Local Government Act 2002 Amendment Act 2012

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government Act 2002 Amendment Act 2012.

2 Commencement

(1) Section 21 comes into force on 12 October 2013.

(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Local Government Act 2002 (the **principal Act**).

Part 1
Amendments to Local Government Act 2002

4 Section 3 amended (Purpose)

Replace section 3(d) with:

"(d) provides for local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions."

5 Section 5 amended (Interpretation)

(1) In section 5(1), replace the definition of **Commission** with:

"**Commission**,—

"(a) other than in Part 10, means the Local Government Commission continued under section 28:

"(b) in Part 10, has the meaning given by section 256".

(2) In section 5(1), definition of **community facilities**, replace "197" with "197(2)".

(3) In section 5(1), definition of **community infrastructure**, replace "197" with "197(2)".

(4) In section 5(1), replace the definition of **community outcomes** with:

"**community outcomes** means the outcomes that a local authority aims to achieve in meeting the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions".

(5) In section 5(1), definition of **development contribution**, replace "197" with "197(2)".

(6) In section 5(1), definition of **development contribution policy**, replace "197" with "197(2)".

(7) In section 5(1), definition of **network infrastructure**, replace "197" with "197(2)".

(8) In section 5(1), definition of **significance**, replace paragraph (a) with:

"(a) the district or region:".

(9) In section 5(1), insert in their appropriate alphabetical order:

"**affected**,—

"(a) in relation to a local authority, means a local authority whose district or region contains an affected area:

"(b) in relation to a territorial authority, means a territorial authority whose district contains an affected area

"**affected area** has the same meaning as in clause 2 of Schedule 3

"**good-quality**, in relation to local infrastructure, local public services, and performance of regulatory functions, has the meaning given in section 10(2)

"**remuneration and employment policy** means a policy adopted by a local authority under clause 36A of Schedule 7".

(10) In section 5(1), repeal the definitions of **reorganisation proposal** and **reorganisation scheme**.

6 Section 8 amended (Act binds the Crown)

In section 8(2)(c), replace "and Schedule 15 (which relate" with "(which relates".

7 Section 10 amended (Purpose of local government)

(1) Replace section 10(b) with:

"(b) to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses."

(2) In section 10, insert as subsection (2):

"(2) In this Act, **good-quality**, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—

"(a) efficient; and

"(b) effective; and

"(c) appropriate to present and anticipated future circumstances."

8 Section 14 amended (Principles relating to local authorities)

(1) Replace section 14(1)(c)(iii) with:

"(iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):".

(2) In section 14(1)(h)(i), replace "well-being" with "interests".

(3) In section 14(2), delete ", or any aspects of well-being referred to in section 10, are in".

9 Section 16 amended (Significant new activities proposed by regional council)

In section 16(8)(d), replace "proposal" with "application under Schedule 3".

10 Section 23 amended (Description of local government)

After section 23(3), insert:

"(3A) However, a territorial authority created as a unitary authority after 1 July 2013 must be described as '[*name of city or district*] Council'."

11 New section 24AA inserted (Purpose of local government reorganisation)

In Part 3, after the subpart 2 heading, insert:

"**24AA Purpose of local government reorganisation**

The purpose of the local government reorganisation provisions of this Act is to improve the effectiveness and efficiency of local government by—

"(a) providing communities with the opportunity to initiate, and participate in considering, alternative local government arrangements for their area; and

"(b) requiring the Commission, in consultation with communities, to identify, develop, and implement in a timely manner the option that best promotes good local government."

12 Section 24 replaced (Reorganisation proposals)

Replace section 24 with:

"**24 Scope of local government reorganisation**

"(1) Local government reorganisation may provide for 1 or more of the following matters:

"(a) the union of districts or regions:

"(b) the constitution of a new district or region, including the constitution of a new local authority for that district or region:

"(c) the abolition of a district or region, including the dissolution or abolition of the local authority for that district or region:

"(d) the alteration of the boundaries of any district or region:
"(e) the transfer of a statutory obligation from one local authority to another:
"(f) the assumption by a territorial authority of the powers of a regional council.

"(2) Schedule 3 applies in relation to local government reorganisation."

13 New section 24A inserted (Transitional modification or suspension of certain statutory requirements after issue of final proposal for reorganisation)

After section 24, insert:

"**24A Transitional modification or suspension of certain statutory requirements after issue of final proposal for reorganisation**

"(1) The purpose of this section is to authorise the extension or postponement of certain statutory requirements after public notice of a final proposal relating to local government reorganisation is given under clause 22 of Schedule 3, but before the fate of the final proposal is known.

"(2) This section applies to a final reorganisation proposal only if the proposal provides for any of the matters specified in section 24(1)(a), (b), (c), or (f).

"(3) The Governor-General may, by Order in Council, in relation to an affected local authority,—

"(a) extend, for a period not exceeding 12 months, the time by which the local authority would otherwise have to complete, within the specified period, any action relating to the preparation or adoption of any plan, policy, or strategy required by or under any enactment:
"(b) extend the time by which the local authority would otherwise have to complete anything relating to, and dependent or consequential on, the action in relation to which the period has been extended under paragraph (a):
"(c) postpone, to a date not more than 12 months after the date determined under section 10 of the Local Electoral Act 2001, the next triennial general election of members of the local authority.

"(4) However, the power under subsection (3)(c) may be exercised only if the triennial election, or any action or process preliminary to holding it, would otherwise be required to be held or taken in the specified period.

"(5) An Order in Council may be made only—

"(a) during the specified period; and

"(b) on the recommendation of the Minister; and

"(c) if the Minister is satisfied that the Order in Council is—

"(i) necessary to avoid public confusion or waste of public resources; or

"(ii) in the interests of the district of the affected local authority; and

"(d) with the agreement of—

"(i) the affected local authority; and

"(ii) the Commission.

"(6) In this section,—

"**specified period** means the period—

"(a) beginning on the date on which public notice is given of the final proposal under clause 22 of Schedule 3; and

"(b) ending on the close of the date that is 9 months after the day on which public notice is given under clause 22 of Schedule 3."

