretary for Internal Affairs a certificate stating the number of valid votes recorded for the proposal, and the number of valid votes recorded against the proposal.

Minister may refer scheme back to Commission for review.

**24.** (1) Where any proposal contained in a final reorganization scheme is rejected as aforesaid at a poll of electors, and the Minister considers that as a result other parts of the scheme or any related scheme may require to be reviewed, he may refer that scheme or any related scheme back to the Commission for further consideration.

(2) In any such case the Commission, in its discretion, may recommend that those other parts of the scheme or the related scheme be proceeded with or be not proceeded with or may decide to consider whether some alternative proposal should be investigated, and thereupon the appropriate provisions of this Act shall apply accordingly as if a request therefor had been made to the Commission.

## PART II

### APPEALS

#### *Local Government Appeal Authority*

Appointment of Local Government Appeal Authority.

**25.** (1) The Governor-General in Council may from time to time appoint a suitable person to be the Local Government Appeal Authority for the purposes of this Act.

(2) Subject to the provisions of subsection eight of this section, no person other than a barrister or solicitor of not less than seven years' standing of the Supreme Court shall be appointed to be the Appeal Authority.

(3) Any person appointed under this section to be the Appeal Authority shall hold that office concurrently with any other office held by him.

(4) The appointment of the Appeal Authority shall, so long as this section remains in force, continue in full force during good behaviour.

(5) It shall be lawful for the Governor-General in Council, upon the address of the House of Representatives, to remove the Appeal Authority from his office and to revoke his appointment, or to suspend the Appeal Authority upon a like address.

(6) It shall be lawful for the Governor-General in Council, at any time when Parliament is not in session, to suspend the Appeal Authority from his office, and that suspension, unless previously revoked, shall continue in force until the end of the next ensuing session and no longer.

(7) The Appeal Authority shall retire from office on attaining the age of seventy-two years; and on that retirement shall, if he has held office for any term as mentioned in section twenty-six of this Act, be entitled to the appropriate superannuation allowance provided in that section.

(8) Notwithstanding anything in the foregoing provisions of this section, the Governor-General in Council may appoint a Judge of the Supreme Court to be the Appeal Authority.

(9) If and so long as a Judge of the Supreme Court holds office as the Appeal Authority under subsection eight of this section, he shall, for the purposes of section eleven of the Judicature Act 1908, be deemed to be absent from his office as a Judge of the Supreme Court, and a Judge may be appointed in his stead, pursuant to that section, to hold office during the pleasure of the Governor-General:

See Reprint  
of Statutes,  
Vol. II, p. 63

Provided that nothing herein shall be construed to deprive the Appeal Authority, in any such case, of power to exercise any jurisdiction as a Judge of the Supreme Court.

(10) Where the Appeal Authority becomes from any cause incapable of acting or where the Appeal Authority deems it not proper or desirable that he should adjudicate on any specified appeal, the Governor-General in Council may appoint a suitable person to be the Deputy Local Government Appeal Authority. The person so appointed shall, subject to the conditions or limitations and for the period specified in his appointment, have all the powers, duties, and functions of the Appeal Authority.

(11) The fact that any person is acting as the deputy of the Appeal Authority shall be conclusive evidence of his authority so to do, and no person shall be concerned to inquire whether the occasion for his appointment had arisen or ceased.

(12) No person shall be appointed a deputy of the Appeal Authority under this section unless he is eligible for appointment as the Appeal Authority.

Salary,  
allowances, and  
superannuation  
of Appeal  
Authority.

26. (1) There shall be payable to the Appeal Authority out of the Consolidated Fund, without further appropriation than this section, the annual salary of two thousand two hundred and fifty pounds, together with such travelling allowances as shall be fixed from time to time by the Governor-General in Council.

(2) The salary of the Appeal Authority shall not be diminished during the continuance of his appointment.

(3) Every Appeal Authority holding office during good behaviour who resigns his office after having attained the age of sixty years, or who in the opinion of the Governor-General in Council becomes incapable of performing the duties of his office by reason of any permanent infirmity, shall be entitled to a superannuation allowance in proportion to the amount of his annual salary at the time of resigning or becoming incapable at the following rate, that is to say:

After he has held office for not less than ten years, to an annual allowance of six twenty-fourths of that salary increased by one twenty-fourth of that salary for each complete year (if any) during which he has held office in excess of ten years, but not exceeding in any case an allowance of sixteen twenty-fourths of that salary.

