

# Local Government Amendment Act (No. 3) 1988

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

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

#### **1 Short Title and commencement**

- (1) This Act may be cited as the Local Government Amendment Act (No. 3) 1988, and shall be read together with and deemed part of the Local Government Act 1974 (hereinafter referred to as the principal Act).
- (2) This Act shall come into force on the day after the date on which it receives the Royal assent.

#### **2 Interpretation**

Section 2(1) of the principal Act is hereby amended by inserting in the definition of the term “reorganisation scheme” (as inserted by section 3(2) of the Local Government Amendment Act 1978), after the words “reorganisation scheme prepared under”, the words “section 15b or”.

#### **3 Temporary members**

Section 8 of the principal Act (as substituted by section 6 of the Local Government Amendment Act 1985) is hereby amended by repealing subsection (1), and substituting the following subsection:

- “(1) The Minister may, at the request of the Commission, appoint a person having special knowledge of local government to be a temporary member of the Commission for the purposes of any function of the Commission under any Act.”

#### **4 Committees**

- (1) Section 8a(1) of the principal Act (as enacted by section 6 of the Local Government Amendment Act 1985) is hereby amended by omitting the expression “3”, and substituting the expression “2”.
- (2) Section 8a of the principal Act (as enacted by section 6 of the Local Government Amendment Act 1985) is hereby amended by inserting, after subsection (1), the following subsection:

“(1a) No person other than a member of the Commission appointed under section 3 of this Act may chair a committee appointed under this section.”

- (3) Section 9(2) of the principal Act (as substituted by section 6 of the Local Government Amendment Act 1985) is hereby amended by inserting, after the words “if the number is odd”, the words “but in no case shall be less than 2 members”.

## **5 Power of Commission to engage consultants**

The principal Act is hereby amended by inserting, after section 11 (as substituted by section 2 of the Local Government Amendment Act (No. 2) 1977), the following section:

### **“11a**

“(1) The Commission may engage such consultants as it thinks necessary or desirable to assist it to carry out its functions.

“(2) The Commission may pay to any person engaged under subsection (1) of this section, for services rendered by that person, such fees or commissions or both as it thinks fit, and may reimburse any such person for expenses reasonably incurred in rendering services for the Commission.”

## **6 New sections inserted**

The principal Act is hereby amended by inserting, after section 15 (as substituted by section 2 of the Local Government Amendment Act (No. 2) 1977), the following sections:

### **“15a Object**

The object of sections 15b to 15e of this Act is to enable substantial reform of local government in New Zealand to take place before the triennial general elections in October 1989.

### **“15b Duty of Commission to prepare final reorganisation schemes**

“(1) The Commission shall, before the close of the 1st day of July 1989, prepare such final reorganisation schemes as in its opinion are necessary to improve local government in New Zealand or any part of New Zealand.

“(2) In carrying out the object of sections 15a to 15e of this Act and the duty imposed on it by subsection (1) of this section, the Commission—

“(a) Shall not be constrained by the existing form of local government in New Zealand; but

“(b) Shall observe the provisions of the First Schedule to the Local Government Amendment Act (No. 3) 1988; and

“(c) Shall, subject to section 15c of this Act, establish for every part of New Zealand that is within the district of a territorial authority a system of

local government that conforms to the provisions of the First Schedule to the Local Government Amendment Act (No. 3) 1988; and

“(d) May, notwithstanding any other provision of this Act, include in any final reorganisation scheme prepared pursuant to subsection (1) of this section provisions affecting—

“(i) Any local authority or class of local authority:

“(ii) Any function, duty, or power of any local authority or class of local authority under any Act.

“(3) Where any provision of the First Schedule to the Local Government Amendment Act (No. 3) 1988 affects or conflicts with any other provision, whether of this Act or of any other Act, the provisions of the First Schedule to that Act shall prevail over that other provision.