14 Section 25 replaced (Order in Council to give effect to reorganisation schemes)

Replace section 25 with:

"**25 Order in Council to give effect to final proposals and reorganisation schemes**

"(1) A final proposal—

"(a) is given effect to by Order in Council; and

"(b) has effect on and from the date specified for this purpose by Order in Council.

"(2) An Order in Council made under subsection (1)—

"(a) must establish and provide for 1 or more transition bodies in accordance with—

"(i) clauses 33 to 40 of Schedule 3; and

"(ii) the provisions in the final proposal relating to transitional matters; and

"(b) may, with the agreement of the Commission, suspend any statutory requirement that an affected local authority would otherwise be subject to before a final proposal comes into effect, but only if the coming into effect of the final proposal would make compliance with the statutory requirement unnecessary or inappropriate.

"(3) An Order in Council made under subsection (1) may, if appropriate, amend Part 1 or 2 of Schedule 2.

"(4) A reorganisation scheme—

"(a) is given effect to by Order in Council; and

"(b) has effect on and from the date specified by Order in Council made under subsection (1)(a).

"(5) An Order in Council giving effect to a final proposal or reorganisation scheme is not invalid because it is inconsistent with the provisions of the final proposal or scheme if the inconsistency relates—

"(a) to corrections of clerical, grammatical, or typographical errors; or

"(b) to matters of a format or referential nature that do not alter the substance or effect of the final proposal or scheme.

"(6) If a reorganisation scheme does not specifically provide for a matter that the Secretary considers to be necessary, desirable, or incidental as a consequence of the scheme,—

"(a) the Secretary must consult with the Commission, and each affected local authority, about the inclusion of the matter in the Order in Council under subsection (4); and

"(b) the matter may be included in the Order in Council if considered appropriate by the Governor-General in Council.

"(7) Clauses 45 and 46 of Schedule 3 apply in respect of each reorganisation scheme that is given effect to by Order in Council, except to the extent that the reorganisation scheme provides that the clauses are—

"(a) amended in their application by the reorganisation scheme; or

"(b) declared not to apply.

"(8) Clauses 47 to 54 of Schedule 3 apply to each reorganisation scheme that is given effect to by Order in Council.

"(9) In this section,—

"**final proposal** means a final proposal to which clause 33 of Schedule 3 applies

"**reorganisation scheme** means a reorganisation scheme prepared and issued under clause 41(2) of Schedule 3."

15 New section 26A inserted (Duties of local authorities in relation to local government reorganisation)

After section 26, insert:

"**26A Duties of local authorities in relation to local government reorganisation**

"(1) It is the duty of every local authority to co-operate with, give reasonable assistance to, and provide information to the Commission to enable it to perform its functions and exercise its powers in relation to local government reorganisation.

"(2) Without limiting subsection (1), an affected local authority must comply with any lawful request by the Commission for information held or reasonably available to the local authority that may be relevant to a proposed reorganisation or to the development of a reorganisation scheme.

"(3) An affected local authority must not make a decision described in subsection (4) at any time after an Order in Council giving effect to a final proposal is made under section 25, without first consulting the Commission.

"(4) Subsection (3) applies to any decision of an affected local authority that may, directly or because of its consequences,—

"(a) significantly prejudice the implementation of the final proposal; or

"(b) significantly constrain the powers or capacity of any local authority to be established or changed under the final proposal, or any subsidiary of any such local authority, following the implementation of the final proposal; or

"(c) have a significant negative impact on the assets or liabilities that may be transferred to any local authority in the implementation of the final proposal."

16 Section 27 amended (Application to be called city council or district council)

In section 27(1), replace "proposal" with "application under Schedule 3".

17 New sections 27A and 27B inserted

After section 27, insert:

"**27A Change of name of unitary authorities**

"(1) A unitary authority that is described as a city council or district council may apply to the Minister to change its name to the '[*name of city or district*] Council'.

"(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, give effect to the application.

"(3) The Order in Council may consequentially amend Part 2 of Schedule 2.

"**27B Orders in Council to be published in *Gazette***

An Order in Council made under any of sections 24A to 27A must be published in the *Gazette*."

18 Section 31 amended (Report to Minister on matters relating to local government)

After section 31(1), insert:

"(1A) The Commission may consider, report on, and make recommendations to the Minister or any relevant local authority, or both, on any matter arising in the performance of its functions and exercise of its powers under Schedule 3."

19 New section 31A inserted (Minister's expectations of Commission in relation to local government reorganisation)

After section 31, insert:

"**31A Minister's expectations of Commission in relation to local government reorganisation**

"(1) The Minister may, by notice in writing to the Commission, specify measures and expectations relating to the Commission's performance of its functions and exercise of its powers under Schedule 3.

"(2) Without limiting subsection (1), the Minister may specify—

"(a) the time frames within which the Commission is expected to complete specified matters:

"(b) which reorganisation applications are to be regarded by the Commission as having a higher priority.

"(3) Before specifying measures and expectations under this section, the Minister—

"(a) must consult the Commission; and

"(b) may consult any other persons or organisations that the Minister considers appropriate to consult.

"(4) The Commission must publish, on its Internet site,—

"(a) any measures and expectations given to it by the Minister under subsection (1); and

"(b) a statement of the impact that meeting those measures and expectations will have on the performance of its functions and exercise of its powers under Schedule 3.

"(5) The Commission must, in its report to the Minister under clause 31 of Schedule 4, describe how and the extent to which it has met the measures and expectations specified under subsection (1)."

20 Section 40 amended (Local governance statements)

After section 40(1)(j), insert:

"(ja) the remuneration and employment policy, if adopted; and".

21 New section 41A inserted (Role and powers of mayors)

After section 41, insert:

"**41A Role and powers of mayors**

"(1) The role of a mayor is to provide leadership to—

"(a) the other members of the territorial authority; and

"(b) the people in the district of the territorial authority.

"(2) Without limiting subsection (1), it is the role of a mayor to lead the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.

"(3) For the purposes of subsections (1) and (2), a mayor has the following powers:

"(a) to appoint the deputy mayor:
"(b) to establish committees of the territorial authority:
"(c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—
"(i) may make the appointment before the other members of the committee are determined; and
"(ii) may appoint himself or herself.

