



ANALYSIS

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1967, No. 134

An Act to consolidate and amend the law relating to the reorganisation of the districts and functions of local authorities
 [24 November 1967]

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 Commission Act 1967.

(2) This Act shall come into force on the first day of January, nineteen hundred and sixty-eight.

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

“Area scheme” means a local government area scheme prepared under Part II of this Act:

“Commission” means the Local Government Commission established under this Act:

“District” means the district of a local authority:

“Local authority” means—

(a) Every local authority or public body of any of the classes for the time being specified in Part I of the First Schedule to this Act:

(b) Every local authority or public body for the time being referred to in Part II of the First Schedule to this Act:

“Local government area” means a local government area declared by the Commission under Part II of this Act:

“Local scheme” means a local scheme prepared under Part III of this Act or prepared under the corresponding provisions of any former Act and continuing in force under this Act:

“Minister” means the Minister of Internal Affairs:

“Scheme” means an area scheme or a local scheme, as the case requires:

“Territorial local authority” means a County Council, Borough Council, or Town Council, or the Waiheke Road Board:

“Trading undertaking” means any road transport service, ferry service, or other service for the conveyance of passengers or goods, any gas undertaking, any 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.

(2) The Governor-General may from time to time, by Order in Council, amend the First Schedule to this Act by including therein the name of any class of local authorities or public bodies or the name of any specified local authority or public body.

Cf. 1961, No. 132, s. 2

PART I

THE LOCAL GOVERNMENT COMMISSION

3. The Local Government Commission—(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, of whom—

(a) One member, being a person having a special knowledge of local government, shall be appointed as Chairman of the Commission:

(b) One member shall be appointed as having a special knowledge of finance and economics:

(c) One member shall be appointed as having a special knowledge of administration.

(3) Where any person appointed to the Commission is a member of or an office holder in or an employee of any local authority or association of local authorities or of local authority employees, he shall relinquish that membership or office or employment before entering upon his duties as a member of the Commission.

(4) Any member of the Commission who after appointment becomes a member of or an office holder in or an employee of any local authority or association of local authorities or of local authority employees shall thereupon cease to be a member of the Commission, and the vacancy shall be

deemed to be an extraordinary vacancy and the provisions of section 6 of this Act shall apply accordingly.

(5) For the purposes of subsections (3) and (4) of this section, any person who receives any remuneration from any local authority or association of local authorities or of local authority employees, whether or not as an officer or servant of that local authority or association, and whether by way of salary, wages, fee, commission, allowance, or otherwise, shall be deemed to be an employee of that local authority or association.

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

(7) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of his being a member of the Commission or of any committee appointed under section 30 of this Act.

Cf. 1961, No. 132, s. 3

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

Cf. 1961, No. 132, s. 4

5. Oath to be taken by members of Commission—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.

Cf. 1961, No. 132, s. 5

6. Extraordinary vacancies—(1) Any member of the Commission may at any time be removed from office by the Governor-General in Council for inefficiency, disability, bankruptcy, 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.

(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.

Cf. 1961, No. 132, s. 6

7. Deputies—(1) The Governor-General in Council may from time to time appoint one of the members of the Commission to be the Deputy Chairman thereof.

(2) Subject to the provisions of subsection (4) of this section, the Deputy Chairman shall have and may exercise and perform all the powers and duties of the Chairman—

(a) With the consent of the Chairman, at any time during the temporary absence of the Chairman:

(b) Without that consent, at any time while the Chairman is temporarily incapacitated or prevented by illness or other cause from performing the duties of his office:

(c) While there is any vacancy in the office of the Chairman.

(3) No acts done by the Deputy Chairman acting as the Chairman shall in any proceedings be questioned on the ground that the occasion for his so acting had not arisen or had ceased.

(4) In any case in which the Governor-General in Council is satisfied that any member of the Commission is incapacitated or prevented by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General in Council may appoint a person qualified for appointment to the office of that member to be a deputy to act for the member while he is so incapacitated or prevented as aforesaid, 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 and notwithstanding that there is a Deputy Chairman of the Commission under subsection (1) of this section, to be the Chairman of the Commission.

(5) 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.

Cf. 1961, No. 132, s. 7

8. Remuneration and travelling expenses—There shall be paid out of money 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.

Cf. 1961, No. 132, s. 8

9. Meetings of Commission—(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 two members, including the Chairman or the Deputy Chairman acting as the Chairman, 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, the Commission may regulate its procedure in such manner as it thinks fit.

Cf. 1961, No. 132, s. 9

10. Commission to be a Commission of Inquiry—(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, the provisions of that Act (except section 4A and sections 11 to 14), as far as they are applicable, shall apply accordingly.

(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 investigation or consideration of any matter by the Commission.

Cf. 1961, No. 132, s. 10

11. Evidence in proceedings before Commission—(1) The Commission may receive as evidence any statement, document, information, or matter that may in its opinion assist

it to deal effectively with the matter being dealt with, whether or not the same would be otherwise admissible in a Court of law.

