



ANALYSIS

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1989, No. 66

An Act to make provision for changes in relation to employment on the New Zealand waterfront

[11 September 1989]

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

1. Short Title—This Act may be cited as the Waterfront Industry Restructuring Act 1989.

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

“Authority” means the Waterfront Industry Restructuring Authority established by section 4 of this Act:

“Expenses”, in relation to the calculation of net income in respect of harbour board land, does not include any rates or any grants in lieu of rates paid in respect of that land except to the extent that those rates or grants are no greater than the rates that would have been paid on comparable land that is not harbour board land:

“Harbour board land”—

(a) Means any land or interest in land that—

(i) Is or was vested in or held by a harbour board; and

(ii) Is to be or has been vested in or transferred to a territorial authority or regional council pursuant to any local government reorganisation Order in Council; and

(iii) Is not to be transferred to a port company pursuant to a port company plan; and

(b) Includes any land or interest in land vested in or held by the Marlborough Harbour Board that is not to be transferred to Port Marlborough New Zealand Limited pursuant to a port company plan; but

(c) Does not include any area to which section 150 of the Harbours Act 1950 applies:

“Local authority” means a harbour board, territorial authority, regional council, or united council:

“Local government reorganisation Order in Council” means an Order in Council specified in the First Schedule to this Act:

“Minister” means the Minister of Transport:

“Net income”, in relation to any harbour board land, means the gross income being derived from that land or the gross income that ought reasonably to be able to be derived from that land, less—

(a) All reasonable expenses of the local authority in which that land is vested (being expenses directly related to, or that would be directly related to, the derivation of that income); and

(b) Any land tax payable in respect of that land by the local authority in which that land is vested:

“Net value”, in relation to any port related commercial undertaking, means the price to be paid for that undertaking by a port company, as determined under the Port Companies Act 1988, less any debt securities required to be issued under section 29 of that Act:

“Port company” means a port company referred to in section 4 of the Port Companies Act 1988:

“Port company plan” has the same meaning as in the Port Companies Act 1988:

“Port company shares” or “shares”—

(a) Means the equity securities issued by any port company; and

(b) Includes any advances in lieu of issued share capital as if the advances were issued share capital:

“Port related commercial undertaking” has the same meaning as in the Port Companies Act 1988; and includes any undertaking included in a port company plan under section 22 (9) of that Act:

“Redundancy”, in relation to any waterside worker, includes any fringe benefit tax payable by the employer of that worker in relation to any redundancy payment payable to that worker:

“Shipwright” means a worker who, within wharf limits, is engaged in the shoring and unshoring of cargo and hold preparation work, including the handling and placing of dunnage and the lashing and unlashng of cargo; but does not include any waterside worker or seaman engaged in such work:

“Tally clerk” means a worker who, within wharf limits, is engaged in the checking and tallying of cargo and the recording of container movements; but does not include any tolls officer, cargo storeman, or clerical employee employed by a harbour board and engaged in any such work:

“Value of port company shares”, in relation to each port company,—

(a) Means the amount represented by total shareholders’ funds; and

(b) Includes—

(i) Any advances in lieu of issued share capital; and

(ii) The amount or value of any securities that would, in accordance with generally accepted accountancy principles, be regarded as shareholders’ funds.

(2) Notwithstanding the repeal of the Waterfront Industry Commission Act 1976 (with effect as from the close of the 30th day of September 1989) by section 36 of the Waterfront Industry Reform Act 1989, in this Act, unless the context otherwise requires, the terms “waterside worker” and “waterside work” have the same meanings as in the Waterfront Industry Commission Act 1976.

3. Act to bind the Crown—This Act shall bind the Crown.

PART I

WATERFRONT INDUSTRY RESTRUCTURING AUTHORITY

4. Establishment of Authority—(1) There is hereby established an authority to be known as the Waterfront Industry Restructuring Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal property, of entering into contracts, of suing and being sued, and of doing and suffering all such acts and things as bodies corporate may do and suffer.

5. Functions of Authority—(1) The principal function of the Authority shall be to provide money to assist the employers of waterside workers, tally clerks, and shipwrights in the payment of redundancy to those workers so as to facilitate waterfront restructuring.