"(4) However, nothing in subsection (3) limits or prevents a territorial authority from—
"(a) removing, in accordance with clause 18 of Schedule 7, a deputy mayor appointed by the mayor under subsection (3)(a); or
"(b) discharging or reconstituting, in accordance with clause 30 of Schedule 7, a committee established by the mayor under subsection (3)(b); or
"(c) appointing, in accordance with clause 30 of Schedule 7, 1 or more committees in addition to any established by the mayor under subsection (3)(b); or
"(d) discharging, in accordance with clause 31 of Schedule 7, a chairperson appointed by the mayor under subsection (3)(c).

"(5) A mayor is a member of each committee of a territorial authority.

"(6) To avoid doubt, a mayor must not delegate any of his or her powers under subsection (3).

"(7) To avoid doubt,—
"(a) clause 17(1) of Schedule 7 does not apply to the election of a deputy mayor of a territorial authority unless the mayor of the territorial authority declines to exercise the power in subsection (3)(a):
"(b) clauses 25 and 26(3) of Schedule 7 do not apply to the appointment of the chairperson of a committee of a territorial authority established under subsection (3)(b) unless the mayor of the territorial authority declines to exercise the power in subsection (3)(c) in respect of that committee."

22 Section 42 amended (Chief executive)

(1) In section 42(2)(g), after "staff of the local authority", insert "(in accordance with any remuneration and employment policy)".

(2) In section 42(2)(h), after "authority", insert "(in accordance with any remuneration and employment policy)".

23 Section 48 amended (Further provisions of Schedule 7)

After section 48(j), insert:

"(k) adoption of a remuneration and employment policy."

24 Section 49 amended (Establishment of community boards)

In section 49(1)(a), replace "giving effect to a reorganisation scheme" with "made under section 25".

25 Section 77 amended (Requirements in relation to decisions)

In section 77(1)(b)(i), replace "social, economic, environmental, and cultural well-being" with "interests".

26 Section 84 amended (Special consultative procedure in relation to long-term plan)

In section 84(4), replace "local authority's auditor" with "Auditor-General".

27 Section 94 amended (Audit of long-term plan)

(1) In section 94(1), replace "local authority's auditor" with "Auditor-General".

(2) In section 94(2), replace "auditor" with "Auditor-General".

28 Section 99 amended (Audit of information in annual report and summary)

In section 99(1) and (2), replace "auditor's" with "Auditor-General's".

29 Section 101 amended (Financial management)

In section 101(3)(b), delete "current and future social, economic, environmental, and cultural well-being of the".

30 Section 197 amended (Interpretation)

(1) In section 197, repeal the definitions of **community facilities**, **community infrastructure**, **development contribution**, **development contribution policy**, **network infrastructure**, and **service connection**.

(2) In section 197, insert as subsection (2):

"(2) In this Act, unless the context otherwise requires,—

"**community facilities** means reserves, network infrastructure, or community infrastructure for which development contributions may be required in accordance with section 199

"**community infrastructure** means—

"(a) land, or development assets on land, owned or controlled by the territorial authority to provide public amenities; and

"(b) includes land that the territorial authority will acquire for that purpose

"**development contribution** means a contribution—

"(a) provided for in a development contribution policy of a territorial authority; and

"(b) calculated in accordance with the methodology; and

"(c) comprising—

"(i) money; or

"(ii) land, including a reserve or esplanade reserve (other than in relation to a subdivision consent), but excluding Māori land within the meaning of Te Ture Whenua Maori Act 1993, unless that Act provides otherwise; or

"(iii) both

"**development contribution policy** means the policy on development contributions adopted under section 102(1)

"**network infrastructure** means the provision of roads and other transport, water, wastewater, and stormwater collection and management

"**service connection** means a physical connection to a service provided by, or on behalf of, a territorial authority."

31 Part 10 replaced

Replace Part 10 with:

"Part 10
"Powers of Minister to act in relation to local authorities

"253 Outline of Part

This Part confers powers on the Minister to—

"(a) assist local authorities in certain situations; and

"(b) intervene in the affairs of local authorities in certain situations.

"254 How this Part works

"(1) This section is a guide to the overall scheme and effect of this Part. It does not affect the interpretation or application of the other provisions of this Part.

"(2) Subpart 1 of this Part provides the Minister with a range of options in relation to a local authority that has a problem. The options are available only in relation to the local authority itself, and not to any entity that the local authority may control or have an interest in.

"(3) The options vary according to the nature and scale of assistance or intervention required to address the problem.

"(4) The options are not a hierarchy of actions that the Minister must employ sequentially in relation to a local authority.

"(5) Accordingly, the Minister may exercise an option in relation to a local authority without having previously exercised 1 or more of the other options.

"(6) Subpart 2 of this Part sets out general provisions applying to all the options the Minister may exercise under subpart 1.

"(7) The provisions in subpart 2 of this Part are largely procedural in nature and cover matters including notification of the assistance or intervention, reporting requirements, and payment and protection for the individuals carrying out the assistance or intervention.

"255 Application of this Part

The Minister may appoint a Ministerial body under subpart 1 of this Part only to a local authority and not to any entity that the local authority may control or have an interest in, for example, a council-controlled organisation, council-controlled

trading organisation, council organisation, or other subsidiary of the local authority.

"**256 Interpretation**

In this Part,—

"**Commission** means a commission appointed under section 258F

"**Ministerial appointee** means a person appointed under subpart 1 of this Part as a Crown Manager or a Crown Observer, or as a member of a Crown Review Team or of a Commission

"**Ministerial body** means a Crown Review Team, a Crown Observer, a Crown Manager, or a Commission appointed under subpart 1 of this Part

"**problem**, in relation to a local authority,—

"(a) means—

"(i) a matter or circumstance relating to the management or governance of the local authority that detracts from, or is likely to detract from, its ability to give effect to the purpose of local government within its district or region; or

"(ii) a significant or persistent failure by the local authority to perform 1 or more of its functions or duties under any enactment; or

"(iii) the consequences of a state of emergency (within the meaning of section 4 of the Civil Defence Emergency Management Act 2002) affecting, or recently affecting, the local authority's district or region; and

"(b) includes—

"(i) a failure by the local authority to demonstrate prudent management of its revenues, expenses, assets, liabilities, investments, or general financial dealings; and

"(ii) a potential problem within the meaning of paragraph (a)(i) or (ii); and

"(iii) to avoid doubt, 2 or more problems within the meaning of paragraph (a) or subparagraph (i) or (ii) of this paragraph

"**public notice**, in relation to notice given by the Minister,

"(a) means a notice published—

"(i) in a newspaper circulating in the district or region of the local authority; and

"(ii) on the Internet site of the department responsible for the administration of this Act; and

"(b) includes any other notice that the Minister thinks desirable in the circumstances

"**significant**, in relation to a problem of a local authority, means that the problem will have actual or probable adverse consequences for residents and ratepayers within the district or region of the local authority.