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

12. Functions of Commission—The functions of the Commission shall be to carry out all such investigations, prepare all such schemes, and make all such recommendations and reports as are required or authorised by this Act, for the purpose of ensuring that—

- (a) The system of local government in any area or locality shall be such as best provides or will best provide for the needs and continued development of that area or locality:
- (b) Local authorities have such district boundaries and such functions and powers as are necessary or expedient to enable them to provide most effectively and economically essential or desirable local government services and facilities:
- (c) Local authorities shall have such resources as will enable them to engage adequate services and to obtain and operate adequate technical facilities, plant, and equipment:
- (d) Districts shall be of such size and nature as will promote efficient local government and avoid the necessity of uneconomic expenditure:
- (e) The purposes and provisions of this Act and of any other Act in relation to local government or any aspect thereof are effectively implemented.

Cf. 1961, No. 132, s. 12

13. Commission may direct investigations—(1) The Secretary of the Commission or any other person authorised by the Secretary may from time to time investigate and report to the Commission on such matters as the Commission directs.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars who, having the custody or possession of any books, papers, accounts, or documents that are relevant to the

investigation, refuses or fails to allow to have access thereto any person investigating any matter under subsection (1) of this section, or who obstructs any such person in the making of the investigation.

Cf. 1961, No. 132, s. 13

14. Appeal against determination of Commission—

(1) Where any party to the proceedings or the Minister is dissatisfied with any determination or decision of the Commission in any proceedings before the Commission as being erroneous in point of law, he may, with the leave of the Commission, appeal to the Supreme Court by way of case stated for the opinion of that Court on a question of law only:

Provided that the Minister may not appeal as aforesaid in respect of a determination or decision of the Commission in relation to any local scheme, unless the scheme affects only one local authority, or only one local authority and an area that does not form part of a district, or does not affect any local authority:

Provided also that if the Commission refuses to grant leave to appeal to the Supreme Court, the Supreme Court or a Judge thereof may grant special leave to appeal.

(2) The provisions of Part IV of the Summary Proceedings Act 1957, so far as they relate to appeals by way of case stated on questions of law only, shall apply, so far as they are applicable, to every appeal under subsection (1) of this section. In the application of those provisions, they shall be read as if—

- (a) References to the Magistrate's Court or to the Magistrate or Justice or Justices were references to the Commission:
- (b) References to the Registrar of the Magistrate's Court were references to the Secretary of the Commission:
- (c) References to the respondent or his solicitor were references to each of the parties to the proceedings before the Commission other than the appellant.

(3) For the purposes of subsections (1) and (2) of this section, every local authority affected by the determination or decision and every objector who has appeared before the Commission in the proceedings shall be deemed to be a party to the proceedings.

(4) Proceedings before the Commission shall not be held bad for want of form, and, except as provided in subsection (1) of this section, no appeal shall lie from any determination or decision of the Commission:

Provided that nothing in this subsection shall be construed—

- (a) To prohibit or restrict the Supreme Court from exercising a supervisory jurisdiction over the Commission on questions of law; or
- (b) To restrict the power of the Commission to refer any disputed question of law to the Supreme Court for decision pursuant to section 10 of the Commissions of Inquiry Act 1908.

PART II

LOCAL GOVERNMENT AREA SCHEMES

15. Commission to prepare area schemes—(1) It shall be the duty of the Commission to prepare a local government area scheme for every part of New Zealand which in its opinion should be constituted a local government area for the purposes of this Act, so that, not later than the thirty-first day of December, nineteen hundred and seventy-two, or as soon thereafter as may be, the local government areas to which the several area schemes (whether provisional or final) then prepared or, as the case may be, in force apply shall together constitute the whole of New Zealand:

Provided that—

- (a) Nothing in this subsection shall apply with respect to any island adjacent to the coasts of New Zealand which is not included in any district, unless the Commission considers it desirable that the island should form part of a local government area:
 - (b) In this subsection the term “New Zealand” does not include the Chatham Islands.
- (2) The Commission shall determine the order in which it shall proceed to prepare area schemes for the several parts of New Zealand.

(3) Every area scheme shall have effect for the purpose of determining the general pattern of local government for the local government area to which local schemes prepared under Part III of this Act shall conform.

16. Procedure for preparation of area schemes—(1) Where the Commission decides to prepare an area scheme for any part of New Zealand which, in its opinion, should constitute a local government area, the Commission shall proceed to investigate the existing structure of local government in that

part, and shall consult with all local authorities whose district or any part thereof is situated therein and with such other bodies and persons as the Commission thinks fit or which or who make representations to it.

(2) In carrying out the function of consultation pursuant to subsection (1) of this section, the Commission may undertake, in such manner as it thinks fit, such inquiries, discussions, and negotiations in relation to the investigation, either separately or jointly with one or more of the local authorities concerned or other bodies or persons, as the Commission thinks fit.

(3) After the Commission has completed its investigation under this section, it shall, after taking into account the matters specified in section 12 of this Act, the geographical characteristics of the proposed local government area, and such other matters as the Commission considers relevant, prepare a provisional local government area scheme providing for the following matters:

- (a) Defining the local government area to which the scheme relates, whether or not its boundaries are the same as those of the part of New Zealand in respect of which the Commission commenced its investigation under subsection (1) of this section:
- (b) Prescribing the general pattern of local government for the local government area to which all local schemes shall be required to conform:
- (c) Such other matters as the Commission considers relevant.