(4) Every Appeal Authority holding office during good behaviour who has held office for a period of less than ten years but not less than five years, and who retires on attaining the age of seventy-two years or satisfies the Governor-General in Council that he has become incapable of performing the duties of his office by reason of any permanent infirmity, and thereupon resigns his office, shall be entitled to a superannuation allowance in proportion to the amount of his annual salary at the time of resigning, computed at the rate of three twenty-fourths of that salary increased by one twenty-fourth

of that salary for each complete year (if any) during which he has held office in excess of five years, but not exceeding in any case an allowance of six twenty-fourths of that salary:

Provided that, if the Governor-General, by Order in Council, so directs in the case of any Appeal Authority, his allowance shall be increased from the commencement thereof, or from such later date as may be specified in the Order (being before or after the date of the Order), to such amount as may be so specified, not exceeding two-ninths of that salary.

(5) The said superannuation allowances shall be paid monthly out of the Consolidated Fund without further appropriation than this section during the natural lives of the several persons entitled thereto.

(6) Nothing in subsection one of this section shall apply with respect to any Appeal Authority who for the time being receives out of public moneys a salary in respect of any office which he holds concurrently with his office as the Appeal Authority, and nothing in subsection three or subsection four of this section shall apply with respect to any person who for the time being receives out of public moneys a superannuation allowance in respect of any office which he held concurrently with his office as the Appeal Authority.

27. Before entering upon the duties of his office, the Appeal Authority (not being a Judge of the Supreme Court) shall take and subscribe an oath before a Judge of the Supreme Court that he will faithfully and impartially perform the duties of his office.

Oath to be taken by Appeal Authority.

28. The functions of the Appeal Authority shall be to sit as a judicial authority to determine appeals made from decisions of the Commission as hereinafter provided.

Functions of Appeal Authority.

29. (1) The Appeal Authority may receive as evidence any statement, document, information, or matter that may in his opinion assist him to deal effectually with the appeal before him, whether or not the same would be otherwise admissible in a Court of law.

Evidence in proceedings before Appeal Authority.

(2) Subject to the foregoing provisions of this section, the Evidence Act 1908 shall apply to the Appeal Authority and to all proceedings before him in the same manner as if that Authority were a Court within the meaning of that Act.

See Reprint of Statutes, Vol. III, p. 106

Appeal  
Authority to be  
a Commission  
of Inquiry.

See Reprint  
of Statutes,  
Vol. II, p. 1036

Proceedings  
before Appeal  
Authority not  
to be questioned  
for want of  
form or  
appealed  
against.

Sittings  
of Appeal  
Authority.

Appeals to  
Appeal  
Authority.

**30.** The Appeal Authority shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act and of any regulations made under this Act, all the provisions of that Act shall apply accordingly.

**31.** Proceedings before the Appeal Authority shall not be held bad for want of form. No appeal shall lie from any order of the Appeal Authority, and, except on the ground of lack of jurisdiction, no proceeding or order of the Appeal Authority shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

**32.** (1) Every sitting of the Appeal Authority shall be held in public and at such place as he deems most convenient having regard to the matters to be decided.

(2) Subject to the provisions of this Act and of any regulations under this Act, the Appeal Authority shall determine his own procedure.

*Appeals to Local Government Appeal Authority*

**33.** (1) There shall be a right of appeal to the Local Government Appeal Authority from the whole or any part of any decision of the Commission finally approving any scheme.

(2) The following persons and no others may appeal as aforesaid, namely:

- (a) Any local authority affected by the scheme, whether in respect of its district or in respect of any of its functions:
- (b) Any person or body having statutory authority to make decisions or recommendations in respect of the union, merger, constitution, alteration, or abolition of any district to which the scheme relates:
- (c) The Minister in any case where the scheme affects only one local authority, or only one local authority and an adjoining area that does not form part of a district, or does not affect any local authority.

