

## LOCAL GOVERNMENT AMENDMENT BILL (NO. 6)

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### EXPLANATORY NOTE

The purpose of this Bill is to facilitate the conducting in Auckland in the years 1999 and 2000 of the yachting event known as the America's Cup.

THIS Bill confers on the Auckland Regional Services Trust certain obligations and powers in relation to the conducting in Auckland of that event.

*Clause 1* relates to the Short Title and commencement of the Bill. The Bill is to come into force on the date on which it receives the Royal assent.

*Clause 2* defines the terms "America's Cup" and "facility" for the purposes of the Bill. The definitions are based on those in the America's Cup (Planning) Act 1989.

*Clause 3* removes from section 707zj of the Local Government Act 1974 (which sets out the functions of the Auckland Regional Services Trust) an unnecessary reference to section 707zu of that Act.

*Clause 4* inserts a new section 707zjA into the Local Government Act 1974.

*Subsection (1)* of the new section provides that the Auckland Regional Services Trust—

- (a) Shall investigate the feasibility and desirability of, and possible timeframes for, the development of one or more facilities for the America's Cup, and the most appropriate body or bodies to develop each such facility; and
- (b) Shall report to the Minister of Local Government, not later than the 31st day of May 1996, on the options for the financing, development, ownership, and management of one or more facilities for the America's Cup; and
- (c) May, with the written agreement of the Minister,—
  - (i) Undertake, either singly or jointly with any other person, the development of one or more facilities:
  - (ii) Subject to *subsection (3)* of this section, own, manage, and maintain any facility or any part of a facility:
  - (iii) Make advances on such terms and conditions as it thinks fit, to any person undertaking the development or management of a facility.

*Subsection (2)* of the new section provides that the Auckland Regional Services Trust—

- (a) Shall transfer to a local authority trading enterprise any function or undertaking authorised by *subparagraph (i) or subparagraph (ii) of subsection (1)(c)* of the new section unless the Minister of Local Government is satisfied that the Trust has demonstrated that a local authority trading enterprise that had as its principal objective the carrying out of that function or that undertaking or both could not, as required by section 594Q of the Local Government Act 1974, operate as a successful business:
- (b) May acquire and hold equity securities in any company engaged, or intending to be engaged, in the development, management, or operation of a facility.

*Subsection (3)* of the new section provides that the Auckland Regional Services Trust shall manage any assets held by the Trust pursuant to *subsection (1)(c)* or *subsection (2)* of the new section in accordance with sound business practice but with a view to the sale of those assets as soon as is prudent and practicable.

*Subsection (4)* of the new section provides that where—

- (a) On the 30th day of June 1999; or  
 (b) On the 30th day of June in any subsequent year that is an odd-numbered year,—

the Auckland Regional Services Trust owns any assets to which *subsection (3)* of the new section refers, the Trust shall publish in its annual report for the financial year ending on that day, the reasons why the Trust considers that it should or should not continue to hold those assets.

*Subsection (5)* of the new section provides that the new section is to have effect notwithstanding anything in section 707ZJ of the Local Government Act 1974 (which sets out the functions of the Auckland Regional Services Trust).

*Clause 5* amends section 707ZU of the Local Government Act 1974 (which deals with the application of the revenue of the Auckland Regional Services Trust). The amendment is designed to ensure that the Trust can fund the costs of a facility for the America's Cup.

*Clause 6* validates actions undertaken by the Auckland Regional Services Trust after 21 March 1996 and before the passing of this Bill. The actions validated are actions that would have been valid if the provisions in this Bill had been in force when those actions were taken.

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*Hon. John Banks*

**LOCAL GOVERNMENT AMENDMENT (NO. 6)**

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ANALYSIS

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1. Short Title and commencement	5. Application of revenue
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3. Functions of Trust	

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A BILL INTITULED

**An Act to amend the Local Government Act 1974**

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

5     **1. Short Title and commencement**—This Act may be cited as the Local Government Amendment Act (No. 6) 1996, and shall be read together with and deemed part of the Local Government Act 1974\* (hereinafter referred to as the principal Act).