(4) The Commission shall prepare and publish, either separately or as an appendix to the scheme, an explanatory statement specifying the considerations taken into account by the Commission in preparing the scheme, its reasons for any provisions of the scheme, the effects which the Commission considers the scheme is likely to have, and any other matters that the Commission considers relevant. Such a statement shall be deemed not to form part of the scheme.

17. Public notice of provisional scheme—As soon as practicable after a provisional area scheme has been prepared 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 Minister,

to every local authority whose district or any part thereof is situated in the local government area to which the scheme relates, and to such other bodies or persons as the Commission thinks fit.

18. Objections to provisional scheme—(1) Any person or body interested shall have a right of objection to any provisional area scheme, and may give notice in writing to the Commission of the objection and of the grounds thereof at any time within three months after the first public notification of the scheme, or within such further time as may in any case be allowed by the Commission.

(2) The Commission shall as soon as practicable consider all such objections, and may for that purpose—

- (a) Convene such meetings, either jointly or separately with all or any of the objectors and all or any of the local authorities concerned and such other persons or bodies, and hold discussions with such persons or bodies, as the Commission thinks fit:
- (b) At any such meeting or discussions, hear such representations submitted as the Commission considers relevant to the matters being inquired into:
- (c) Make such further inquiries as it considers necessary or desirable.

(3) The Commission shall not consider any objection to the provisional scheme unless reasonable notice of the date and time when the objection is to be considered and of the place where it is to be considered has been given to the objector, who, if present at the appointed time and place, shall be entitled to be heard in support of his objection.

(4) At any meeting or discussion at which any objection is being considered or any representations are being received, no cross-examination shall be allowed except with the consent of the Commission, but the Commission may ask questions relating to the objection or the representations.

(5) Notice in writing of the decision of the Commission on any objection setting out the reasons for its decision shall be given by the Commission to the objector and also to all the local authorities concerned.

19. Final scheme—(1) After all objections to a provisional area scheme have been considered and any further investigations or inquiries or negotiations considered by the Commission to be necessary or desirable have been made or

carried out and all such objections have been determined, or if no objections to the provisional scheme have been received, the Commission may approve the scheme as publicly notified or as modified as a result of any such objections or further investigations or inquiries or negotiations, and the scheme shall thereupon become a final scheme and shall come into full force as soon as public notice of the scheme has been given pursuant to section 20 of this Act.

(2) Subject to the provisions of subsection (3) of this section, every such final scheme shall continue in force until the decision of the Commission on a review of the scheme under section 21 of this Act comes into force.

(3) Any provision of a final area scheme may be altered by the Commission at any time, and all the provisions of this Part of this Act relating to the preparation of an area scheme shall, with the necessary modifications, apply to every such alteration.

20. Public notice of final scheme—As soon as practicable after a final area 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 shall also give notice thereof to the Minister, to every local authority whose district or any part thereof is situated in the local government area to which the scheme relates, and to such other bodies and persons as the Commission thinks fit.

21. Review of area schemes—(1) Every final area scheme may be reviewed by the Commission at any time, but shall be reviewed by the Commission from time to time at intervals of not more than ten years.

(2) Every area scheme which is for the time being due for review shall continue in force.

(3) In reviewing any area scheme, the Commission shall follow the procedure prescribed by this Part of this Act for the preparation of an area scheme, and may, on the completion of that review,—

- (a) Declare that the scheme shall continue in force without alteration; or
- (b) Declare that the scheme shall continue in force with such alterations as the Commission specifies; or
- (c) Issue a new scheme.

PART III

LOCAL SCHEMES

Preparation of Local Schemes

22. Matters to be provided for in local schemes—(1) A local 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 of land adjoining that district:
- (h) The exclusion of any area of land 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 or abolition 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 considered by the Commission to be incidental to the scheme.

(3) Without limiting the meaning of the expression “matters considered by the Commission to be incidental to the scheme” in subsection (2) of this section, such matters may include any supplementary provisions referred to in section 33 of this Act for giving effect to a scheme.

(4) 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 territorial local authority, except upon the union, merger, or abolition of the district of the territorial local authority.

(5) Any two or more districts shall be deemed to be adjoining districts and any area of land shall be deemed to adjoin a district for the purposes of this Act, notwithstanding

that they may be separated by a public highway, any river or harbour, the sea, or any other natural feature.

(6) Without limiting the provisions of subsection (5) of this section, any two or more districts shall be deemed to be adjoining districts for the purposes of paragraph (a) of subsection (1) of this section if, subsequent to union, they would form one continuous area.

Cf. 1961, No. 132, s. 14; 1963, No. 66, s. 2

23. Matters to be taken into account in preparing local schemes—(1) In preparing any local scheme, the Commission shall conform to the provisions, so far as they are applicable, of any final area scheme for the time being in force for the local government area in which any district, any part of any district, or any area of land to which the proposal relates is situated.