(2) Without limiting the generality of the Authority’s principal function, the Authority shall also have the following functions:

(a) To determine, in its discretion, the amounts of assistance to be provided under this Act to employers of waterside workers, tally clerks, and shipwrights who are liable to pay redundancy to those workers:

- (b) To determine, subject to the approval of the Minister, whether the percentage specified in section 37 of this Act or lesser percentages are to apply for the purposes of the levies imposed by section 33 of this Act:
- (c) To determine, in its discretion, the timing and terms of levy payments:
- (d) To determine, or participate in the determination, in accordance with this Act, of—
 - (i) The value of port company shares; and
 - (ii) The net value of port related commercial undertakings; and
 - (iii) The net income from harbour board land:
- (e) Such other functions as may be conferred on the Authority by this or any other Act.

6. Powers of Authority—(1) The Authority shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting the generality of subsection (1) of this section, the Authority shall have power to borrow money on such terms and conditions as it considers appropriate to meet its expenditure in advance of receiving income from levies.

7. Authority to implement policy of Government—

(1) In the exercise of its functions and powers, the Authority shall give effect to the policy of the Government in relation to those functions and powers as that policy is communicated to it from time to time by notice in writing by the Minister.

(2) Where a notice is given to the Authority under subsection (1) of this section, the Minister shall, as soon as practicable after the giving of the notice, publish in the *Gazette* and lay before the House of Representatives a copy of the notice.

8. Membership of Authority—(1) The Authority shall consist of 3 members to be appointed from time to time by the Governor-General on the recommendation of the Minister, made after consultation by the Minister with the Minister of Finance and the Minister of Local Government.

(2) One member shall be appointed by the Governor-General as Chairperson and another shall be appointed by the Governor-General as Deputy Chairperson.

(3) The persons appointed as members of the Authority shall be persons who, in the opinion of the Governor-General, have

such expertise as will ensure that the Authority discharges its functions.

9. Term of office of members of Authority—Except as provided in section 10 of this Act, every member of the Authority shall hold office for such term as the Governor-General on the recommendation of the Minister shall specify in the instrument appointing that member (being a term expiring with the close of the 30th day of September 1992).

10. Vacation of office—(1) Any member of the Authority may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

(2) Any member of the Authority may at any time resign the office of member by notice in writing addressed to the Governor-General.

(3) Where any member of the Authority dies or resigns or is removed from office, the office shall become vacant, and the vacancy shall be filled in the manner in which the appointment to the vacant office was originally made.

(4) The functions and powers of the Authority shall not be affected by any vacancy in its membership.

11. Contracts of Authority—(1) Any contract which, if made by private persons, must be by deed shall, if made by the Authority, be in writing under the common seal of the Authority.

(2) Any contract which, if made by private persons, must be signed by the parties to be charged therewith shall, if made by the Authority, be either under the common seal of the Authority or signed by a member or officer of the Authority on behalf of and by authority of the Authority.

(3) Any contract which, if made by private persons, may be made orally may be made in the manner specified in subsection (1) of this section as in the case of a deed, or in the manner specified in subsection (2) of this section as in the case of a contract required to be in writing, or may be made orally by or on behalf of the Authority by any member or officer of the Authority acting by authority of the Authority, but no oral contract shall be made for any sum exceeding \$2,000.

(4) The Authority may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, to execute instruments on its behalf in any place in or beyond New Zealand. Any instrument executed by

such an attorney on behalf of the Authority shall bind the Authority, and if executed as a deed shall have the same effect as if it were under the common seal of the Authority.

(5) Notwithstanding anything to the contrary in the foregoing provisions of this section, no contract made by or on behalf of the Authority shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the Authority or to give effect to a resolution of the Authority in relation to contracts generally or in relation to that particular contract.

12. Loans, grants, guarantees, and indemnities by the Crown—(1) The Minister of Finance may from time to time, out of money appropriated by Parliament for the purpose, advance money to the Authority by way of loan or grant.

(2) The Minister of Finance may from time to time, on behalf of the Crown, in respect of any advances made to the Authority by any other person, give any guarantee, indemnity, or security pursuant to section 59 of the Public Finance Act 1989.