10     (2) This Act shall come into force on the date on which it receives the Royal assent.

15     **2. Interpretation**—Section 707<sup>N</sup> of the principal Act (as inserted by section 68(1) of the Local Government Amendment Act 1992) is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

15         “‘America's Cup’ means the yachting event known as the America's Cup which is to take place in the years 1999 and 2000; and includes any preceding Challenger Series, Defender Series, or World Series:

20         “‘Facility’ means any structure (including any building, equipment, or other device) planned, designed, constructed, or undertaken, or intended to be planned, designed, constructed, or undertaken, to

\*R.S. Vol. 25, p. 1

Amendments: 1991, Nos. 49, 58, and 115; 1992, Nos. 42, 71, 74, 113, and 139; 1993, No. 73; 1994, No. 68; 1995, Nos. 25 and 40

provide an operational base for competitors in the America's Cup; and includes the land on which any such structure is, or is intended to be, situated:".

**3. Functions of Trust**—Section 707zj (1) of the principal Act (as inserted by section 68 (1) of the Local Government Amendment Act 1992) is hereby amended by repealing paragraph (h). 5

**4. Functions in relation to America's Cup**—The principal Act is hereby amended by inserting, after section 707zj (as inserted by section 68 (1) of the Local Government Amendment Act 1992), the following section: 10

"707zjA. (1) The Trust—

"(a) Shall investigate the feasibility and desirability of, and possible timeframes for, the development of one or more facilities, and the most appropriate body or bodies to develop each facility; and 15

"(b) Shall report to the Minister, not later than the 31st day of May 1996, on the options for the financing, development, ownership, and management of one or more facilities; and 20

"(c) May, with the written agreement of the Minister,—

"(i) Undertake, either singly or jointly with any other person, the development of one or more facilities:

"(ii) Subject to **subsection (3)** of this section, own, manage, and maintain any facility or any part of a facility: 25

"(iii) Make advances on such terms and conditions as it thinks fit, to any person undertaking the development or management of a facility. 30

"(2) The Trust—

"(a) Shall transfer to a local authority trading enterprise, under Part XXXIVA of this Act (as applied by section 707zk (1) of this Act), any function or undertaking authorised by **subparagraph (i) or subparagraph (ii) of subsection (1) (c)** of this section, unless the Minister is satisfied that the Trust has demonstrated that a local authority trading enterprise that had as its principal objective the carrying out of that function or that undertaking or both could not, as required by section 594Q of this Act, operate as a successful business: 35 40

“(b) May acquire and hold equity or debt securities in any company engaged, or intending to be engaged, in the development, management, or operation of a facility.

5 “(3) The Trust shall manage any assets held by the Trust pursuant to **subsection (1)(c)** or **subsection (2)** of this section in accordance with sound business practice but with a view to the sale of those assets as soon as is prudent and practicable.

“(4) Where,—

10 “(a) On the 30th day of June 1999; or

“(b) On the 30th day of June in any subsequent year that is an odd-numbered year,—

15 the Trust owns any assets to which **subsection (3)** of this section refers, the Trust shall publish in its annual report for the financial year ending on that day, the reasons why the Trust considers that it should or should not continue to hold those assets.

“(5) This section shall have effect notwithstanding anything in section 707zj of this Act.”

20 **5. Application of revenue**—Section 707zu(1) of the principal Act (as inserted by section 68(1) of the Local Government Amendment Act 1992) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

25 “(a) First, to meet the costs of the Trust, including, without limitation,—

“(i) The costs of exercising its functions and powers under sections 707zj and 707zja of this Act; and

30 “(ii) Its administrative costs; and

“(iii) Its election costs; and

“(iv) Its debt servicing; and

“(v) The remuneration of its members and officers:”.

35 **6. Validation of actions**—Any actions taken by the Trust in undertaking after the 21st day of March 1996 and before the commencement of this Act some or all of the functions specified in **paragraphs (a) and (b) of section 707zja(1)** of this Act are hereby declared to be and to have always been as valid and  
40 lawful as they would have been had **section 707zja** of this Act been in force when those actions were taken.