(2) In inquiring into any proposal for a local scheme, the Commission shall take into consideration, in addition to the matters specified in section 12 of this Act, the following matters so far as, in the opinion of the Commission, they are applicable to the particular circumstances of each case, namely:

- (a) Whether the proposal conforms to recognised principles of town and country planning; and
- (b) The desirability of ensuring that the boundaries of the district of any local authority affected are stabilised for a reasonable period; and
- (c) The possible effect on any territorial local authority of the exclusion of any area of land from its district or of the transfer of any of its functions to any local authority; and
- (d) The possible effect of the proposal on any public body that is not a local authority within the meaning of this Act; and
- (e) Such other matters as the Commission considers relevant.

Cf. 1961, No. 132, s. 12 (4)

24. Commission may investigate proposals for a scheme—(1) The Commission may from time to time of its own motion initiate, or at the request of the Minister or of any local authority consider, a proposal that a local scheme be prepared in respect of any matter specified in subsection (1) of section 22 of this Act.

(2) Either before or immediately after any such request is made to the Commission, the Minister or, as the case may be, the local authority shall serve a copy of the proposal on every local authority to which the proposal relates.

(3) Where a request or recommendation 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 or recommending any action to be taken for the purpose of or with a view to giving effect to any proposal which could be provided for in a local scheme under this Act, the request or recommendation shall be referred to the Commission, and no such action shall be taken under the enactment unless the Commission so recommends.

(4) Where the Commission does not make any such recommendation in respect of any such proposal, the Commission shall deal with the request or recommendation as if it were a request made under subsection (1) of this section.

Cf. 1961, No. 132, s. 15

25. Commission may refuse to investigate proposal—The Commission may refuse to investigate, or may postpone the investigation of, any proposal for a local scheme affecting any district or area of land to which no final area scheme for the time being in force applies, if, in the opinion of the Commission, the proposal would be likely to hinder the preparation or implementation of an area scheme affecting that district or area of land or would be likely not to conform to the provisions of such a scheme if one were in force.

26. Investigation of proposal for local scheme—(1) Subject to section 25 of this Act, the Commission, as soon as practicable after receiving, or deciding of its own motion to initiate, a proposal for a local scheme, shall proceed to undertake in such manner as it thinks fit such inquiries, discussions, and negotiations in relation to the proposal, either separately or jointly with one or more of the local authorities concerned or any other bodies or persons, as the Commission thinks fit.

(2) After the Commission has completed its inquiries, discussions, and negotiations under this section, it may, in its discretion,—

- (a) Prepare a provisional scheme providing for all or any matters to which the proposal relates; or
- (b) Decide not to proceed with the proposal.

(3) The provisions of subsection (4) of section 16 of this Act (relating to the publication of an explanatory statement in respect of a provisional area scheme) shall apply with respect to every provisional local scheme:

Provided that the Commission may in any particular case decide not to publish an explanatory statement if it considers it unnecessary in the circumstances.

Cf. 1961, No. 132, ss. 16, 17; 1964, No. 54, s. 2

27. Public notice of provisional scheme—As soon as practicable after a provisional local scheme has been prepared 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 Minister, to every local authority likely in the opinion of the Commission to be affected by the scheme, and to such other bodies and persons as the Commission thinks fit.

Cf. 1961, No. 132, s. 18

28. Objections to provisional scheme—The provisions of section 18 of this Act (relating to objections to a provisional area scheme) shall, with the necessary modifications, apply with respect to every provisional local scheme, as if references in that section to a provisional area scheme were references to a provisional local scheme, and as if for the words “three months” in subsection (1) there were substituted the words “two months”.

Cf. 1961, No. 132, s. 19; 1964, No. 54, s. 3

29. Final scheme—(1) After all objections to a provisional local scheme have been considered and any further investigations or inquiries or negotiations considered by the Commission to be necessary or desirable have been made or carried out and all such objections have been determined, or if no objections to the provisional scheme have been received, the Commission may approve the scheme as publicly notified or as modified as a result of any such objections or further investigations or inquiries or negotiations, and the scheme shall thereupon become a final scheme:

Provided that the Commission may, if it thinks fit, prepare a further provisional scheme in substitution for that to which objection has been made. All the provisions of this Part of

this Act with respect to provisional schemes shall apply with respect to every substituted scheme so prepared.

(2) The provisions of subsection (4) of section 16 of this Act (relating to the publication of an explanatory statement with respect to a provisional area scheme) shall apply with respect to a final local scheme:

Provided that the Commission may in any particular case decide not to publish an explanatory statement if it considers it unnecessary in the circumstances.

Cf. 1961, No. 132, ss. 19 (4), 20; 1963, No. 66, s. 3

30. Investigation by committee of proposal for local scheme—(1) Where the Commission receives, or decides of its own motion to initiate, a proposal for a local scheme which in its opinion is likely to affect two or more local authorities, it may decide that the proposal shall be investigated by a committee comprising one member of the Commission, who shall be the Chairman of the committee, and one or two negotiators (the number to be fixed by the Commission), to be appointed jointly by all those local authorities.

