

Local Government (Rodney District Council) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Minister of Local Government, pursuant to section 692W of the Local Government Act 1974, has appointed a commission to act in the place of the Rodney District Council. This followed a request by the Council for the Minister of Local Government to initiate a ministerial review of the Council under section 692M. The Council had advised that: there was persistent dysfunction at Council meetings; there were serious relationship problems between elected members and between some elected members and the Council's Chief Executive Officer; and there were serious risks to the ability of the Council to deliver on some of its statutory obligations and on the proper and timely completion of other tasks.

This Bill supports and clarifies the responsibilities of the commission appointed by the Minister, and provides for the early restoration of democracy in Rodney District by way of a general election for the Council on 31 March 2001, ahead and in place of the triennial local authority elections in October 2001. The Bill provides for the suspension of statutory procedures to fill extraordinary vacancies on the Council caused by the resignation of the Mayor and 5 councillors in March 2000. These procedures are inappropriate and involve unnecessary cost because elected members are unable to act while the commission is in place. The Bill also provides for the Local Government Commission to undertake a shortened process to review the Council's membership and electoral arrangements as the basis for the general election to be held in March 2001.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on the day on which it receives the Royal assent.

Clause 3 provides that the purpose of the Bill is—

- to suspend, until 31 March 2001, the application of the Local Government Act 1974 and the Local Elections and Polls Act 1976 in relation to vacancies occurring in the offices of Mayor and councillors of the Rodney District Council:
- to provide for a general election of the Rodney District Council to be held on 31 March 2001:
- to provide for the Local Government Commission to review the Rodney District Council's membership and electoral arrangements:
- to extend the powers of the commission appointed to act in place of the Rodney District Council.

Clause 4 applies to every vacancy in the office of Mayor or the office of member of the Rodney District Council that occurs or has occurred in the period 1 March 2000 to 31 March 2001. The clause—

- disapplies certain sections in the Local Government Act 1974 relating to filling such vacancies:
- provides that everything done under that Act and the Local Elections and Polls Act 1976 in relation to such a vacancy before this Act comes into force ceases to have any force or effect:
- requires a person who has given a public notice under either Act in relation to such a vacancy to give a further public notice that the original public notice has ceased to have any force or effect.

Clause 5 provides for a general election of the Rodney District Council to be held on 31 March 2001.

Clause 6 requires the Local Government Commission to review the membership and electoral arrangements of the Rodney District Council, and make a determination about the membership and electoral arrangements. The Commission must complete the review and make the determination by 3 November 2000. The Commission

must give public notice of its proposals by 30 June 2000, and invite written submissions on the proposals to be received by 25 August 2000. The Commission must give to every person and organisation that has indicated a desire to be heard by the Commission in support of a submission, a reasonable opportunity to be heard. Notice in writing of the Commission's determination, setting out the reasons for the determination, must be given to Rodney District Council, and by public notice. The Commission's determination is final and comes into force for the general election of the Rodney District Council to be held on 31 March 2001. However, the Commission's determination is subject to the normal right of appeal on points of law under Part IIAA of the Local Government Act 1974.

Clause 7 provides that a determination of the Local Government Commission has no effect unless a description or plan of each ward and community has been sent to the appropriate Chief Surveyor, and the Chief Surveyor or some person appointed by the Chief Surveyor certifies that the description or plan is sufficient to identify the boundaries of each ward and community. The clause requires the Rodney District Council to meet the costs of the certification.

Clause 8 disapplies sections 101H to 101M of the Local Government Act 1974. This is done because of the review to be carried out by the Local Government Commission under *clause 6*.

Clause 9 extends the powers of the commission appointed to act in place of the Rodney District Council. The clause gives the commission power to appoint 1 or more consultants to provide advice to assist the commission in the exercise of its functions, duties, and powers.

Hon Sandra Lee

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Local Government (Rodney District Council) Amendment Act **2000**.
- (2) In this Act, the Local Government Act 1974¹ is called "the principal Act".

¹ RS Vol 39 p 109

2 Commencement

This Act comes into force on the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is—

- (a) to suspend, until 31 March 2001, the application of the Local Government Act 1974 and the Local Elections and Polls Act 1976 in relation to vacancies occurring in

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- the offices of Mayor and councillors of the Rodney District Council; and
- (b) to provide for a general election of the Rodney District Council to be held on 31 March 2001; and
 - (c) to provide for the Local Government Commission to review the Rodney District Council's membership and electoral arrangements; and
 - (d) to extend the powers of the commission appointed to act in place of the Rodney District Council.
- 4 Vacancies in Rodney District Council not to be filled**
- (1) This section applies to every vacancy in the office of Mayor or the office of member of the Rodney District Council that occurs or has occurred in the period beginning on 1 March 2000 and ending on the close of 31 March 2001.
 - (2) Nothing in sections 101R and 101ZC to 101ZE of the principal Act applies to such a vacancy.
 - (3) Everything done under the principal Act and the Local Elections and Polls Act 1976 in relation to such a vacancy before this Act comes into force ceases to have any force or effect.
 - (4) A person who has given a public notice under the principal Act or the Local Elections and Polls Act 1976 in relation to such a vacancy must, as soon as practicable after this Act comes into force, give a further public notice to the effect that, as a result of this Act, the original public notice has ceased to have any force or effect.
- 5 General election of Rodney District Council to be held on 31 March 2001**
- (1) A general election of the Rodney District Council must be held on 31 March 2001.
 - (2) The general election must be conducted in accordance with the provisions of the principal Act and the Local Elections and Polls Act 1976 as if it were an election to fill extraordinary vacancies.
 - (3) **Subsection (2)** applies subject to **subsections (4) to (7)**.
 - (4) Public notice of the general election must be given by the Returning Officer not earlier than 13 January 2001 and not later than the close of 19 January 2001.