“(4) Where any provision of any Act confers any function, duty, or power on any regional council, territorial authority, or special purpose authority, that provision shall cease to confer that function, duty, or power on that regional council, territorial authority, or special purpose authority if the Commission specifies, generally or particularly, in a final reorganisation scheme prepared under section 15b(1) of this Act, that that function, duty, or power does not belong to that regional council, territorial authority, or special purpose authority.

“(5) Nothing in this section or in section 15a of this Act applies in respect of the Chatham Islands.

**“15c Power of Commission to confirm, in respect of any part of New Zealand, the existing system of local government**

“(1) Notwithstanding anything in section 15a or section 15b of this Act, the Commission may determine that the existing system of local government in any part of New Zealand accords with the provisions of the First Schedule to the Local Government Amendment Act (No. 3) 1988.

“(2) Any determination made under subsection (1) of this section shall be published in the *Gazette* as soon as practicable after it is made and shall have the effect of confirming, in respect of the part of New Zealand to which it relates, the existing system of local government.

**“15d Commission’s obligation to give priority to preparation of final reorganisation schemes**

“(1) The Commission shall, in carrying out its functions under this Act, give priority to the preparation of final reorganisation schemes required to be prepared by it under section 15b of this Act.

“(2) The Commission shall decline to perform any function under this Act (other than the function of preparing final reorganisation schemes under section 15b of this Act) if, in the opinion of the Commission, the obligations imposed on

it by section 15b of this Act and by subsection (1) of this section make it expedient to do so.

“(3) Subject to subsection (4) of this section, nothing in subsections (1) and (2) of this section entitles the Commission to decline to perform—

“(a) Its functions in relation to the reorganisation proposals specified in the Second Schedule to the Local Government Amendment Act (No. 3) 1988; or

“(b) Its functions under any of the provisions of—

“(i) Sections 44, 46, 50, 56b to 56d, 58, 82, 125a, and 318 of this Act; or

“(ii) Any other Act.

“(4) Notwithstanding subsection (3)(b) of this section, the Commission may decline to perform its functions under section 56b of this Act in relation to any council if the Commission has resolved to prepare, under section 15b of this Act, a final reorganisation scheme that will in its opinion be likely to affect the membership of that council or the boundaries of that council’s district.

#### **“15e Procedures for preparing final reorganisation schemes**

“(1) Notwithstanding anything in this Act or any other Act, in preparing any final reorganisation scheme under section 15b of this Act, the Commission shall follow the procedures specified in this section, and nothing in sections 15, 17 to 24, 26 to 34, 49, 261, and 265 of this Act shall apply to the preparation of that scheme.

“(2) Before completing any final reorganisation scheme under section 15b of this Act, the Commission shall grant every local authority affected by the scheme the opportunity to meet with and be heard by the Commission on the application of the scheme to or within the district of the local authority.

“(3) The modification of any final reorganisation scheme by the Commission after complying with subsection (2) of this section shall not require the Commission to grant to any local authority any further opportunity to meet with and be heard by the Commission.

“(4) The failure of any local authority to avail itself of the opportunity to meet with and be heard by the Commission under subsection (2) of this section, or to comply with any other request of the Commission, shall not prevent the completion of any final reorganisation scheme by the Commission or affect its validity.

“(5) Subject to subsection (2) of this section, and to the First Schedule to the Local Government Amendment Act (No. 3) 1988, the Commission, in preparing a final reorganisation scheme under section 15b of this Act, may—

“(a) Conduct such investigations as it thinks fit; and

“(b) Consult such persons and organisations, including Maori tribal authorities and other Maori authorities, as it thinks fit.”

## 7 Supplementary provisions for giving effect to schemes

Section 35(4) of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977) is hereby amended by omitting the words “united council or regional council”, and substituting the words “local authority”.