"Subpart 1—Ministerial powers of assistance and intervention

"*Minister may require information from local authority*

"**257 Minister may require information**

"(1) The Minister may, by notice in writing, require a local authority to provide to him or her information on the nature and extent of a problem and how the local authority is addressing or planning to address the problem if the Minister believes, on reasonable grounds, that—

"(a) a problem relating to the local authority may exist; and

"(b) the local authority—

"(i) has not publicly acknowledged the nature and extent of the problem; or

"(ii) may be unable or unwilling to effectively address the problem.

"(2) The Minister may, by notice in writing, require a local authority to provide to him or her information on how the local authority is addressing or planning to address a problem—

"(a) after the expiry of the term of a Ministerial body appointed to assist or intervene in relation to the problem; and

"(b) for the purpose of the Minister assessing whether further action under this Part is required.

"(3) A notice under this section must state—

"(a) the problem; and
"(b) the information required by the Minister; and
"(c) the form in which the information is to be provided; and
"(d) the date by which the information is to be provided.

"(4) A local authority must respond to a notice received under this section—
"(a) by the date stated in the notice; or
"(b) by any other date to which the Minister has agreed.

"(5) The Minister may require a local authority to provide information under this section—
"(a) by instalments at specified dates:
"(b) by instalments at specified intervals.

"(6) The Minister may require a local authority to provide information under this section in relation to a problem on which information has already been requested and provided under the section.

"*Minister may appoint Crown Review Team*

"**258 Minister may appoint Crown Review Team**

"(1) The Minister may appoint a Crown Review Team to a local authority if—
"(a) the local authority has received a notice from the Minister under section 257(1) and, for no good reason, has not provided the information required by the notice by the stated or agreed date; or
"(b) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority may exist and—
"(i) the local authority is unable or unwilling to effectively address the problem; or
"(ii) a Ministerial body currently or previously appointed to the local authority has recommended the appointment; or
"(c) the Minister has received a written request from the local authority to do so.

"(2) Before the review begins, the Minister must give notice of the appointment—
"(a) to the local authority, in writing; and

"(b) by notice in the *Gazette*; and
"(c) by public notice.

"(3) Each notice must comply with section 258S.

"(4) A Crown Review Team must, to the extent authorised by its terms of reference,—
"(a) investigate and report on the nature and extent of the problem; and
"(b) make recommendations to the local authority and the Minister on how the local authority could address the problem; and
"(c) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority, including whether the Minister should appoint any other Ministerial body to the local authority; and
"(d) ensure, as far as practicable, that the existing organisational capability of the local authority is not diminished.

"(5) If applicable, and to the extent authorised by its terms of reference, a Crown Review Team must also investigate, and report on, any related matter as recommended by a Ministerial body currently or previously appointed to the local authority.

"(6) A local authority must—
"(a) co-operate with a Crown Review Team so that it may fulfil its terms of reference; and
"(b) comply with any reasonable request of the Crown Review Team to provide any relevant information that the local authority holds.

"(7) A Crown Review Team must produce a final report that complies with section 258U, as soon as practicable after a review is completed.

"(8) This section is subject to section 258Q.

"**258A How Crown Review Team appointed**

"(1) A Crown Review Team comprises 1 or more members.

"(2) If a Crown Review Team comprises 2 or more members, the Minister must appoint 1 member as the chairperson.

"(3) The Minister must appoint each member of a Crown Review Team by notice in writing. The notice must include the following information:

"(a) the terms of reference of the Crown Review Team, including—

"(i) an outline of the problem in relation to which it has been appointed; and

"(ii) the extent of its authority; and

"(b) the start and end dates of the member's appointment; and

"(c) the start and end dates of the review period.

"*Minister may appoint Crown Observer*

"**258B Minister may appoint Crown Observer**

"(1) The Minister may appoint a Crown Observer to a local authority if—

"(a) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority exists and—

"(i) the appointment of a Crown Observer is necessary to enable, or better enable, the local authority to effectively address the problem; or

"(ii) the appointment of a Crown Observer is necessary to enable, or better enable, the Minister to monitor the local authority's progress in addressing the problem; or

"(iii) a Ministerial body currently or previously appointed to the local authority has recommended the appointment; or

"(b) the Minister has received a written request from the local authority to do so.

"(2) Before the observation period begins, the Minister must give notice of the appointment—

"(a) to the local authority, in writing; and

"(b) by notice in the *Gazette*; and

"(c) by public notice.

"(3) Each notice must comply with section 258S.

"(4) A Crown Observer must, to the extent authorised by his or her terms of reference,—

"(a) assist the local authority to address the problem; and

"(b) monitor the local authority's progress in relation to the problem; and

"(c) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority, including whether the Minister should appoint any other Ministerial body to the local authority; and

"(d) ensure, as far as practicable, that the existing organisational capability of the local authority is not diminished.

"(5) If applicable, and to the extent authorised by its terms of reference, a Crown Observer must also assist the local authority with, and monitor progress on, any related matter as recommended by a Ministerial body currently or previously appointed to the local authority.

"(6) A local authority must—

"(a) co-operate with a Crown Observer so that he or she may fulfil his or her terms of reference; and

"(b) comply with any reasonable request of the Crown Observer to provide any relevant information that the local authority holds.

"(7) A Crown Observer must produce a final report that complies with section 258U, as soon as practicable after an observation period ends.

"(8) This section is subject to section 258Q.

"258C How Crown Observer appointed

The Minister must appoint a Crown Observer by notice in writing. The notice must include the following information:

"(a) the terms of reference of the Crown Observer, including—

"(i) an outline of the problem in relation to which the Crown Observer has been appointed; and

"(ii) the extent of his or her authority; and

"(b) the start and end dates of the appointment; and

"(c) the start and end dates of the observation period.