(3) Every such guarantee, indemnity, or security shall be given, and every such advance by way of loan shall be made, on and subject to such terms and conditions including the payment of any fee to the Crown as the Minister of Finance thinks fit.

13. Exemption from income tax—(1) The income of the Authority shall be exempt from income tax.

(2) Nothing in subsection (1) of this section exempts the Authority from payment of fringe benefit tax.

14. Further provisions applying in respect of Authority—The provisions of the Second Schedule to this Act shall apply in relation to the Authority and its proceedings, members, employees, consultants, agents, specialists, and committees.

15. Annual report—(1) As soon as practicable after the end of each year ending with the 30th day of June, the Authority shall furnish to the Minister a report of its proceedings and operations for the year.

(2) The report shall include—

(a) The annual financial statement of the Authority prepared under clause 9 of the Second Schedule to this Act:

(b) The report of the Audit Office on the annual financial statement of the Authority:

(c) A report on such other matters as the Minister in writing may from time to time require.

(3) A copy of the report shall be laid before the House of Representatives as soon as practicable after its receipt by the Minister.

PART II

PROVISION OF ASSISTANCE BY AUTHORITY

16. Extent of assistance to be provided by Authority—

(1) The Authority shall, in its discretion, determine the level of assistance that it is prepared to make available to persons liable to make redundancy payments to waterside workers, tally clerks, and shipwrights.

(2) The level of assistance determined under subsection (1) of this section shall be made known by the Authority to any person who requests that information.

(3) The level of assistance determined under subsection (1) of this section—

(a) Shall be calculated and expressed—

(i) As an amount in respect of each waterside worker, tally clerk, or shipwright; or

(ii) As a formula that results in a specified amount; but

(b) Shall not be calculated or expressed as a percentage of the total redundancy payable in respect of any waterside worker, tally clerk, or shipwright.

(4) The levels of assistance determined under this section may vary as between waterside workers, tally clerks, and shipwrights or categories of waterside workers, tally clerks, and shipwrights, and as between employers or ports in such manner as the Authority considers appropriate.

17. Applications for assistance—(1) Any employer or group of employers of waterside workers, tally clerks, or shipwrights may make an application to the Authority for financial assistance to pay redundancy to such workers.

(2) Every such application—

(a) Shall be made not later than the 30th day of June 1990; and

(b) Shall be in such form and shall contain such information as the Authority requires.

18. Discretion in relation to payment of assistance—

(1) The payment of assistance to employers under this Part of this Act shall be discretionary, and the Authority shall not be

obliged to make any payment to any employer if it considers that the payment would not be appropriate.

(2) In particular, the Authority shall not make any payment in respect of any redundancy that is not part of reforms that, in the opinion of the Authority,—

- (a) Will enhance the economy, efficiency, or performance of the waterfront industry; or
- (b) Will produce a quantifiable reduction in the cost of providing services to port users.

19. Payment of assistance—Where the Authority decides, in its discretion, to pay assistance to any employers, the Authority shall make the payments at such times, in such manner, and subject to such conditions as it considers appropriate in each case.

20. Assessable income—Payments of assistance made under this Part of this Act to any employer shall, for the purposes of the Income Tax Act 1976, constitute part of the assessable income of that employer in the year in which the payments are made.

PART III

LEVIES

Levy on Port Company Shares and Levy on Port Related Commercial Undertakings

21. Levy on port company shares held by local authorities—(1) There is hereby imposed on each local authority that holds port company shares as at the close of the 27th day of July 1989 a levy of 5 percent of the value of the port company shares held by that local authority as at the close of that date.

(2) For the purposes of subsection (1) of this section,—

- (a) Every local authority shall be deemed to hold as at the close of the 27th day of July 1989 any port company shares that, as at the close of that date, are held on its behalf by any other person; and
- (b) Every local authority shall be deemed to hold as at the close of the 27th day of July 1989 any port company shares disposed of by that local authority before the close of the 27th day of July 1989; and
- (c) Any local authority to which any port company shares have been transferred before the close of the 27th day of July 1989 shall be deemed not to hold those shares; and

- (d) All shares in a port company shall be deemed to be of equal value irrespective of both the class to which they belong and the number held by any local authority.