## 8 Apportionment of assets and liabilities

The principal Act is hereby amended by repealing section 37e (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977), and substituting the following section:

### “37e

- “(1) Where any Order in Council or other instrument giving effect to a final reorganisation scheme does not make provision for the apportionment of the assets and liabilities of the local authorities affected by the Order or other instrument, those local authorities may by agreement determine the manner in which those assets and liabilities shall be apportioned.
- “(2) If no such agreement is entered into by the local authorities concerned within 3 months after the date of the coming into force of the Order or other instrument, any local authority directly affected may apply to the Commission for an order apportioning assets and liabilities, and the Commission, having regard to such matters as the Governor-General, by Order in Council, specifies, shall make an order directing the manner in which assets and liabilities are to be apportioned as between the local authorities concerned.
- “(3) For the purpose of deciding any application to the Commission under this section, the Commission shall consult with the Audit Office and with the local authorities directly affected, and may make such enquiries as it thinks fit, and may obtain advice from any other person who, in the opinion of the Commission, has expert knowledge concerning any aspect of the matter to be decided.
- “(4) In the exercise of its powers under this section, the Commission may identify the assets and liabilities to be transferred, which assets and liabilities shall include all amounts and items that ought properly to be treated as being of the same character irrespective of how they may be described in the accounts or records of any local authority.
- “(5) Every order of the Commission under this section may be enforced as if it were an agreement between the local authorities concerned.”

## 9 Apportionment of loan liabilities

- (1) Section 37f(1)(a) of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977) is hereby amended by repealing subparagraph (iii), and substituting the following subparagraph:

“(iii) Some or all of the functions of a local authority are transferred to mother local authority; and”.

- (2) Section 37f(1) of the principal Act (as so enacted) is hereby amended by omitting the words “of the abolished local authority”.

## 10 New sections substituted

The principal Act is hereby amended by repealing section 37h (as enacted by section 2 of the Local Government Amendment Act (No. 2) 1977), and substituting the following sections:

### “37h Payment on transfer of trading undertaking

“(1) Where an Order in Council or other instrument giving effect to a final scheme contains provisions for the transfer of a trading undertaking or part thereof from any local authority (in this section and in the Third Schedule to this Act referred to as the transferor) to any other local authority (in this section and in the Third Schedule to this Act referred to as the transferee) then, if the transferor continues in existence, it may, by notice in writing to the transferee, or the transferee may, by notice in writing to the transferor, require that assessors (in this section and in the Third Schedule to this Act referred to as the assessors) be appointed to determine whether or not any payment in respect of the transfer of that trading undertaking or part thereof shall be made under this section by the transferee to the transferor or by the transferor to the transferee and, if so, the amount of the payment that is to be made, and the provisions of the Third Schedule to this Act shall apply accordingly.

“(2) Nothing in this section or in the Third Schedule to this Act shall be construed as limiting in any way or permitting or requiring a postponement of the transfer of a trading undertaking or part thereof pursuant to an Order in Council or other instrument giving effect to a final scheme.

“(3) In this section and in the Third Schedule to this Act, ‘trading undertaking’ means a trading undertaking as defined in section 201 of this Act.

### “37ha Certain matters not affected by transfer of functions, duties, or powers

Nothing effected or authorised by any Order in Council or instrument giving effect to a final reorganisation scheme—

“(a) Shall be regarded as placing any local authority, or any other person, in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or

- “(b) Shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
- “(c) Shall be regarded as placing any local authority, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- “(d) Shall release any surety wholly or in part from any obligation; or
- “(e) Shall invalidate or discharge any contract or security.

### **“37hb Registers**

- “(1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of any Order in Council or other instrument giving effect to a final reorganisation scheme to change the name of the transferor to that of the transferee in those books or registers or in any document.
- “(2) The presentation to any registrar or other person of any instrument, whether or not comprising an instrument of transfer by the transferee,—
  - “(a) Executed or purporting to be executed by the transferee; and
  - “(b) Relating to any property held by the transferor; and
  - “(c) Containing a recital that the property has become vested in the transferee by virtue of an Order in Council or other instrument giving effect to a final reorganisation scheme—
 shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the transferee.
- “(3) Except as provided in this section, nothing in this Act shall derogate from the provisions of the Land Transfer Act 1952.”