"*Minister may appoint Crown Manager*

"**258D Minister may appoint Crown Manager**

"(1) The Minister may appoint a Crown Manager to a local authority if—

"(a) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority exists, and—

"(i) the nature or extent of the problem is such that the local authority is unlikely to effectively address the problem without the appointment of a Crown Manager; or

"(ii) for no good reason, the local authority has not adequately implemented a recommendation of any other Ministerial body in relation to the problem; or

"(iii) a Ministerial body currently or previously appointed to the local authority has recommended the appointment; or

"(b) the Minister has received a written request from the local authority to do so.

"(2) Before the management period begins, the Minister must give notice of the appointment—

"(a) to the local authority, in writing; and

"(b) by notice in the *Gazette*; and

"(c) by public notice.

"(3) Each notice must comply with section 258S.

"(4) A Crown Manager must, to the extent authorised by his or her terms of reference,—

"(a) direct the local authority to act to address the problem; and

"(b) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority, including whether the Minister should appoint any other Ministerial body to the local authority; and

"(c) ensure, as far as practicable, that the existing organisational capability of the local authority is not diminished.

"(5) If applicable, and to the extent authorised by its terms of reference, a Crown Manager must also direct the local authority on any related matter as recommended by a Ministerial body currently or previously appointed to the local authority.

"(6) A local authority must—

"(a) co-operate with a Crown Manager so that he or she may fulfil his or her terms of reference; and

"(b) comply with the directions of a Crown Manager; and

"(c) comply with any reasonable request of a Crown Manager to provide any relevant information that the local authority holds.

"(7) A Crown Manager must produce a final report that complies with section 258U, as soon as practicable after a management period ends.

"(8) This section is subject to section 258Q.

"**258E How Crown Manager appointed**

The Minister must appoint a Crown Manager by notice in writing. The notice must include the following information:

"(a) the terms of reference of the Crown Manager, including—

"(i) an outline of the problem in relation to which the Crown Manager has been appointed; and

"(ii) the extent of his or her authority; and

"(b) the start and end dates of the Crown Manager's appointment; and

"(c) the start and end dates of the management period.

"*Minister may appoint Commission*

"**258F Minister may appoint Commission**

"(1) The Minister may appoint a Commission to a local authority if—

"(a) the Minister believes, on reasonable grounds, that—

"(i) a significant problem relating to the local authority—

"(A) is impairing, or likely to impair, the good local government of the local authority's district or region; or

"(B) is endangering, or likely to endanger, the public health or safety of the people within the local authority's district or region; and

"(ii) the local authority is unable or unwilling to effectively address the problem; and

"(iii) the problem is such that appointing a Crown Review Team, a Crown Observer, or a Crown Manager to the local authority is unlikely to prevent the consequences described in subparagraph (i); or

"(b) the local authority refuses or is unable to comply with a direction of a Crown Manager given under section 258D(4); or

"(c) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority exists and a Ministerial body currently or previously appointed to the local authority has recommended the appointment; or

"(d) the Minister has received a written request from the local authority to do so.

"(2) Before the Commission begins its term, the Minister must give notice of the Commission's appointment—

"(a) to the local authority, in writing; and

"(b) by notice in the *Gazette*; and

"(c) by public notice.

"(3) Each notice must comply with section 258S.

"(4) A Commission must perform the functions and duties and exercise the powers of the local authority, and its members, under this Act and any other enactment,—

"(a) to the exclusion of the members of the local authority; but

"(b) subject to—

"(i) section 258H; and

"(ii) any limits on its authority set out in the terms of reference.

"(5) To avoid doubt, a Commission—

"(a) must perform any functions or exercise any powers directly conferred on the mayor or chairperson, or any

other member, of a local authority by or under any enactment; and

"(b) may exercise all the powers of the local authority to set, assess, and collect rates and charges within the district or region and expend their proceeds; and

"(c) may appoint members of the local authority to a committee or subcommittee established under Schedule 7 of this Act.

"(6) A Commission must also, to the extent authorised by its terms of reference,—

"(a) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority, including whether the Minister should appoint any other Ministerial body to the local authority; and

"(b) if applicable, implement the recommendations of a Ministerial body currently or previously appointed to the local authority.

"(7) A Commission must ensure, as far as practicable, that the existing organisational capability of the local authority is not diminished.

"(8) A Commission must produce a final report that complies with section 258U, as soon as practicable after the term of the Commission ends.

"(9) This section is subject to section 258Q.

"**258G How Commission appointed**

"(1) A Commission comprises 1 or more members.

"(2) If a Commission comprises 2 or more members, the Minister must appoint 1 member as the chairperson.

"(3) The Minister must appoint each member of a Commission by notice in writing. The notice must include the following information:

"(a) the terms of reference of the Commission, including—

"(i) an outline of the problem in relation to which it has been appointed; and

"(ii) any limitations on the extent of its authority; and

"(b) the start and end dates of the member's appointment; and

"(c) the start and end dates of the Commission's term.

"258H Application of this and other enactments during Commission's term of appointment

"(1) This section applies during the period in which a Commission is appointed to perform the functions and duties and exercise the powers of a local authority under section 258F.

"(2) This Act and any other enactment applies, with any necessary modifications, as if the Commission were the governing body of the local authority and responsible for the decision-making of the local authority.

"(3) Without limiting subsection (2), clauses 31, 32, and 32A of Schedule 7 apply as if the members of the Commission were elected members of the local authority.

"(4) A document that is required to be executed under the seal of the local authority may be executed under the seal and verified by the signature of the chairperson of the Commission, or the Commission, if there is no chairperson.

"(5) All acts done by the Commission in the purported exercise of the powers of the local authority under this or any other enactment, whether the powers have been expressly limited in the terms of reference or not, are, except in the case of fraud, as valid as if the Commission had not been appointed and the acts had been done by the local authority in the ordinary course of its business.

"258I Minister may postpone general election when appointing Commission

"(1) The Minister may postpone the next triennial general election for members of a local authority—

"(a) at the same time as appointing a Commission to a local authority under section 258F; or

"(b) at any time during the period in which the Commission is performing the local authority's functions and duties and exercising its powers.