(2) In every such case the Commission shall give notice in writing of its decision to the local authorities likely in its opinion to be affected requiring them to appoint jointly a negotiator or negotiators, as the case may be, and to notify the Commission in writing of the appointment. The local authorities concerned shall determine their procedure for making the joint appointment. If notice of such an appointment is not received by the Commission within a period of one month after the giving of the first-mentioned notice by the Commission, or within such extended time as the Commission may allow, the proposal shall be investigated by the Commission and not by a committee.

(3) The Secretary of the Commission shall give notice in the *Gazette* of the appointment of a negotiator or negotiators under the provisions of this section.

(4) Where any proposal is to be investigated by a committee under this section, the committee shall conduct the investigation, prepare a provisional scheme, or, as the case may be, decide not to proceed with the proposal, and consider objections as if it were the Commission, and the provisions of sections 9, 10, and 11, sections 22 to 29, and section 42 of this Act, as far as they are applicable and with the necessary modifications, shall apply, as if the references in those sections to the Commission were references to the committee:

Provided that—

- (a) No decision of the committee on any matter specified in subsection (2) of section 26 of this Act or in paragraph (b) of this proviso shall have any effect unless the member of the Commission who is a member of the committee is a party to the decision, and, if he is not a party to the decision, the proceedings before the committee shall lapse and the proposal shall be dealt with by the Commission as if it had not been referred to the committee for investigation:
- (b) The committee shall not approve the provisional scheme, but may recommend it, whether with or without modifications, and in such a case the scheme shall not become a final scheme until it has been approved by the Commission:
- (c) Where the committee recommends a provisional scheme to the Commission for approval, the Commission shall approve it, unless the Commission is of opinion that the scheme has not been prepared in accordance with the provisions of this Act or does not conform to those provisions. In the last-mentioned case, the Commission shall either decline to approve the scheme or shall approve it with such modifications as in the opinion of the Commission are necessary in order to make it conform to the provisions of this Act.

(5) Any vacancy in the membership of any committee appointed under this section shall, in the case of the member appointed by the Commission, be filled by the Commission and, in the case of any other member, be filled in the manner in which the original appointment was made. For the purposes of this subsection, a member of the committee appointed by the local authorities shall be deemed to have vacated his office if he becomes incapable of acting or becomes bankrupt or resigns his office.

(6) There shall be paid out of money appropriated by Parliament for the purpose to the members of any such committee (other than the member of the Commission) remuneration by way of fees 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 committee were a statutory Board within the meaning of that Act.

31. Public notice of final scheme—As soon as practicable after a provisional local scheme has been approved as a final scheme by the Commission, the Commission shall give public notice of the scheme and of the place or places where it may be inspected, and shall also give notice thereof to the Minister, to every local authority affected by the scheme, and to such other bodies and persons as the Commission thinks fit.

Cf. 1961, No. 132, s. 21

Procedure for Carrying Local Schemes into Effect

32. Effect to be given to final scheme—(1) Subject to the provisions of sections 39 and 40 of this Act, effect shall be given to every final local scheme either—

(a) By Order in Council; or

(b) If the Minister so decides, in such other manner as may be prescribed by any other Act for the time being in force making appropriate provision in that behalf.

(2) No such Order in Council shall be invalid on the ground that it is inconsistent with the provisions of the final scheme if the inconsistency relates solely to matters of a verbal or formal nature or the correction of clerical or typographical errors.

Cf. 1961, No. 132, s. 22

33. Supplementary provisions for giving effect to scheme—

(1) For the purpose of giving full effect to any provisions of a final local scheme, the Governor-General in the Order in Council or other instrument giving effect to the scheme or in a separate Order in Council may, subject to the provisions of this Act, make such provisions as he thinks 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 or the dissolution or abolition of any local authority 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, and for that purpose he may by the Order in Council or other instrument vest in any such local authority any real or personal property vested in any other such local authority:
- (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) Where a new district is constituted, determine, notwithstanding anything in the Rating Act 1925, the system of rating to be in force in the new district if different systems were previously in force in the respective districts or parts of districts comprising the new district:

Provided that, notwithstanding anything in the Rating Act 1925, where the system of rating to be in force in the new district is so determined, the Governor-General may, by the same Order in Council, determine that for such period, not exceeding ten years from the date of the constitution of the new district, as is specified in the order all rates, or such kind or kinds of rates as are specified in the order, shall be separately made and levied in the several areas of land comprising the former districts or parts of districts included in the new district according to the several systems of rating in force in those districts or parts of districts immediately before the constitution of the new district:
- (i) Where a district is merged in the district of any local authority or is abolished and the whole or any part thereof is included in the district of any other local

authority, make such provision as he considers necessary for the representation of that first-mentioned district or part thereof on that local authority until the next general election of Councillors or members of that local authority:

(j) 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 (1) 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) In exercising the powers conferred by subsection (1) of this section, the Governor-General may—

(a) Constitute a new district, notwithstanding anything in any other Act restricting the area or limits of a district of that kind:

(b) Determine that for a limited time specified in the order there shall be such number of ridings, wards, or other subdivisions of any district and such number of members of the local authority of the district as are specified in the order, notwithstanding anything in any other Act.

(4) In this section the term “new district” includes a district formed by the union of two or more adjoining districts, whether districts of the same kind or not; and also includes a district converted into a district of a different kind.