## **11 Interpretation**

- (1) Section 270(2) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by omitting the words “Minister of Works and Development”, and substituting the words “Minister of Local Government”.
- (2) Section 316(4)(c) of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1978) is hereby amended by omitting the words “Minister of Works and Development”, and substituting the words “Minister of Local Government”.

## **12 Amendments to First Schedule**

- (1) The First Schedule to the principal Act (as substituted by section 2(1) of the Local Government Amendment Act 1976) is hereby amended by inserting in

Part II, after the item relating to administering bodies of scenic reserves, the following item:

“Area Health Boards

1983, No. 134—The Area Health Boards Act 1983”.

- (2) The said First Schedule is hereby further amended by inserting in Part II, after the item relating to District Noxious Plants Authorities (as inserted by section 52 of the Local Government Amendment Act 1980), the following item:

“District Roads Councils

1953, No. 118—The National Roads Act 1953”.

- (3) The said First Schedule is hereby further amended by inserting in Part II, after the item relating to Harbour Boards, the following item:

“Hospital Boards

1957, No. 40—The Hospitals Act 1957”.

- (4) The said First Schedule is hereby further amended by inserting in Part II, after the item relating to Irrigation Boards, the following item:

“Maritime Planning Authorities

1977, No. 121—The Town and Country Planning Act 1977”.

- (5) The said First Schedule is hereby amended by omitting from Part III the item relating to the Auckland Institute and Museum Trust Board, and substituting the following item:

“The Council of the Auckland Institute and Museum

1957, No. 18—The Charitable Trusts Act 1957”.

- (6) The said First Schedule is hereby amended by inserting in Part III, after the item relating to the Dunedin Drainage and Sewerage Board, the following item:

“The Dunedin Ocean Beach Domain Board

1892, No. 13 (Local)—The Ocean Beach Public Domain Act 1892.”

### **13 New Third Schedule substituted**

The principal Act is hereby amended by repealing the Third Schedule (as inserted by section 4(1) of the Local Government Amendment Act (No. 2) 1977), and substituting the Third Schedule set out in the Third Schedule to this Act.

## **SCHEDULES**

**FIRST SCHEDULE**  
**Provisions to be Observed by the Commission in Preparing Final**  
**Reorganisation Schemes**

Section 6

**1 Classes of local authority**

The classes of local authority that may be provided for in final reorganisation schemes shall be:

- (a) Regional councils:
- (b) Territorial authorities:
- (c) Special purpose authorities.

**2 Functions, duties, and powers of local authorities**

In determining the allocation of functions, duties, and powers to a local authority, the Commission shall have regard to, and shall give such weight as it considers appropriate in each case to,—

- (a) The existence of different communities within New Zealand:
- (b) The identity and values of those communities:
- (c) The desirability of enabling communities to make choices between different kinds of local public facilities and services:
- (d) The trading undertakings of the local authority and the need to ensure that they are operated on a competitively neutral basis:
- (e) Community of interest:
- (f) The efficient and effective exercise of the functions, duties, and powers:
- (g) The clear definition of objectives and the avoidance of conflicting objectives:
- (h) The need for effective accountability to be achieved through—
  - (i) Electoral process; and
  - (ii) Provision of appropriate information; and
  - (iii) Competition in the provision of services; and
  - (iv) Other means.

**3 Boundary determinations**

(1) In determining boundaries of districts of local authorities, the Commission shall have regard to, and shall give such weight as it considers appropriate in each case to,—

- (a) The area of impact of the functions, duties, and powers of the local authority concerned:
- (b) The area of benefit of services provided:

- (c) The likely effects on any local authority of the exclusion of any area from its district:
  - (d) Community of interest:
  - (e) The efficient and effective exercise of the functions, duties, and powers of the local authority concerned.
- (2) Subclause (1) of this clause shall apply—
- (a) In relation to community councils and district community councils as if they were local authorities; and
  - (b) In relation to communities as if they were districts of local authorities.