22. Statement of value of port company shares—Every port company shall, not later than one month after the commencement of this Act, provide to the Authority a statement of the value of the port company shares of that company as at the close of the 27th day of July 1989, which statement shall show the manner in which that value was calculated.

23. Value of port company shares—For the purposes of section 21 of this Act, the value of port company shares shall in any event be not less than the net value calculated from the approved port company plan as the net value of any port related commercial undertakings, less the value of any port related commercial undertakings in respect of which a levy is imposed by section 25 of this Act.

24. Date when certain shares deemed to have been issued—For the purposes of section 21 of this Act, where—

- (a) Any port related commercial undertaking has been transferred to a port company before the close of the 27th day of July 1989; and
- (b) Any shares that are to be issued to meet the price of that undertaking have not been issued as at the close of that date,—

the shares shall be deemed to have been issued before the close of that date.

25. Levy in respect of port related commercial undertakings—(1) There is hereby imposed on each local authority that, as at the close of the 27th day of July 1989, is the owner of any port related commercial undertaking (being an undertaking that is to be transferred to a port company after the close of the 27th day of July 1989, or such later date as the Minister may determine) a levy of 5 percent of the net value of that undertaking as at the close of that date.

(2) The levy imposed by subsection (1) of this section shall not be taken into account in determining under the Port Companies Act 1988 the value of the port related commercial undertakings to be transferred to a port company.

26. Power of Authority to make determinations in relation to levy on shares and undertakings—(1) The Authority may determine—

- (a) Whether any levy imposed by section 21 or section 25 of this Act, or any amount of any such levy, is to be paid in one payment or by instalments; and
- (b) In relation to any amount that is to be paid by instalments, the amount of each instalment and the date on which each instalment is to be paid.

(2) In making a determination under any provision of subsection (1) of this section, the Authority shall have regard in each case to the Authority's estimated expenditure and estimated income from sources other than levies in respect of which the Authority is making a determination.

27. Power to allow payment by instalments at request of local authority—Notwithstanding section 26 of this Act, the Authority may, at the request of any local authority,—

- (a) Allow that local authority to pay by instalments any levy imposed under section 21 or section 25 of this Act; or
- (b) Where the Authority has determined that any levy imposed under section 21 or section 25 of this Act is to be paid by instalments, allow that local authority to pay that levy by different instalments.

28. Power to impose conditions—Any decision made by the Authority under section 27 of this Act may be made subject to such conditions as the Authority thinks fit (which conditions may include conditions requiring the payment of interest by the local authority liable to pay the levy).

29. Notice of determination in relation to levy—(1) The Authority shall, on making a determination under section 26 of this Act, give written notice of the making of the determination to each person liable to pay the levy to which the determination relates.

(2) The notice required by subsection (1) of this section shall be given to the person liable to pay the levy at least one month before the date on which the levy or the first amount on account of the levy, is required to be paid.

30. Interest on outstanding payments or instalments—Where any local authority which is liable to pay any levy imposed under section 21 or section 25 of this Act fails to pay that levy on the due date or fails to pay any instalment of that

levy on the due date, the Authority may require that local authority to pay interest on amounts outstanding at such rate or rates as the Minister of Finance from time to time approves.

31. Liability for levy payments where shares or undertaking transferred—(1) Except as provided in subsection (2) of this section, where any port company shares in respect of which a levy is imposed by section 21 of this Act or any port related commercial undertaking in respect of which a levy is imposed by section 25 of this Act are transferred,—

- (a) The liability for payment of the levy shall remain with the local authority disposing of the shares or undertaking; and
- (b) Notwithstanding any determination made under section 26 (1) (a) of this Act before the date of the transfer, the Authority may, by notice to the local authority, require immediate payment of the amount of the levy or vary the basis for instalment payment of the levy.

(2) Where—

- (a) Any port company shares are transferred pursuant to a local government reorganisation Order in Council; or
- (b) A port related commercial undertaking is transferred to a local authority pursuant to a local government reorganisation Order in Council before it is transferred to a port company,—

the liability to pay any levy that has not been paid shall become a liability of the local authority to which the shares or undertaking is transferred.