(5) No Order in Council or other instrument issued for the purpose of giving effect to any local scheme shall affect any separate rate or special rate, and every such rate shall continue to be charged upon the whole of the area of land 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 money may be expended shall not be affected by any such instrument.

Cf. 1961, No. 132, s. 23; 1962, No. 81, s. 2; 1964, No. 54, s. 4

34. Exercise of powers conferred by this Act not affected by provisions of other Acts—(1) An Order in Council or other instrument giving effect to any proposal contained in a final local 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.

(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.

Cf. 1961, No. 132, s. 24

35. Powers of local authority on which jurisdiction conferred for purposes of scheme—(1) 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 of land 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 that 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.

(2) In any case where, pursuant to a final scheme,—

(a) Either—

(i) Two or more districts, whether of the same kind or not, are united; or

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

(iii) Any part of any district which is or includes a defined part of that district for the purposes of section 27 of the Local Authorities Loans Act 1956 is excluded from the district and is constituted a new district or included in any other district; and

(b) Before the union or, as the case may be, the merger or abolition or exclusion, the local authority of an area formerly comprising a separate district or, as the case may be, of the district from which

the part thereof was excluded was authorised to raise a special loan under the Local Authorities Loans Act 1956, being, in any case to which subparagraph (iii) of paragraph (a) of this subsection applies, a loan for the benefit of that defined part, but had not raised the loan or had raised part only of the loan, and the authority to raise the loan had not lapsed pursuant to section 40 of the said Act,—

the local authority that, pursuant to the scheme, assumes jurisdiction over an area formerly comprising a separate district or, as the case may be, formerly constituting a defined part of the district from which it was excluded 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 to raise the loan, including the power to raise a supplementary loan under section 44 of the said Act, or such part of the loan or any supplementary loan as has not already been raised, that could have been exercised by the local authority that was authorised to raise the loan if it had remained in existence or in control of the part excluded from its district, and shall be subject to the same duties, obligations, and liabilities as were or would have been imposed on that last-mentioned local authority.

Cf. 1961, No. 132, s. 25

36. Apportionment of assets and liabilities—(1) This section shall apply where, pursuant to an Order in Council or other instrument giving effect to a final local scheme under this Act,—

- (a) A new district of a territorial local authority is constituted comprising or including part only of another such district then existing; or
 - (b) The boundaries of the district of a territorial local authority are altered by the inclusion therein of an area of land forming part of another such district,—
- and the provisions of this section shall have effect, notwithstanding anything in the Municipal Corporations Act 1954 or in the Counties Act 1956.

(2) Where any such Order in Council or other instrument does not make provision for the apportionment of the assets and liabilities of the territorial local authorities affected by the order or other instrument, those territorial local authorities may by agreement determine the manner in which those assets and liabilities shall be apportioned.

(3) If no such agreement is entered into by the territorial local authorities concerned within three months after the date of the coming into force of the order or other instrument, any territorial local authority directly affected by the constitution of the new district or alteration of boundaries may apply to the Commission for an order apportioning assets and liabilities, and the Commission, having regard to such matters as the Governor-General, by Order in Council, specifies, shall make an order directing the manner in which assets and liabilities are to be apportioned as between the local authorities concerned.

(4) For the purpose of deciding any application to the Commission under this section, the Commission shall consult with the Audit Office, and may make such inquiries as it thinks fit, and may obtain advice from any other person who, in the opinion of the Commission, has expert knowledge concerning any aspect of the matter to be decided.

(5) Every order of the Commission under this section may be enforced as if it were an agreement between the territorial local authorities concerned.

Cf. 1961, No. 132, s. 26; 1962, No. 81, s. 3

PART IV

POLLS

37. Electors may request poll in certain cases—(1) Where any final local scheme contains a proposal—

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

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

a request, in writing, signed by not less than fifteen percent of the electors of that district or that area, as the case may be, that a poll of the electors of that district or that area be taken on the proposal in order to ascertain the extent of public opposition to the scheme may be delivered or sent by post to the Clerk of the territorial local authority at the office of the territorial local authority at any time within one month after the date of public notification of the scheme.

(2) Notwithstanding anything in subsection (1) of this section, no poll may be requested under that subsection—

- (a) On any final scheme where no objection was lodged against the provisional scheme and the Commission has approved the provisional scheme as publicly notified; or
- (b) On any proposal in a final scheme to alter the boundaries of any district or districts where the alteration has been agreed to by all the territorial local authorities affected thereby.

(3) Where any final scheme contains a proposal for the alteration of the boundaries of the district or districts of one or more territorial local authorities, the Commission shall state in the scheme whether or not the alteration has been agreed to by all the territorial local authorities affected thereby, and such a statement shall, until the contrary is proved, be sufficient evidence thereof for the purposes of this Act.

(4) Upon receipt of a valid request for a poll made and delivered to the Clerk of a territorial local authority under this section, the Clerk shall, not later than fourteen days after receiving the request, deliver the request to the Returning Officer for the district of the territorial local authority.