#### **4 Statistical mesh block areas**

In determining boundaries under clause 3 of this Schedule, the Commission shall ensure that the boundaries coincide with the boundaries of statistical mesh block areas determined by the Department of Statistics and used for parliamentary electoral purposes.

#### **5 Membership**

In determining the number of members of any regional council, territorial authority, community council, district community council, or special purpose authority, the Commission shall have regard to, and shall give such weight as it considers appropriate in each case to,—

- (a) The need for effective representation of the electors of the council or authority:
- (b) The need to comply with any appropriate ward representation requirements:
- (c) The need to provide for effective and accountable local government:
- (d) The functions, duties, and powers of the council or authority.

#### *Regional Councils*

#### **6 Functions, duties, and powers of regional councils**

- (1) Every final reorganisation scheme for a regional council shall provide that the regional council shall have:
- (a) The functions, duties, and powers of a regional council under—
    - (i) The Local Government Act 1974:
    - (ii) The Urban Transport Act 1980 (to the extent that that Act is applicable to that regional council):
    - (iii) Any public Act relating to that regional council and not expressly referred to in this clause:

- (iv) Any local Act relating to that regional council,—  
except those functions, duties, or powers specified by the Commission as not belonging to that regional council:
  - (b) The functions, duties, and powers in relation to regional planning of a regional council under the Town and Country Planning Act 1977 or any other Act:
  - (c) The functions, duties, and powers in relation to maritime planning of a Maritime Planning Authority under the Town and Country Planning Act 1977 or any other Act:
  - (d) The functions, duties, and powers of Catchment Boards and Regional Water Boards under the Soil Conservation and Rivers Control Act 1941 and the Water and Soil Conservation Act 1967 and, in the case of regional councils having jurisdiction in the appropriate areas, the functions, duties, and powers of the Auckland Regional Authority under sections 42 and 43 of the Auckland Regional Authority Act 1963, and the Wellington Regional Water Board under the Wellington Regional Water Board Act 1972:
  - (e) The functions, duties, and powers of a regional council under the Civil Defence Act 1983:
  - (f) Such other functions, duties, and powers (including any of those currently performed or exercised by territorial authorities or other local authorities) as the Commission considers are most appropriately those of the regional council.
- (2) The functions, duties, and powers allocated to regional councils shall be allocated to them in such a manner as to avoid so far as practicable the need—
- (a) To allocate functions, duties, or powers under clause 7 of this Schedule;  
or
  - (b) To constitute out-districts pursuant to clause 9 of this Schedule.
- (3) A regional council may be described in a final reorganisation scheme as “The [*Name of region*] Regional Council” or “The [*Name of region*] Regional and Resource Management Council”.

## 7 Single district

Where the Commission is satisfied that the functions, duties, and powers of both a regional council and a territorial authority should be carried out within the boundaries of a single district, the Commission may provide for a single authority to exercise the functions, duties, and powers of both a regional council and a territorial authority and shall designate the type of local authority to be constituted.

**8 Boundaries**

Except as provided in clause 7 of this Schedule, the boundaries of every region shall conform, so far as the Commission considers practicable, to the boundaries of one or more water catchments.

**9 Out-districts**

Where any functions, duties, and powers conferred upon a regional council are exercisable in respect of any area outside the boundaries of the region, that area shall be an out-district of the region in terms of section 269 of the Local Government Act 1974.

**10 Auckland Regional Authority**

The provisions of sections 707b to 707m of the Local Government Act 1974 shall continue to apply in respect of the Auckland Regional Authority (notwithstanding any alteration to its functions, duties, or powers) and in respect of the Auckland Regional District as from time to time constituted.

*Territorial Authorities***11 Functions, duties, and powers of territorial authorities**

Every final reorganisation scheme for a territorial authority shall provide that the territorial authority shall have:

- (a) The functions, duties, and powers of a territorial authority under—
  - (i) The Local Government Act 1974:
  - (ii) Any other public Act relating to that territorial authority:
  - (iii) Any local Act relating to that territorial authority,—  
except those functions, duties, or powers specified by the Commission as not belonging to that territorial authority:
- (b) Such other functions, duties, and powers of local government (including those currently performed or exercised by regional or united councils or special purpose authorities) as the Commission considers should be those of the territorial authority.