32. Levies not to be deductible for purposes of Income Tax Act 1976—For the purposes of the Income Tax Act 1976, no person shall be entitled to deduct from the assessable income of that person any levy imposed by section 21 or section 25 of this Act.

Levy on Harbour Board Land

33. Levy on harbour board land—There is hereby imposed on each local authority that holds harbour board land a levy of such percentage of the net income of that local authority from that land for the period beginning on the 28th day of July 1989 and ending with the close of the 30th day of June 1992 as the Authority determines under section 37 (1) (a) of this Act.

34. Initial statement of anticipated net income from harbour board land—(1) Every harbour board shall, not later than one month after the commencement of this Act, provide to the Authority a statement of its anticipated net income from harbour board land for the period specified in section 33 of this Act.

(2) The statement shall show—

- (a) The information and calculations supporting the amount of the anticipated net income; and
- (b) The dates on which the harbour board expects to derive the amounts that make up the anticipated net income.

35. Quarterly statements of income derived from harbour board land—(1) Every local authority that holds any harbour board land shall, unless the Authority otherwise agrees, supply to the Authority, within one month after the close of each quarter, a statement showing, in respect of that quarter,—

- (a) The gross income derived by that local authority from harbour board land; and
- (b) The amount of the net income derived by that local authority from harbour board land; and
- (c) The information and calculations supporting the amounts shown pursuant to paragraphs (a) and (b) of this subsection.

(2) The periods that are quarters for the purposes of this section are—

- (a) The period beginning on the 28th day of July 1989 and ending with the close of the 30th day of September 1989;
- (b) The period of 3 months ending with the close of the 31st day of December 1989;
- (c) The periods of 3 months ending respectively with the 31st day of March, the 30th day of June, the 30th day of September, and the 31st day of December in the years 1990 and 1991;
- (d) The periods of 3 months ending respectively with the 31st day of March 1992 and the 30th day of June 1992.

36. Liability for levy where right to net income to harbour board land transferred—(1) Where the right to the net income of any harbour board land is transferred to any person after the commencement of this Act (whether or not the land remains harbour board land), the levy imposed by

section 33 of this Act shall continue to be payable by the local authority—

- (a) As if the right had not been transferred; and
- (b) As if the local authority had continued to derive the net income that it could reasonably have been expected to derive from that land.

(2) Notwithstanding anything in subsection (1) of this section, where any harbour board land is vested in a local authority pursuant to a local government reorganisation Order in Council, that local authority shall be liable for the payment of the levy required to be paid under this Act in respect of the net income of that harbour board land.

37. Power of Authority to make determinations in relation to levy on harbour board land—(1) Subject to subsection (4) of this section, the Authority shall determine—

- (a) The percentage that shall apply for the purposes of section 33 of this Act, which percentage shall not exceed 75 percent; and
- (b) Whether the levy imposed under section 33 of this Act, or any amount of that levy, is to be paid in one payment or by instalments; and
- (c) In relation to any amount that is to be paid by instalments, the amount of each instalment and the date on which each instalment is to be paid.

(2) In making a determination under any provision of subsection (1) of this section, the Authority shall have regard in each case to the Authority's estimated expenditure and estimated income from sources other than levies under section 33 of this Act.

(3) In making any determination under subsection (1)(a) of this section, the Authority—

- (a) May determine different percentages in respect of different pieces of harbour board land (whether or not related to the same harbour), or that no amount by way of levy shall be payable in respect of any land; and
- (b) May consider, but is not required to consider, the likely expenditure in relation to the waterside workers, tally clerks, and shipwrights ordinarily employed at any port in determining the percentage that is to apply in respect of any harbour board land.

(4) No determination made under this section shall come into force until the Minister has, by notice in the *Gazette*, approved that determination.

38. Notice of determination in relation to levy—(1) The Authority shall, on a determination under section 37 of this Act being approved by the Minister, give written notice of the making and approval of the determination to each person liable to pay the levy in respect of which the determination is made.

(2) The notice required by subsection (1) of this section shall be given to the person liable to pay the levy at least one month before the date on which the levy, or the first amount on account of the levy, is required to be paid.