"(2) Subsection (1) applies only if the term of the Commission extends more than 120 days beyond the date of that election as determined under section 10 of the Local Electoral Act 2001.

"(3) If the Minister acts under subsection (1), he or she must—

"(a) give public notice of the postponement; and

"(b) before the term of the Commission ends,—

"(i) call a general election of the local authority by notice in the *Gazette*; and

"(ii) give public notice of the calling of the election.

"(4) Each notice given under subsection (3)(b)—

"(a) must specify the date on which the election is to be held, which must be no later than 7 days before the date on which the term of the Commission ends; and

"(b) if section 258J applies, must include a statement setting out the effect of the Minister's decision under that section.

"(5) The Local Electoral Act 2001 applies, with any necessary modifications, to the conduct of an election called by the Minister under this section as if the election were a triennial general election.

"(6) Despite subsection (5), the electoral officer responsible for the election must give notice of the election under section 52 of the Local Electoral Act 2001—

"(a) no later than 7 days after the Minister gives notice of the election under subsection (3)(b); and

"(b) if section 258J applies, must include a statement in the notice setting out the effect of the Minister's decision under that section.

"**258J Timing of election following postponed election**

"(1) This section applies if—

"(a) the Minister postpones a triennial general election for members of a local authority under section 258I; and

"(b) the date on which the postponed election is subsequently held is less than 3 years before the date of the next triennial general election for members of the local authority as determined under section 10 of the Local Electoral Act 2001 (the **next triennial election**).

"(2) The Minister must decide whether the election for members of the local authority following the postponed election must be held on the date of—

"(a) the next triennial election; or

"(b) the next subsequent triennial general election as determined under section 10 of the Local Electoral Act 2001 (the **second triennial election**), in which case subsections (3) to (5) apply.

"(3) A general election for members of the local authority must not be held on the date of the next triennial election. Instead, the next general election for members of the local authority must be held on the date of the second triennial election.

"(4) A member of the local authority elected at the postponed election holds office until he or she vacates office, in accordance with section 116 of the Local Electoral Act 2001, for the second triennial election.

"(5) Subsection (4) applies unless the member sooner vacates his or her office under clause 5 of Schedule 7 of this Act.

"**258K Local authority members remain in office but must not act during term of Commission**

"(1) Subsection (2) applies to each member of a local authority, including the mayor or chairperson, from the date on which a Commission appointed to the local authority under section 258F begins its term.

"(2) A member remains in office but must not act and is not entitled in that capacity to be paid any salary, allowances, or expenses under this Act or any other enactment, or to use any property of the local authority, until the earliest of the following events occurs:

"(a) the Commission ends its term, in which case the member resumes full power to act:

"(b) a triennial general election is held for the local authority under section 10 of the Local Electoral Act 2001, in which case the member vacates office in accordance with section 116 of that Act:

"(c) a general election is held for the local authority under section 258I, in which case the member vacates office on the date that the member would have vacated of-

fice in accordance with section 116 of the Local Electoral Act 2001 had the triennial general election not been postponed:

"(d) a general election is held for the local authority under section 258M, in which case the member vacates office in accordance with section 116 of the Local Electoral Act 2001:

"(e) the member vacates his or her office in accordance with clause 5(1)(a), (b), (c), or (e) of Schedule 7.

"(3) However, if a Commission appoints a member to a committee or subcommittee in accordance with Schedule 7, the person—

"(a) may accept the appointment, in the capacity as a person who has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee; and

"(b) is entitled to receive payment for holding office as a member of the committee or subcommittee in that capacity.

"(4) In subsection (2), **act** means to exercise or purport to exercise a power, right, or entitlement, or perform or purport to perform a function or duty, conferred or imposed on the member in his or her capacity as a member of the local authority by this Act or any other enactment.

"258L Extraordinary vacancy when Commission appointed or during term of Commission

"(1) This section applies if an extraordinary vacancy (within the meaning of clause 5 of Schedule 7)—

"(a) exists at the time a Commission is appointed to a local authority; or

"(b) is created during the term that a Commission is appointed to a local authority.

"(2) The vacancy is not required to be filled, and any preparations made by any person towards filling the vacancy in accordance with sections 117 to 120 of the Local Electoral Act 2001 must be abandoned, if the Commission's term ends after the date of—

"(a) a triennial general election for the local authority under section 10 of the Local Electoral Act 2001; or

"(b) a general election for the local authority under section 258I or 258M.

"(3) The vacancy must be filled in accordance with sections 117 to 120 of the Local Electoral Act 2001 in any other case except that if the vacancy occurs more than 90 days before the end of the term of the Commission, the vacancy must be treated as if it occurred on the 90th day before that date.

"*Minister may call general election*

"**258M Minister may call general election**

"(1) The Minister may, by notice in the *Gazette*, call a general election of a local authority if the Minister believes, on reasonable grounds, that the membership of the local authority is such that the local authority is unable or unwilling to perform its functions and duties and exercise its powers or there is a significant or persistent failure by the local authority to do so in respect of 1 or more of those functions, duties, and powers.

"(2) The notice must specify the date on which the election is to be held, which, to avoid doubt, may be a date that is earlier than the date of the next triennial general election for members of the local authority as determined under section 10 of the Local Electoral Act 2001.

"(3) The Minister must—

"(a) give the local authority a copy of the *Gazette* notice, as soon as practicable after its publication; and

"(b) give public notice of the calling of the election and the date on which the election is to be held.

"(4) The Local Electoral Act 2001 applies, with any necessary modifications, to the conduct of an election called by the Minister under this section, as if the election were a triennial general election.

"(5) Despite subsection (4), the electoral officer responsible for the election must give notice of the election under section 52 of the Local Electoral Act 2001 no later than 7 days after the Minister gives notice of the election under subsection (1).

"Subpart 2—General provisions applying to Ministerial powers conferred under subpart 1

"258N Minister may consult any person

"(1) The Minister may, but is not obliged to, consult any person, organisation, or group—

"(a) when determining what action, if any, to take under subpart 1 of this Part:

"(b) when appointing a Ministerial body under subpart 1 of this Part:

"(c) when formulating the terms of reference for a Ministerial body.

