



Local Government (Remuneration Authority Levies) Regulations 2005

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 7th day of March 2005

Present:

Her Excellency the Governor-General in Council

Pursuant to clause 10 of Schedule 7 of the Local Government Act 2002, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Local Government (Remuneration Authority Levies) Regulations 2005.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Interpretation

In these regulations,—

Act means the Local Government Act 2002

costs means the costs that the Remuneration Authority incurred in the previous financial year in making determinations under clause 6 of Schedule 7 of the Act

levy means a levy payable by a local authority in a financial year for the purpose of recovering costs

Minister means the Minister responsible for the Remuneration Authority

previous financial year means the financial year before the financial year in which the Minister sets a levy.

4 When regulations apply

These regulations apply when the Minister decides to set a levy.

5 Last date for setting levy

The Minister must set the levy by the 31 October following the end of the previous financial year.

6 Calculation of levy

- (1) The Secretary of Labour calculates the levy payable by each local authority.
- (2) The Secretary must use the formula—
$$\text{equal share} + \text{proportionate share}$$
- (3) The items in the formula are defined in subclauses (4) to (8).
- (4) **Equal share** is the local authority's equal share of one-half of the costs. The authority's equal share is calculated by dividing one-half of the costs equally among all the authorities to which this subclause applies.
- (5) Subclause (4) does not apply to the Chatham Islands Council.

- (6) **Proportionate share** is the local authority's proportionate share of the other half of the costs. The authority's proportionate share is calculated by—
- (a) applying subclause (7) to determine the authorities to which this subclause applies; and
 - (b) applying subclause (8) to determine the total of the operating expenditures to which this subclause applies; and
 - (c) taking the authority's operating expenditure to which this subclause applies; and
 - (d) determining the proportion that the amount in paragraph (c) bears to the amount in paragraph (b); and
 - (e) applying the proportion to the half of the costs.
- (7) Subclause (6) does not apply to a local authority whose population is fewer than 7 000 persons. An authority's population is its population at the most recent of the following dates:
- (a) the date of the last census of population and dwellings taken by the Government Statistician for which results have been published; and
 - (b) the date on which the authority was constituted, if an assessment by the Government Statistician of the population at that date exists; and
 - (c) the date of the last alteration of the authority's boundaries, if an assessment by the Government Statistician of the population at that date exists; and
 - (d) a date other than one described in paragraph (b) or paragraph (c), if an assessment by the Government Statistician of the population at that date exists.
- (8) Subclause (6) does not apply to operating expenditure over \$125 million that a local authority to which subclause (6) applies had for the previous financial year.

7 **Last date for paying levy**

A local authority must pay the levy by the 31 December following the end of the previous financial year.

8 **Methods for paying levy**

A local authority must pay the levy by 1 of the following methods:

- (a) a cheque payable to the Department of Labour; or

- (b) direct credit to the Department of Labour's Crown receipts account.

9 Notification of levy

- (1) The Secretary of Labour must send a letter to the chief executive of every local authority setting out—
 - (a) the levy calculated for the authority under regulation 6; and
 - (b) the date prescribed in regulation 7; and
 - (c) the methods prescribed in regulation 8.
- (2) The Secretary must send the letter before the 14th day after the date on which the Minister publishes a notice under clause 10A(2) of Schedule 7 of the Act.

10 Refund of over-payments

- (1) This regulation applies when a local authority pays a levy that is higher than that produced by the proper application of the formula in regulation 6.
- (2) The Secretary must refund the over-payment by—
 - (a) deducting all of it from the next levy payable by the authority; or
 - (b) deducting it in stages from the next and later levies payable by the authority.

11 Recovery of under-payments

- (1) This regulation applies when a local authority pays a levy that is lower than that produced by the proper application of the formula in regulation 6.
- (2) The Secretary may recover the under-payment only if—
 - (a) the Secretary adds it to the levy payable by the authority in a later financial year; and
 - (b) the Minister notifies the authority of the Secretary's intention to do so; and
 - (c) the authority receives the notification before 31 May in the year before the financial year in which the recovery is to be made.

12 Levy for costs incurred in 2003/04 financial year

- (1) This regulation applies to a levy for costs that the Remuneration Authority incurred in making determinations under clause 6 of Schedule 7 of the Act in the 2003/04 financial year.

- (2) These regulations apply to the levy, except that—
- (a) instead of applying regulation 5, the Minister must set the levy by 31 May 2005; and
 - (b) instead of applying regulation 7, local authorities must pay the levy by 30 June 2005.

13 Revocation

The Local Government (Remuneration Authority Levies) Order 2004 (SR 2004/117) is revoked.

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

The Local Government Act 2002 provides that the Minister responsible for the Remuneration Authority may levy local authorities to recover the Authority's costs in the previous financial year in determining the remuneration of local authority members under clause 6 of Schedule 7 of the Act. The Act requires the Minister to publish a notice in the *Gazette* notifying his or her intention to set the levy, and the levy is set when it comes into effect 28 days after the publication of the notice. These regulations prescribe the method by which the Minister sets the levy.

The regulations come into force on the 28th day after the date of their notification in the *Gazette*.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 10 March 2005.

These regulations are administered in the Department of Internal Affairs.