39. Assessable income for purposes of Income Tax Act 1976—Where the net income derived from any harbour board land is, under the Income Tax Act 1976, assessable income of any person and the levy payable under section 33 of this Act in respect of that income is payable by the same person, the assessable income of that person for the year in which the levy is paid shall, for the purposes of that Act, be deemed to be reduced by the amount of that levy paid in that year.

PART IV

MISCELLANEOUS PROVISIONS

40. No challenge on ground that levy and expenditure not related—No determination of the Authority in respect of the amount of any levy payable under this Act shall be capable of being challenged in any Court or arbitration proceedings on the grounds that the levy is not likely to be applied towards payments to employers of waterside workers, tally clerks, or shipwrights ordinarily employed at the port with which the port company or the land is associated.

41. Application of levies and other income—The levies payable to, and other income (including any borrowings) of, the Authority shall be applied—

- (a) In making payments to employers of waterside workers, tally clerks, and shipwrights as authorised by or under this Act; and
- (b) In meeting the costs and expenses of the Authority (including administration and remuneration); and
- (c) In meeting the costs and expenses incurred by the Ministry of Transport in relation to this Act before its commencement (as certified to the Authority by the Secretary for Transport); and
- (d) In the repayment of borrowings and payment of interest on borrowings under this Act.

42. Refund of surplus—Where the Authority has any surplus money at the date of its dissolution, the Authority shall distribute the surplus in a fair and equitable manner among the persons who paid levies of any kind under this Act to the Authority, or who made any other contributions in money to the Authority, or their successors having regard to the amount of levies paid or contributions paid or made by those persons and irrespective of any subsequent changes in the ownership of any shares, port related commercial undertaking, or harbour board land.

43. Supply of information—(1) The Authority may, from time to time, for the purposes of this Act, require any local authority or port company to make available to it, within one month of the requirement, information in its possession or over which it has control that—

- (a) Relates to the identification of harbour board land; or
- (b) Is or may be relevant to—
 - (i) The determination of the value of port company shares; or
 - (ii) The net value of any port related commercial undertaking; or
 - (iii) The net income of any harbour board; or
 - (iv) Any other matter relevant to the Authority.

(2) Every local authority and every port company shall, in complying with a requirement made under subsection (1) of this section, make that information available in a form in which it may be readily understood.

44. Arrangement to defeat intent or application of Act to be void—Notwithstanding anything in this Act, where the Authority is satisfied that an arrangement has been entered into (either before or after the commencement of this Act) to defeat the intent or application of this Act or of any provision of this Act, the Authority—

- (a) Shall treat the arrangement as void for the purposes of this Act; and
- (b) Shall adjust the amount of any levy payable by that person (whether or not that person is a party to the arrangement) in such manner as the Authority considers appropriate so as to counteract any reduction of any levy that would otherwise be payable under this Act.

45. Local authorities not obliged to apply proceeds from shares, income from undertaking, or land in payment of levy—Where any local authority is required to make any payment of levy under this Act, the local authority may, if it considers it appropriate, make the payment out of its general fund or any other funds that may lawfully be applied towards that payment.

46. Recovery of unpaid levies—(1) The Authority may recover as a debt due to it any levy that is not paid on the date due, in any court of competent jurisdiction.

(2) Where any amount of levy is not paid on the due date, any interest that is payable in respect of that amount may be recovered as if it were an amount of unpaid levy.

47. Arbitration of certain disputes—(1) In the event of any dispute about—

- (a) The value of port company shares; or
- (b) The net income of any harbour board land; or
- (c) The amounts or dates of payment of instalments payable under section 26 (1) (a) or section 37 (1) (b) of this Act (but not the percentages applicable by virtue of a determination under section 37 (1) (a) of this Act); or
- (d) The distribution of any surplus under section 42 of this Act,—

the matter may be referred to arbitration by the Authority or any local authority or group of local authorities affected by the matter.

(2) Where any matter is so referred,—

- (a) One assessor shall be appointed by the Authority; and
- (b) One assessor shall be appointed by the local authority or group of local authorities affected; and
- (c) The assessors shall, within 7 days after their appointment, and before entering upon their reference, appoint a person to act as arbitrator as between the assessors.