"(2) The Minister may, but is not obliged to, consult any person, organisation, or group—

"(a) when postponing a general election under section 258I; or

"(b) when calling a general election under section 258M.

"258O Minister must publish list in *Gazette*

"(1) The Minister must publish in the *Gazette*, and on the Internet site of the department responsible for the administration of this Act, a list of matters relevant to determining what action, if any, to take under subpart 1 of this Part.

"(2) Without limiting subsection (1), the list must include the following matters:

"(a) guiding principles that the Minister is likely to adopt when making decisions under this Part:

"(b) matters or circumstances relating to the management or governance of local authorities that the Minister considers are likely to detract from the ability of local authorities to give effect to the purpose of local government within their districts and regions:

"(c) the types and sources of information that the Minister is likely to consider when making decisions under this Part.

"(3) The Minister must review the list no later than 5 years after the date on which the list is published and, subsequently, at intervals of no more than 5 years after the most recent review.

"(4) The list must be republished after each review.

"(5) Before publishing or republishing a list, the Minister must consult Local Government New Zealand and may, but is not obliged to, consult any other person, organisation, or group.

"(6) The first list must be published no later than 31 March 2013.

"**258P Minister must have regard to published list**

"(1) The Minister, when determining what action, if any, to take under subpart 1 of this Part, must have regard to the list published under section 258O.

"(2) To avoid doubt, the Minister may act under subpart 1 of this Part and appoint a Ministerial body to a local authority even if the problem in relation to the local authority does not relate to a matter featured in the list.

"**258Q Notice to local authority of proposed appointment of Ministerial body**

"(1) Before appointing a Ministerial body, the Minister must—

"(a) give the local authority concerned written notice that he or she intends to make the appointment; and

"(b) state in the notice the reasons for the proposed appointment and the proposed terms of reference; and

"(c) give the local authority an opportunity to satisfy the Minister of the following matters, as applicable, by a date specified in the notice, being no earlier than 10 working days after the date on which notice is given to the local authority:

"(i) the reasons for making the appointment do not exist:

"(ii) the local authority is acting effectively to address the problem:

"(iii) for any other reason, the appointment should not be made:

"(iv) a different Ministerial body should be appointed.

"(2) The Minister must—

"(a) notify the local authority, in writing, if he or she decides not to appoint a Ministerial body; or

"(b) act under section 258(2), 258B(2), 258D(2), or 258F(2) in any other case.

"(3) This section does not apply if—

"(a) the local authority has requested the Minister to make the appointment; or

"(b) the problem in relation to which the Minister intends to make the appointment relates to the consequences of a state of emergency and the Minister believes, on reasonable grounds, that the public health or safety of the people within the local authority's district or region is, or is likely to be, endangered.

"**258R Notice to local authority of proposed general election**

"(1) Before calling a general election under section 258M, the Minister must—

"(a) give the local authority concerned written notice that he or she intends to call the election; and

"(b) state in the notice the reasons for the proposed election in terms of section 258M(1); and

"(c) give the local authority an opportunity to satisfy the Minister of the following matters, as applicable, by a date specified in the notice, being no earlier than 10 working days after the date on which notice is given to the local authority:

"(i) the reasons for calling the election do not exist:

"(ii) for any reason, the election should not be called:

"(iii) a Ministerial body should be appointed instead.

"(2) The Minister must—

"(a) notify the local authority, in writing, if he or she decides not to call the election; or

"(b) act under section 258M(3).

"**258S Notification of appointment of Ministerial body**

"(1) A notice of appointment of a Ministerial body under section 258(1), 258B(1), 258D(1), or 258F(1) must state the following:

"(a) that the Minister has appointed a Ministerial body; and

"(b) the terms of reference of the Ministerial body; and

"(c) the start and end dates of the Ministerial body's appointment; and

"(d) the names of each member of the Ministerial body; and

"(e) if applicable, the name of the chairperson of the Ministerial body.

"(2) Subsection (3) applies if—

"(a) the notice of appointment relates to a Commission; and

"(b) the Minister has, at the same time, postponed the next triennial general election for members of the local authority under section 258I.

"(3) The notice of appointment must also state that the Minister has postponed the next triennial general election for members of the local authority and that the Minister will call a general election, by notice in the *Gazette*, before the term of the Commission ends.

"**258T Notification of change of membership of Ministerial body**

The Minister must notify any change in the membership of a Ministerial body by notice in the *Gazette*.

"**258U Final report of Ministerial body**

"(1) A final report produced by a Ministerial body must include the following:

"(a) a narrative description of the activities of the Ministerial body in relation to its terms of reference; and

"(b) in respect of the problem in relation to which the Ministerial body was appointed, an assessment of progress in addressing the problem; and

"(c) any final recommendations of the Ministerial body to the Minister, the local authority, or both; and

"(d) without limiting paragraph (c), any final recommendations of the Ministerial body to the Minister on whether the Minister should take further action in relation to the local authority, including whether the Minister should appoint any other Ministerial body to the local authority; and

"(e) any other matter required by the Ministerial body's terms of reference.

"(2) The Minister must, as soon as practicable,—

"(a) give a copy of the report to the local authority; and

"(b) make the report publicly available, excluding any information that it is necessary to withhold for any of the reasons stated in section 6 or 7 of the Local Government Official Information and Meetings Act 1987.

"**258V Remuneration and expenses of Ministerial appointees**

"(1) A Ministerial appointee is entitled—

"(a) to receive remuneration for services as a member of a Ministerial body as determined by the Minister in accordance with the fees framework; and

"(b) to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member in accordance with the fees framework.

"(2) In this section, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

"**258W Recovery of expenses from local authority**

"(1) A local authority owes as a debt to the Crown any expenses that the Crown incurs for the appointment of a Crown Manager or a Commission to the local authority, including the payment of remuneration and expenses to the Crown Manager or a member of the Commission.

"(2) Any expenses that the Crown incurs for the appointment of a Crown Observer or a Crown Review Team to a local authority, including the payment of remuneration and expenses to the Crown Observer or a member of the Crown Review Team, may be recovered by the Crown from the local authority if—

"(a) the Minister decides that to do so is reasonable in the circumstances; and

"(b) the terms of reference authorise the recovery.