**12 Wards**

- (1) Every territorial authority district with a population of less than 70,000 but not less than 20,000 shall be divided into wards for electoral purposes.
- (2) For the purposes of giving due representation to the several wards, the Commission shall have regard to the population of each ward, and such other additional factors or combination of factors as the Commission considers relevant.
- (3) In determining boundaries of wards, the Commission shall ensure that the boundaries coincide with the boundaries of statistical mesh block areas deter-

mined by the Department of Statistics and used for parliamentary electoral purposes.

- (4) Section 56c(4) of the Local Government Act 1974 shall apply in relation to any certificate of the Government Statistician issued for the purposes of this clause under section 2(5) of that Act.

### **13 Community Councils and District Community Councils**

Notwithstanding the provisions of sections 57 to 61 of the Local Government Act 1974,—

- (a) Any part of a territorial authority district may be constituted a community administered by a community council or a district community council as the Commission may determine:
- (b) A district community council may be constituted for any community regardless of its population.

### **14 Ward committees**

The Commission may provide for the establishment of a ward committee for any ward or combination of wards of a territorial authority district as an alternative to a community council or a district community council.

### *Special Purpose Authorities*

### **15 Special purpose authorities**

- (1) Where the Commission is satisfied that any function, duty, or power that is conferred or could be conferred under this Schedule on any regional council or territorial authority cannot be performed or exercised by the regional council or the territorial authority in accordance with the provisions of clauses 2, 3, and 5 of this Schedule but should be performed or exercised by local government, the Commission may, having regard to subclause (2) of this clause, continue or constitute a special purpose authority to perform or exercise the function, duty, or power and such related duties and powers as the Commission considers appropriate.
- (2) In determining whether and in what manner any special purpose authority should be continued or constituted, the Commission shall have regard to, and shall give such weight as it considers appropriate in each case to,—
- (a) The extent to which the area of impact of the function, duty, or power differs from a territorial authority district or region:
- (b) The extent to which the function, duty, or power conflicts with the function of any other local authority:
- (c) The extent to which the function, duty, or power could be more efficiently and effectively performed by a special purpose authority:

- (d) The extent to which the constitution of a special purpose authority would enhance accountability of the overall system of local government in the area.

#### **16 Membership of special purpose authority**

The number of members of each special purpose authority shall be determined by the Commission, but shall be not less than 6.

#### *Committees*

#### **17 Committees**

- (1) The Commission may make such provision as it considers appropriate in respect of local authority committee structures and committee membership, including joint committees involving more than one local authority, whether or not of the same type.
- (2) In exercising its function under subclause (1) of this clause, the Commission shall make such provision as it considers will best ensure the avoidance of conflicts of interest between—
- (a) Planning, resource management, and other regulatory functions, duties, and powers; and
- (b) Service delivery, trading, and other functions, duties, and powers.

#### *Exclusions*

#### **18 Exclusions**

Nothing in this Schedule shall apply in respect of any Electric Power Board (including the Auckland Electric Power Board and the Rotorua Area Electricity Authority), or any Area Health Board or Hospital Board.

#### *Overriding Provision*

#### **19 Overriding provision**

Without limiting the generality of section 15b(3) of the principal Act, it is hereby declared that the provisions of this Schedule shall have effect notwithstanding anything in section 40 or section 48 of the principal Act or in any other provision of any other Act that provides for the constitution, alteration, or abolition of any district or the establishment, constitution, or abolition of any local authority.

**SECOND SCHEDULE**  
**Reorganisation Proposals That May Proceed**

Section 6

**Part I**

**Unions of Territorial Authority Districts**

The union of Paeroa Borough and Ohinemuri County to form Paeroa-Ohinemuri District.