- (5) The closing date and time for the receipt of nominations for the general election is noon on 16 February 2001.
- (6) The roll containing the names of the persons entitled to vote in the general election is deemed to have closed at 4 pm on 16 February 2001. 5
- (7) If the Local Government Commission determines, under **section 6(2)(d)**, that 1 or more communities are to be constituted within the district, this section applies to the election of members of the community board for such a community.
- (8) A triennial general election of the Rodney District Council is not required to be held in October 2001, and the members of the Council and of any community board elected in the general election held under this section remain in office in all respects as if they were duly elected at that triennial election. 10
- 6 Review of Rodney District Council's membership and electoral arrangements by Local Government Commission 15**
- (1) In this section and **section 7, Commission** means the Local Government Commission.
- (2) The Commission must, by 3 November 2000, review the membership and electoral arrangements of the Rodney District Council and determine,— 20
- (a) whether the council (other than the Mayor) is to be elected—
- (i) by the electors of the district as a whole; or 25
- (ii) by the electors of 2 or more wards; and
- (b) in any case to which **paragraph (a)(i)** applies, the number of members to be elected by the electors of the district as a whole; and
- (c) in any other case,— 30
- (i) the name and boundaries of each ward; and
- (ii) the number of members to be elected by the electors of each ward; and
- (d) whether 1 or more communities are to be constituted within the district; and 35
- (e) if a community is to be constituted,—
- (i) the name and boundaries of each community; and
- (ii) the number of members to be elected or appointed; and

- (iii) the functions, duties, and powers that the community board for the community should exercise as delegated functions, duties, and powers.
- (3) Before making the determination under **subsection (2)**, the Commission must, not later than 30 June 2000, by public notice— 5
- (a) outline its proposals in respect of the matters in **subsection (2)**; and
- (b) invite written submissions on those proposals, to be received by the Commission by 25 August 2000; and 10
- (c) advise that any person who wishes to be heard in support of a submission under **paragraph (b)** will be given an opportunity to do so.
- (4) Before making the determination under **subsection (2)**, but after the date specified in **subsection (3)(b)**, the Commission must give to every person or organisation that has indicated a desire to be heard by the Commission in support of a submission, a reasonable opportunity to be heard. 15
- (5) In making the determination under **subsection (2)**, the Commission must have regard to— 20
- (a) the written and oral submissions made under **subsections (3) and (4)**; and
- (b) the matters set out in sections 101L and 101ZL of the principal Act; and
- (c) such other matters as the Commission considers, on reasonable grounds, to be relevant to that determination. 25
- (6) Notice in writing of the determination under **subsection (2)**, setting out the reasons for the determination, must be given by the Commission to the Rodney District Council, and by public notice. 30
- (7) Immediately after the publication of a public notice under **subsection (6)**, the Commission must send a copy of that notice to—
- (a) the Surveyor-General; and 35
- (b) the Government Statistician.
- (8) Subject to **subsection (9) and section 7**, the determination of the Commission made under **subsection (2)** is final and comes into

force for the general election of the Rodney District Council to be held on 31 March 2001.

- (9) For the purposes of Part IIAA of the principal Act, the Commission's determination is to be treated as if it were a proceeding before the Commission, and that Part applies accordingly with all necessary modifications. 5
- (10) The Rodney District Council must reimburse the Commission for the reasonable costs of the Commission in giving public notice under **subsections (3) and (6)**.

7 Descriptions or plans for determination by Local Government Commission 10

- (1) For the purposes of **section 6(8)**, a determination by the Commission that provides for wards or communities has no effect unless—
 - (a) a description or plan of each ward or community has been sent to the Chief Surveyor of the land district within which the district is situated; and 15
 - (b) the Chief Surveyor, or some person appointed by the Chief Surveyor, certifies that the description or plan is sufficient to render the boundaries of each ward or community capable of identification. 20
- (2) The Rodney District Council must—
 - (a) reimburse the Commission for any costs incurred by the Commission in obtaining the certificate required by **subsection (1)**; or 25
 - (b) meet the cost of the production of that certificate if required to do so by the Chief Surveyor.

8 Sections 101H to 101M of principal Act not to apply to 2000 triennial review of Rodney District Council's membership and electoral arrangements 30

- (1) Sections 101H to 101M of the principal Act do not apply to the 2000 triennial review of the Rodney District Council's membership and electoral arrangements.
- (2) This section does not limit **section 6(5)(b)**.

- 9 Power of commission to appoint consultants to provide advice**
- (1) In this section, **commission** means the commission appointed, on 11 April 2000 under section 692W of the principal Act, to act in place of the Rodney District Council. 5
- (2) While the commission holds office, the commission may appoint 1 or more consultants, as it considers appropriate, to provide advice to assist the commission in the exercise of its functions, duties, and powers.
- (3) The appointment of a consultant under **subsection (2)** comes to an end on the earlier of— 10
- (a) any date specified in the appointment for that purpose; or
- (b) the date on which the commission ceases to hold office.
- (4) The cost of appointing a consultant and of a consultant's services must be paid out of money belonging to the Rodney District Council. 15
- (5) This section does not limit sections 692Y and 692Z of the principal Act.