(3) Any matters upon which the assessors cannot reach agreement shall be referred from time to time to the arbitrator for decision and that decision shall form part of the assessors' determination.

(4) In the exercise of their powers under this section, the assessors may determine any matter irrespective of how any amounts may be described in the accounts or records of any local authority or port company.

(5) The determination of the assessors shall be final and shall have the same force as if it were an agreement between the parties to the arbitration.

(6) The Authority and every local authority or port company having the possession or custody of any relevant books, papers, accounts, or documents shall allow the assessors and the arbitrator to have access thereto for the purposes of this section.

48. Levy payable pending resolution of arbitration or proceeding—(1) Any levy imposed by the Authority under this Act shall be payable to the Authority notwithstanding that there may be an arbitration in progress under section 47 of this Act, or any other proceedings in progress in respect of the validity or amount of any levy.

(2) Where in any arbitration or other proceedings it is determined that any levy paid was not properly payable, the Authority shall refund the levy paid in error and pay interest on that amount at such rate as the Minister of Finance considers reasonable in the circumstances having regard to any determination made in that arbitration or those proceedings.

49. Amendment to Ombudsmen Act 1975—The Ombudsmen Act 1975 is hereby amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:

“The Waterfront Industry Restructuring Authority.”

50. Amendment to Official Information Act 1982—The Official Information Act 1982 is hereby amended by inserting in the First Schedule (as substituted by section 23(1) of the Official Information Amendment Act 1987), in its appropriate alphabetical order, the following item:

“The Waterfront Industry Restructuring Authority.”

51. Dissolution of Authority—As from the close of the 30th day of September 1992,—

- (a) The Authority shall be dissolved; and
- (b) All real and personal property belonging to the Authority shall become vested in the Crown; and
- (c) All proceedings pending by or against the Authority may be carried on, completed, or enforced by or against the Crown; and

- (d) The Ombudsmen Act 1975 shall be amended by omitting from Part II of the First Schedule the words “The Waterfront Industry Restructuring Authority”; and
 - (e) The Official Information Act 1982 shall be amended by omitting from the First Schedule the words “The Waterfront Industry Restructuring Authority”.
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SCHEDULES

FIRST SCHEDULE

Section 2 (1)

LOCAL GOVERNMENT REORGANISATION ORDERS IN COUNCIL

Title	Gazette Reference
The Local Government (Auckland Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2247
The Local Government (Bay of Plenty Region) Reorganisation Order 1989 . .	<i>Gazette</i> , 1989, p. 2275
The Local Government (Canterbury Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2296
The Local Government (Gisborne Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2328
The Local Government (Hawke's Bay Region) Reorganisation Order 1989 . .	<i>Gazette</i> , 1989, p. 2334
The Local Government (Manawatu-Wanga- nui Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2351
The Local Government (Nelson-Marlborough Region) Reorganisation Order 1989 . .	<i>Gazette</i> , 1989, p. 2375
The Local Government (Northland Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2391
The Local Government (Otago Region) Reor- ganisation Order 1989	<i>Gazette</i> , 1989, p. 2408
The Local Government (Southland Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2430
The Local Government (Taranaki Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2445
The Local Government (Waikato Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2460
The Local Government (Wellington Region) Reorganisation Order 1989	<i>Gazette</i> , 1989, p. 2491

Section 14

SECOND SCHEDULE

PROVISIONS RELATING TO WATERFRONT INDUSTRY RESTRUCTURING
AUTHORITY

1. Meetings—(1) Meetings of the Authority shall be held at such times and places as the Authority or the Chairperson or the Deputy Chairperson from time to time appoints.

(2) At any meeting of the Authority, the quorum necessary for the transaction of business shall be 2 members.

(3) The Chairperson shall preside at all meetings of the Authority at which the Chairperson is present. In the absence of the Chairperson from any meeting of the Authority, the Deputy Chairperson shall preside at that meeting.

(4) All questions arising at any meeting of the Authority shall be decided by a majority of votes of the members present and voting. The presiding member shall have a deliberative vote but shall not have a casting vote.