(3) Every such appeal shall be made by notice in writing and shall be sent to the Secretary for Internal Affairs within one month after the date of the decision appealed against. Either before or immediately after

the notice of appeal is sent to the Secretary, the appellant shall serve a copy of the notice on the local authority of each district to which the scheme relates.

(4) No proceedings may be taken in respect of the decision appealed against until the final determination of the appeal.

**34.** (1) Where any appeal is made to the Appeal Authority he shall, as soon thereafter as conveniently may be, fix a time and place for the hearing thereof. Hearing and determination of appeal.

(2) Not less than one month before the date fixed for the hearing, the Secretary for Internal Affairs shall give public notice thereof in the *Gazette* and in one or more newspapers circulating in the district or districts likely in his opinion to be affected by the scheme.

(3) The Secretary shall also give notice of the hearing to the local authority of every district likely in his opinion to be affected by the scheme, and to every person or body having statutory authority to make decisions or recommendations in respect of the union, merger, constitution, alteration, or abolition of any of those districts:

Provided that the failure to give notice to any such body or person shall not affect the validity of any decision of the Appeal Authority.

(4) Every local authority likely to be affected by the scheme may be represented at the hearing by its solicitor or counsel or agent, the Crown may be represented by any person appointed in that behalf by the Minister, and any other person may appear at the hearing in person or by his solicitor or counsel or agent, and the Appeal Authority shall hear all evidence tendered and representations made by or on behalf of the local authorities, the Crown, and other persons which he deems relevant to the appeal.

(5) After hearing the evidence and representations as aforesaid, the Appeal Authority shall make an order either allowing the appeal in whole or in part or confirming the scheme subject to amendment or dismissing the appeal:

Provided that no amendment to any scheme may be made by the Appeal Authority that relates to any district or area not included in the scheme.

(6) If the appellant does not prosecute his appeal with due diligence the Appeal Authority may, on the application of any person affected by the appeal, dismiss the appeal.

### PART III

#### PROCEDURE FOR CARRYING SCHEMES INTO EFFECT

Effect to be given to final scheme.

*Cf.* 1946, No. 28, s. 20

**35.** Subject to the provisions of section twenty-three of this Act and to any decision of the Appeal Authority in relation to the scheme, effect shall be given to every final scheme by the Governor-General by Order in Council, or, if the Governor-General so determines, effect shall be given thereto in such manner as may be prescribed by any Act for the time being in force making appropriate provision in that behalf.

Supplementary provisions for giving effect to scheme.

*Cf.* *ibid.*, s. 21

**36.** (1) For the purpose of giving full effect to any provisions of a final scheme, the Governor-General in the Order in Council or other instrument giving effect to the same or in a separate Order in Council may, subject to the provisions of this Act, make such provisions as he deems necessary for the purposes of the district thereby created or altered or for the discharge of the functions of the local authority of the district, or for any other matter rendered necessary through the carrying into effect of the provisions. In particular he may—

- (a) Determine the nature or constitution of any new district or any new local authority:
- (b) Declare that the union, merger, constitution, abolition, or alteration of boundaries of any district or districts shall be deemed to have been effected under any existing Act that he specifies in that behalf:
- (c) Determine the qualifications for electors or ratepayers of a new district or local authority if different qualifications were previously in force in the respective districts comprising the new district:
- (d) Make such provisions as are necessary with respect to the first or any election of Councillors or members of any local authority affected by the scheme:

- (e) Make provision for the apportionment or disposition of the assets and liabilities of all or any of the local authorities affected by the scheme:
- (f) Make provision for the division of any district into ridings, wards, or other subdivisions, as the case may require:
- (g) Where a new district is constituted, make such provisions as are necessary with respect to the discharge of the functions of the local authority pending the first election of Councillors or members of the local authority:
- (h) Prescribe the date or dates on which the provisions or any of them shall come into force.

(2) In exercising the powers conferred by subsection one of this section the Governor-General may apply for the purpose, with such modifications as may be necessary or desirable, any provisions of any Act for the time being in force which in his opinion are appropriate to the particular matter.

(3) No Order in Council or other instrument issued for the purpose of giving effect to any scheme shall affect any separate rate or special rate, and every such rate shall continue to be charged upon the whole of the area upon which it was charged before the issue of the instrument, and shall not by reason thereof become a charge upon any additional area; and the area within which any unexpended loan moneys may be expended shall not be affected by any such instrument.