(5) For the purposes of subsection (1) 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 who were on the roll of electors of that district, riding, ward, or subdivision for the immediately preceding general election of members of the territorial local authority:

- (b) The number of electors of any part of a district that is not a riding, ward, or other subdivision of the district shall be the number of electors who were on the roll of the district for the immediately preceding general election of members of the territorial local authority and who possess a qualification in respect of that part,—

as stated in each case in a certificate by the Clerk of the territorial local authority, whose certificate shall be final.

Cf. 1961, No. 132, s. 37

38. Conduct of poll—(1) The day on which a poll is to be taken pursuant to a request for a poll made and delivered under section 37 of this Act shall be a day fixed by the Returning Officer for the district of the territorial local

authority, being not less than thirty-five nor more than forty-two clear days after the date of the receipt by him of the request for a poll:

Provided that where the request for a poll is received by the Returning Officer on any day after the eighth day of November and before the twenty-seventh day of December in any year, the day to be so fixed shall be a day not less than thirty-five nor more than forty-two clear days after the twenty-seventh day of December.

(2) Subject to the provisions of this section, the provisions of the Local Elections and Polls Act 1966 shall, as far as they are applicable, apply to every poll under this section.

(3) Where any such poll is required to be taken of the electors of any part of the district of a territorial local authority and is not a riding or ward or other subdivision for electoral purposes, a special roll shall be prepared comprising the names of all persons in that part who are entitled to vote at any election of the members of the territorial local 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 territorial local 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 territorial local authority the name of every person whose name appears on the roll and who is entitled to vote at the poll.

(4) 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.

Cf. 1961, No. 132, s. 38

39. Giving effect to scheme where poll held—(1) Effect shall not be given to any final local scheme in so far as it relates to any proposal on which a poll is required to be taken pursuant to a request under section 37 of this Act, if—

- (a) Where the total number of valid votes recorded at any such poll is more than sixty-six and two-thirds

percent of the number of electors on the roll, more than fifty percent of the valid votes recorded are against the proposal; or

- (b) Where the total number of valid votes recorded at any such poll is sixty-six and two-thirds percent or less of the number of electors on the roll, not less than sixty percent of the valid votes recorded are against the proposal.

(2) Every Returning Officer who conducts a poll under section 38 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 electors on the roll used for the purposes of the poll, the number of valid votes recorded for the proposal, and the number of valid votes recorded against the proposal.

Cf. 1961, No. 132, s. 39

40. Minister may request Commission to review scheme—

(1) Where any proposal contained in a final local 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 local scheme may require to be reviewed, he may request the Commission to give further consideration to that scheme or to any related local scheme.

(2) In any such case the Commission, in its discretion, may recommend to the Minister that those other parts of the scheme or the related scheme be proceeded with or be not proceeded with, or that those other parts of the scheme or the related scheme be proceeded with subject to such amendments as the Commission considers desirable:

Provided that no amendment to those other parts of the scheme or to the related scheme may be made by the Commission that relates to any district or area of land not included in those other parts of the scheme or in the related scheme or does not conform to the relevant area scheme:

Provided also that the Commission may, in its discretion, prepare a further provisional local scheme in substitution for those other parts of the scheme or for the related scheme. All the provisions of this Act with respect to provisional local schemes shall apply with respect to every substituted scheme so prepared.

Cf. 1961, No. 132, s. 40; 1963, No. 66, s. 5

PART V

MISCELLANEOUS PROVISIONS

41. Commission's general powers of investigation—(1) The Commission shall have the power—

- (a) Of its own motion, or at the request of the Minister or of any local authority, to carry out investigations and make recommendations to the Minister in respect of legislation necessary to provide for the establishment of any new form of local government in any particular area or areas of land or any locality or localities:
- (b) Generally to review and to report to the Minister upon such matters relating to local government as may be determined by the Commission, or be referred to the Commission by the Minister.

(2) The Commission shall have power to inquire into and report to the Minister on any question referred to the Commission under section 23 of the Hospitals Act 1957. In carrying out any such inquiry, the Commission may undertake, in such manner as it thinks fit, such inquiries, discussions, and negotiations in relation to the inquiry, either separately or jointly with one or more of the public bodies or persons concerned, as the Commission thinks fit.

Cf. 1961, No. 132, s. 12 (2) (c), (d)

42. Commission may co-opt specialist advice—The Commission may invite any officer of the Public Service or any other person or a representative of any body who or which, in the opinion of the Commission, has expert knowledge which is likely to be of assistance to the Commission to attend any meeting or discussion held under this Act and to take part in the proceedings.

Cf. 1961, No. 132, s. 42

43. Notices—(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.

Cf. 1961, No. 132, s. 43

44. Officers of Commission—(1) There may from time to time be appointed under the provisions of the State Services Act 1962 a Secretary of the Commission and such other officers 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.

Cf. 1961, No. 132, s. 44

45. Validation of certain irregularities—Where anything is omitted to be done or cannot be done at the time required by or under this Act, or is done before or after that time, or is otherwise irregularly done in matter of form, the Governor-General may, by Order in Council gazetted, at any time before or after the time within which the thing is required to be done, extend that time, or validate anything so done before or after the time required or so irregularly done in matter of form.