(5) Subject to this Act, the Authority may regulate its own procedure.

2. Assent to resolution without a meeting—A resolution in writing signed, or assented to by letter, telegram, facsimile transmission, or telex, by all members of the Authority shall be as valid and effective as if it had been passed at a meeting of the Authority duly called and constituted.

3. Remuneration and expenses of members of Authority—There shall be paid to the members of the Authority out of the funds of the Authority such remuneration by way of fees, salary, or allowances, and travelling allowances and travelling expenses as the Minister of Finance may from time to time approve.

4. Employees, consultants, agents, or specialists—(1) The Authority may from time to time appoint employees, consultants, agents, or specialists, to assist or advise it in relation to the exercise of its functions and powers.

(2) The Authority may, in accordance with any general or specific authority given by the Minister of Transport, with the concurrence of the Minister of Finance,—

(a) Pay to persons appointed under subclause (1) of this clause such remuneration by way of fees, salary, or allowances, and such travelling allowances and travelling expenses, as it thinks fit;

(b) Contribute towards the remuneration, travelling allowances, and travelling expenses of any persons appointed under subclause (1) of this clause whose employers provide services for the Authority.

5. Committees—(1) The Authority may from time to time appoint, and also alter, discharge, and reconstitute, committees consisting of such number of persons as it thinks fit to investigate and advise the Authority on such matters relating to its functions and powers as are referred to them by the Authority.

(2) A person may be appointed to be a member of any committee under this clause whether or not that person is a member of the Authority.

(3) Subject to the provisions of this Act and to any directions given by the Authority, every such committee may regulate its own procedures.

SECOND SCHEDULE—*continued*PROVISIONS RELATING TO WATERFRONT INDUSTRY RESTRUCTURING
AUTHORITY—*continued*

6. Application of certain Acts to members and employees, etc.—No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason of that person's appointment as a member of the Authority or by reason only of that person's employment under clause 4 of this Schedule.

7. Bank accounts—(1) The Authority may open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by the Authority, or by any employee of the Authority shall, as soon as practicable after it has been received, be paid into such bank accounts of the Authority as the Authority from time to time determines.

(3) The withdrawal or payment of money from any such account shall be authorised in such manner as the Authority thinks fit.

8. Investment of money—Any money which belongs to the Authority and which is not immediately required for expenditure by the Authority may be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

9. Financial statement—(1) As soon as practicable after the 30th day of June in each year the Authority shall prepare a financial statement for that year.

(2) The annual financial statement prepared under subclause (1) of this clause shall be prepared in accordance with generally accepted accounting practice and shall include—

- (a) A statement of the financial position of the Authority at the end of the year:
- (b) An operating statement reflecting the revenue and expenses of the Authority for the year:
- (c) A statement of cash flows reflecting cash flows of the Authority for the year:
- (d) A statement of the commitments of the Authority, as at the end of the year:
- (e) A statement of the contingent liabilities of the Authority, as at the end of the year:
- (f) A statement of accounting policies:
- (g) Such other statements as are necessary to reflect the financial operations of the Authority for the year and its financial position at the end of the year:
- (h) Comparative actual figures for the previous year for paragraphs (a) to (e) of this subclause and, where applicable, paragraph (g) of this subclause.

(3) The Authority shall, not later than the 31st day of August in each year, forward to the Audit Office the financial statement prepared for the immediately preceding year under subclause (1) of this clause.

10. Audit of accounts and financial statements—(1) The Audit Office shall audit the accounts of the Authority, and the financial statement referred to in clause 9 of this Schedule.

SECOND SCHEDULE—*continued*PROVISIONS RELATING TO WATERFRONT INDUSTRY RESTRUCTURING
AUTHORITY—*continued*

(2) For the purposes of subclause (1) of this clause, the Audit Office shall have and may exercise and perform—

- (a) All the functions, duties, and powers of an auditor under the Companies Act 1955; and
- (b) All the powers it has under the Public Finance Act 1977 in respect of public money and stores, and the audit of local authorities' accounts.

11. Seal—The common seal of the Authority shall be judicially noticed in all Courts and for all purposes.

This Act is administered in the Ministry of Transport.