**37.** (1) An Order in Council or other instrument giving effect to any proposal contained in a final scheme may be issued under the authority of this Act, or of any Act applied for the purpose, notwithstanding that the requirements of any Act, other than this Act, as to the particular matter in relation to which the instrument is issued may not have been complied with.

Exercise of powers conferred by this Act not affected by provisions of other Acts.  
Cf. 1946, No. 28, s. 22

(2) Any such instrument shall, for all purposes not inconsistent with the provisions of this Act, be deemed to have been issued under the authority of such other Act as is named therein as fully and effectually as if the provisions of that Act precedent to the issue of the instrument had been fully complied with.

Powers of local authority on which jurisdiction conferred for purposes of scheme.

*Cf.* 1946, No. 28, s. 23

**38.** In any case where, pursuant to a final scheme,—

(a) Two or more districts of a different kind are united; or

(b) A district is merged in another district or is abolished; or

(c) The functions of any local authority are transferred to another local authority,—

the local authority that, pursuant to the scheme, assumes jurisdiction over an area formerly comprising a separate district, or takes over the functions of a previous local authority, shall have and may exercise, subject to any provisions which the Governor-General may, by Order in Council, make to the contrary, all the powers which were previously exercised by the controlling local authority or would have been so exercised by it if it had remained in existence or in control of the area, and shall be subject to the same duties, obligations, and liabilities as were or would similarly have been imposed on that controlling local authority.

## PART IV

### MISCELLANEOUS PROVISIONS

Notices.

**39.** (1) Any notice required by this Act to be given to a local authority may be given by leaving it at the office of the local authority or by sending it by post addressed to the local authority at its office.

(2) Any notice required by this Act to be given to any other person may be given by delivering it to that person or by posting it in a letter addressed to that person at his usual or last known place of abode or business.

(3) Every notice sent by post shall be deemed to have been delivered when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

**40.** (1) There may from time to time be appointed under the provisions of the Public Service Act 1912 a Secretary of the Commission and such other members of the staff of the Commission as may be required for the purposes of this Act.

(2) Any person may hold any office under this Act in conjunction with any other office in the Public Service.

Officers of Commission.  
*Cf.* *ibid.*, s. 26  
See Reprint of Statutes, Vol. VII, p. 522

**41.** (1) The Commission shall in the month of April in each year furnish to the Minister a report of its proceedings and operations during the year ending with the last preceding thirty-first day of March.

Annual report.  
Cf. 1946, No. 28,  
s. 27

(2) A copy of the report shall be laid before Parliament.

**42.** (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the intent and purposes of this Act.

Regulations.  
Cf. *ibid.*, s. 28

(2) All regulations made under this section shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

**43.** (1) The enactments specified in the Schedule to this Act are hereby repealed.

Repeals and  
savings.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, but subject to the provisions of subsection three of this section, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

See Reprint  
of Statutes,  
Vol. VIII,  
p. 568

(3) This Act shall apply with respect to every inquiry under the Local Government Commission Act 1946 commenced but not completed by the Commission at the commencement of this Act, and to every reorganization scheme which has been approved by the Commission but not given effect to at the commencement of this Act, and all such inquiries shall be continued and completed and all such schemes may be given effect to under this Act:

1946, No. 28

Provided that nothing in this Act shall be deemed to confer on any local authority or other person or body any right of appeal against any decision of the Commission made before the commencement of this Act.

Schedule.

**SCHEDULE**

Section 43 (1)

**ENACTMENTS REPEALED**

1946, No. 28—

The Local Government Commission Act 1946.

1947, No. 60—

The Statutes Amendment Act 1947: Section 37.

1949, No. 18—

The Fire Services Act 1949: So much of the Fifth Schedule as relates to the Local Government Commission Act 1946.

1950, No. 91—

The Statutes Amendment Act 1950: Section 20.

1951, No. 78—

The Finance Act 1951: Section 13.

1951, No. 79—

The Fees and Travelling Allowances Act 1951: So much of the First Schedule as relates to the Local Government Commission and so much of the Second Schedule as relates to the Local Government Commission Act 1946.

1952, No. 81—

The Finance Act (No. 2) 1952: Section 10.

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