

(4) Where there is any dispute over whether any property comes within a category of property referred to in this clause, the matter shall be referred to the Local Government Commission for determination.

(5) Subject to subclauses (8) to (10) of this clause, any property which is vested in the Otago Harbour Board as at the 31st day of October 1989 and which does not come within a category of property referred to in subclause (2) or subclause (3) of this clause is hereby vested in the Otago Regional Council.

(6) Notwithstanding anything in subclauses (2) and (3) of this clause, but subject to subclauses (9) and (10) of this clause, any land which is vested in the Otago Harbour Board as at the 31st day of October 1989 and which is below the mean high water mark is hereby vested in the Otago Regional Council.

(7) For the purposes of this clause, any property which is fixed to, or under or over, any land which is below the mean high water mark, and which is used for, or in conjunction with, any purpose referred to in subclause (2) of this clause and which is situated within the Dunedin City as constituted by this order is hereby transferred to the Dunedin City Council, whether or not any interest in the land is also transferred.

(8) Without limiting the provisions of subclauses (2), (3), (5) and (6) of this clause, but subject to subclauses (9) and (10) of this clause that land described in the Fourth Schedule to this order shall vest without cost in the Dunedin City Council.

(9) If any of the land specified in the Fourth Schedule to this order is, between the 9th day of June 1989 and the 31st day of October 1989, allocated to the Port Otago Limited pursuant to an approved port company plan within the meaning of the Port Companies Act 1988 then, notwithstanding subclause (8) of this clause, that land shall not vest in the Dunedin City Council.

(10) Notwithstanding anything in this clause, if, after the 31st day of October 1989,:

(a) The Minister of Transport approves a port company plan within the meaning of the Port Companies Act 1988 pursuant to which any of the property, real or personal, identified in this clause is liable to be transferred to the Port Otago Limited, the local authority which has received such property pursuant to this clause, shall transfer such property to the Port Otago Limited at the cost of that company, subject to any appropriate adjustment for incomings and outgoings in relation to such property for the period beginning on the 1st day of November 1989 and ending on the date of the transfer of the property to the Port Otago Limited; or

(b) Any approved port company plan is cancelled, withdrawn, re-issued or in any way altered and, as a result, property is deemed to be returned to the ownership (notional or otherwise) of the Otago Harbour Board, that property shall be allocated under this order as if the property had been owned by the Otago Harbour Board on the 31st day of October 1989.

165 TITLE TO PROPERTY

Any reference, express or implied, to the Otago Harbour Board in any instrument or other document whatsoever, or in any entry or record made in any register in relation to any property whatsoever vested in any local authority by this order shall, unless the context otherwise requires, be read as a reference to that local authority.

166 PORT OTAGO LIMITED

All those shares in the Port Otago Limited that are held by the Otago Harbour Board as at the 31st day of October 1989 are hereby vested in the Otago Regional Council.

167 LIABILITIES IN RESPECT OF PORT RELATED COMMERCIAL UNDERTAKINGS

(1) All those liabilities of the Otago Harbour Board as

determined under section 29 of the Port Companies Act 1988 shall become liabilities of the Otago Regional Council.

(2) All those debt securities issued by the Port Otago Limited to the former Otago Harbour Board under section 29 of the Port Companies Act 1988 are hereby transferred to the Otago Regional Council.

168 RESIDUAL ASSETS AND LIABILITIES

All the assets and liabilities of the Otago Harbour Board, as at the close of the 31st day of October 1989, for which provision for vesting is not otherwise made in this order are declared to be assets and liabilities of the Otago Regional Council.

PART IX

General

169 TRANSFER OF RESPONSIBILITIES

(1) Except as otherwise provided in this order, a local authority constituted by this order shall, in respect of the district of that local authority:

(a) Have and may exercise and be responsible for all the powers, duties, acts of authority and functions which were previously exercised, or which could have been so exercised, by the former authorities had they not been dissolved; and

(b) Have and may exercise and be responsible for all liabilities, obligations, engagements and contracts which previously were, or which would have been, the responsibility of the former authorities had they not been dissolved; and

(c) Have and may exercise and be responsible for all actions, suits, and proceedings pending by or against, or which would have been the responsibility of the former authorities had they not been dissolved; and

(d) Succeed to the bylaws which are in force in the districts of the former authorities. Until revoked or altered by the newly constituted local authority each such bylaw shall remain in force in the area to which it applied immediately before the constitution of the district and every bylaw which cannot be restricted to that area shall be deemed inapplicable and revoked by the dissolution of the former authorities; and

(e) Succeed to all rates and levies, and other money payable to the former authorities had they not been dissolved; and

(f) Succeed to the valuation rolls and rate records in force in the districts of the former authorities. These shall remain in force in the district of the newly constituted local authority until new valuation rolls are made by that local authority.

(2) The Mayor or Chairperson of each local authority constituted by this order shall have and may exercise the functions, duties, and powers of the Mayors and Chairmen of the former authorities.

(3) The principal administrative officer of each local authority constituted by this order shall have and may exercise the functions, duties, and powers of the principal administrative officers of the former authorities.

170 CREDITORS

Subject to section 37F of the Local Government Act 1974, the rights or interests of creditors of the former authorities shall not be affected by this order.

171 LOCAL AUTHORITIES PETROLEUM TAX

For the purposes of Part XI of the Local Government Act 1974, the local authorities constituted by this order shall be successors to the former authorities.

172 SPECIAL FUNDS

(1) The special funds of the former authorities shall:

(a) Be expended only for the purposes for which they were set aside; and

(b) Except for any plant renewal fund, be expended for the benefit of the area in which they originated and, after provision