The union of Taupo Borough and Taupo County to form Taupo District.

The union of Rangiora District and Eyre County to form Rangiora District.

The union of Richmond Borough, Motueka Borough, and Waimea County to form Tasman District.

The union of Taumarunui Borough and Taumarunui County to form Taumarunui District.

The union of Marlborough County, Blenheim Borough, and Picton Borough to form Marlborough District.

The union of Waipa County and Te Awamutu Borough to form Waipa-Te Awamutu District.

The union of Stratford Borough and Stratford County to form Stratford District.

The union of Helensville Borough and Rodney County to form Rodney District.

The union of Masterton Borough and Masterton County to form Masterton District.

The union of Lyttelton Borough and Mount Herbert County to form Lyttelton District.

The union of Ashburton Borough and Ashburton County to form Ashburton District.

**Part II**

**Abolition and Partition of District Territorial Authority**

The abolition of Hutt County and its partition between Porirua City, Upper Hutt City, and Wainuiomata District.

**Part III**

**Boundary Alterations between Districts of Territorial Authorities**

Boundary alteration between Nelson City and Waimea County (Whangamoā Riding).

Boundary alteration between Kaiapoi Borough and Rangiora District (Hayes property).

Boundary alteration between Taupo County and Taumarunui County.

**THIRD SCHEDULE**  
**New Third Schedule to Principal Act**

Section 13

**Schedule “THIRD SCHEDULE**  
**Payments on Transfer of Trading Undertaking**

Section 37h

**Appointment of Assessors and Arbitrator**

1. The following provisions shall apply with respect to the assessors:
  - (a) Two independent persons shall be appointed as the assessors within 1 month after the giving of the notice under section 37h of this Act, one by the transferor and one by the transferee:
  - (b) The assessors shall, within 1 month after being appointed as such and before commencing to consider whether or not a payment shall be made appoint a third person to act as arbitrator as between the assessors in respect of any matter on which they are unable to reach agreement.

**Determination of Payment**

2. If the assessors, or as the case may be, the arbitrator, determine that a payment shall be made under this Schedule, the assessors or the arbitrator shall determine the amount of the payment:

Provided that the amount shall not exceed,—

  - (a) In the case of a payment to be made by the transferee to the transferor, the estimated trading surpluses which but for the transfer would be likely to be derived by the transferor from that trading undertaking or part thereof during the period of 5 years after the date of the transfer to the transferee:
  - (b) In the case of a payment to be made by the transferor to the transferee, the estimated trading losses likely to be incurred by the transferee in respect of that trading undertaking or that part thereof during the period of 5 years after the date of the transfer thereof to the transferee.
3. In assessing the estimated trading surpluses or trading losses, the assessors or the arbitrator, as the case may be, shall consider the trading undertaking, or the part thereof transferred, as an activity self-contained according to the nature of its operation, and shall apply generally accepted principles of accounting in determining the amount of profit or deficit that could be expected to be derived or incurred from the

operation of the trading undertaking or, as the case may be, the part thereof transferred.

4. Subject to clause 2 of this Schedule, the decision of the assessors, if they agree, or of the arbitrator, if they do not agree, as to whether or not any payment shall be made under this Schedule, and, if so, the amount to be paid, shall be final and shall be binding on the transferor and the transferee.
5. If the assessors or, as the case may be, the arbitrator decide that any payment shall be made under this Schedule, the amount thereof shall be paid in one sum or by instalments in accordance with the decision of the assessors or, as the case may be, of the arbitrator, and, if payment is to be made by instalments, the instalments shall not extend over a period of more than 5 years.
6. Every person 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 Schedule.

### **Interest**

7. If a local authority makes default in making a payment in accordance with clause 5 of this Schedule, it shall be liable for and shall pay interest on the amount so remaining unpaid, until payment thereof, at the rate which is for the time being charged by the bankers of the local authority for money owing to them by the local authority or which would be charged if money were owing.”

This Act is administered in the Department of Internal Affairs.