46. Annual report—(1) The Commission shall furnish to the Minister a report of its proceedings and operations during each year ending with the thirty-first day of March as soon as practicable after the end of that year.

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

Cf. 1961, No. 132, s. 45

47. Repeals and revocation—(1) The enactments specified in the Second Schedule to this Act are hereby repealed.

(2) The Local Government Commission Order 1963 is hereby revoked.

48. Investigations and inquiries under former Act—(1) Notwithstanding the repeal by this Act of the Local Government Commission Act 1961, that Act (including the provisions as to appeals to the Local Government Appeal Authority and the provisions as to polls) shall continue to apply, as if this Act had not been passed, with respect to every investigation or inquiry commenced by the Local Government Commission under that Act before the

commencement of this Act, and the investigation or inquiry shall be continued and completed under that Act, where before the commencement of this Act a provisional scheme has been prepared and publicly notified, whether or not any subsequent steps have been taken in the investigation or inquiry:

Provided that the functions, powers, and duties in relation to any such investigation or inquiry conferred or imposed on the Local Government Commission constituted under the Local Government Commission Act 1961 shall be exercised and performed by the Local Government Commission constituted under this Act.

(2) Except as provided in subsection (1) of this section, in the case of any investigation or inquiry on a proposal under the Local Government Commission Act 1961 commenced by the Local Government Commission before the commencement of this Act, the Commission constituted under this Act shall, as soon as practicable after the commencement of this Act, by resolution determine whether the investigation or inquiry shall continue under this Act or shall lapse, and the determination of the Commission shall have effect according to its tenor.

(3) Any petition properly referred to the Local Government Commission under the Local Government Commission Act 1961 and not dealt with before the commencement of this Act, shall be dealt with in accordance with the provisions of this Act.

Cf. 1961, No. 132, s. 46 (2), (3); 1963, No. 66, s. 6

SCHEDULES

FIRST SCHEDULE

Section 2 (1)

LOCAL AUTHORITIES AND PUBLIC BODIES TO WHICH THIS ACT APPLIES

Part I—Classes of Local Authorities or Public Bodies

Class of Local Authority or Public Body	Enactment under which Constituted
Borough Councils	..... 1954, No. 76—The Municipal Corporations Act 1954. (1957 Reprint, Vol. 10, p. 377.)
Catchment Boards	..... 1941, No. 12—The Soil Conservation and Rivers Control Act 1941. (1957 Reprint, Vol. 14, p. 637.)
County Councils	..... 1956, No. 64—The Counties Act 1956. (1957 Reprint, Vol. 3, p. 1.)
Drainage Boards	..... 1908, No. 96—The Land Drainage Act 1908. (1957 Reprint, Vol. 7, p. 471.)
Harbour Boards	..... 1950, No. 34—The Harbours Act 1950. (Reprinted, 1966, Vol. 3, p. 2395.)
Irrigation Boards	..... 1908, No. 96—The Land Drainage Act 1908: Part II. (1957 Reprint, Vol. 7, p. 516.)
Milk Authorities	..... 1944, No. 30—The Milk Act 1944. (1957 Reprint, Vol. 9, p. 757.)
River Boards	..... 1908, No. 165—The River Boards Act 1908. (1957 Reprint, Vol. 13, p. 397.)
Town Councils	..... 1954, No. 76—The Municipal Corporations Act 1954. (1957 Reprint, Vol. 10, p. 377.)
Underground Water Authorities	..... 1953, No. 56—The Underground Water Act 1953. (1957 Reprint, Vol. 16, p. 295.)
Urban Fire Authorities	..... 1949, No. 18—The Fire Services Act 1949. (1957 Reprint, Vol. 5, p. 179.)

FIRST SCHEDULE—*continued**Part II—Particular Local Authorities and Public Bodies*

Name of Local Authority or Public Body	Enactment by which Constituted
The Christchurch Drainage Board	1951, No. 21 (Local)—The Christchurch District Drainage Act 1951.
The Christchurch Transport Board	1920, No. 15 (Local)—The Christchurch Tramway District Act 1920.
The Dunedin Drainage and Sewerage Board	1900, No. 25 (Local)—The Dunedin District Drainage and Sewerage Act 1900.
The Hutt Valley Drainage Board	1967, No. 3 (Local)—The Hutt Valley Drainage Act 1967.
The North Shore Drainage Board	1963, No. 15 (Local)—The North Shore Drainage Act 1963.
The Waiheke Road Board	1956, No. 64—The Counties Act 1956: Part XXXI. (1957 Reprint, Vol. 3, p. 207.)
The Waimakariri - Ashley Water Supply Board	1961, No. 131—The Counties Amendment Act 1961: Part IV.
The Wellington City and Suburban Water Supply Board	1927, No. 24 (Local)—The Wellington City and Suburban Water Supply Act 1927.

Section 47 (1)

SECOND SCHEDULE

ENACTMENTS REPEALED

- 1961, No. 132—The Local Government Commission Act 1961.
 1962, No. 81—The Local Government Commission Amendment Act 1962.
 1963, No. 66—The Local Government Commission Amendment Act 1963.
 1964, No. 54—The Local Government Commission Amendment Act 1964.

This Act is administered in the Department of Internal Affairs.