"(3) The Crown may recover expenses under subsection (2) as a debt to the Crown.

"**258X Minister may terminate Ministerial body or Ministerial appointee**

"(1) The Minister may terminate the appointment of a Ministerial body at any time by notice in writing.

"(2) The Minister must give notice of the termination—

"(a) to the local authority, in writing; and

"(b) by notice in the *Gazette*; and

"(c) by public notice.

"(3) The Minister may terminate a Ministerial appointee's appointment at any time by notice in writing, and no compensation is payable to the person as a result of the termination.

"**258Y Protection from liability for Ministerial appointees**

"(1) A Ministerial appointee is not liable for any act done or omitted to be done by him or her in good faith in the performance or intended performance of his or her functions, responsibilities and duties, or the exercise of his or her powers as a Ministerial appointee.

"(2) To avoid doubt, this includes—

"(a) acts done or omitted to be done by a Crown Manager when directing a local authority to act; and

"(b) acts done or omitted to be done by a Commission member when performing the functions and exercising the powers of a local authority or its members.

"**258Z Disclosure of information held by local authority**

"(1) For the purposes of this Part, information held by a local authority may be disclosed to the Minister or a Ministerial body despite anything to the contrary in the Official Information Act 1982, the Local Government Official Information and Meetings Act 1987, or the Privacy Act 1993.

"(2) However, the Minister, the Ministerial body, or a Ministerial appointee must not publish or disclose that information to any other person except in accordance with those Acts.

"(3) In this section, **Minister** includes the Minister's officials and Cabinet.

"**258ZA Decisions and directions of Crown Manager or Commission remain in force until local authority decides otherwise**

"(1) Subsections (2) and (3) apply to a local authority on and from the expiry of the term of a Crown Manager appointed to the local authority.

"(2) A direction given to the local authority by the Crown Manager ceases to have effect.

"(3) Despite subsection (2), any decision made by the local authority giving effect to the direction continues in force unless and until the local authority revokes or amends the decision.

"(4) Subsection (5) applies to a local authority on and from the expiry of the term of a Commission appointed to the local authority.

"(5) A decision of the Commission continues in force as if it were a decision made by the local authority unless and until the local authority revokes or amends the decision."

32 Section 259 amended (Regulations)

(1) Replace section 259(1)(d)(i) with:

"(i) in petitions and polls in relation to final proposals for local government reorganisation under Schedule 3:".

(2) After section 259(1)(db), insert:

"(dc) prescribing parameters or benchmarks for assessing whether a local authority is prudently managing its revenues, expenses, assets, liabilities, investments, and general financial dealings:

"(dd) prescribing the manner in which a local authority must disclose, in 1 or more of its long-term plan, annual plan, and annual report,—

"(i) the planned performance of the local authority against parameters and benchmarks prescribed in regulations made under paragraph (dc):

"(ii) the actual performance of the local authority against parameters and benchmarks prescribed in regulations made under paragraph (dc):".

(3) After section 259(2), insert:

"(3) Regulations made under subsection (1)(dc) may—

"(a) prescribe parameters or benchmarks in any manner, including by—

"(i) reference to fixed terms (for example, the debt of a local authority in a financial year, generally, should not exceed a fixed sum per resident):

"(ii) the use of ratios, factors, or other relative terms (for example, the expenditure of a local authority in a financial year, generally, should not increase by more than the ratio of population growth multiplied by the rate of increase of the Consumers Price Index):

"(iii) reference to circumstances, statistics, or other publicly available information, whether only concerning local authorities and their districts and regions or otherwise; and

"(b) prescribe parameters or benchmarks in a way that differentiates between different types or classes of local authority (for example, regional councils, territorial authorities, and local authorities with a population, assets, or an average income of its population over or under a specified figure); and

"(c) prescribe parameters or benchmarks in a way that includes or excludes subsidiaries, including council-controlled organisations, council-controlled trading organisations, and council organisations, of a local authority.

"(4) The Minister may recommend the making of regulations under subsection (1)(dc) only if the content of the recommendation has been developed in consultation with the New Zealand Local Government Association Incorporated."

33 New sections 259C to 259J inserted

After section 259B, insert:

"**259C Auditor-General must report on disclosures made under certain regulations**

"(1) This section applies to the Auditor-General if regulations are made under section 259(1)(dd) that require disclosure of the matters set out in that paragraph in a long-term plan or an annual report.

"(2) The Auditor-General must report on the completeness and accuracy of the disclosures made by each local authority in the report required from him or her under section 84(4), 94(1), or 99(1), as the case may be.

"**259D Regulations may incorporate financial reporting standards by reference**

"(1) Regulations made under section 259(1)(dc) may incorporate financial reporting standards made under the Financial Reporting Act 1993, as those standards are defined in section 2(1) of that Act.

"(2) Financial reporting standards may be incorporated by reference in the regulations—

"(a) in whole or in part; and

"(b) with modifications, additions, or variations specified in the regulations.

"(3) Financial reporting standards incorporated by reference in regulations made under section 259(1)(dc) have legal effect as part of those regulations.

"**259E Effect of amendments to, or replacement of, standards incorporated by reference in regulations**

"(1) An amendment to, or replacement of, a financial reporting standard incorporated by reference in regulations made under section 259(1)(dc) (the **initial regulations**) has legal effect, and commences to apply, as part of the initial regulations on and from the dates referred to in subsection (2) if—

"(a) the amendment or replacement is made by the External Reporting Board in accordance with the Financial Reporting Act 1993; and

"(b) the amendment or replacement is of the same general character as the standard amended or replaced; and

"(c) the initial regulations state that amendments or replacements have this effect.

"(2) An amendment to, or replacement of, a financial reporting standard has legal effect as part of the initial regulations on and from the dates on which the amendment or replacement takes effect, and commences to apply, under section 28 of the Financial Reporting Act 1993.

"**259F Proof of standards incorporated by reference**

"(1) A copy of financial reporting standards incorporated by reference in regulations, including any amendment to, or replacement of, the standards must be—

"(a) certified as a correct copy by the Secretary; and

"(b) retained by the Secretary.

"(2) The production in proceedings of a certified copy of the financial reporting standards is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the regulations of the standards.

"**259G Effect of expiry or revocation of standards incorporated by reference**

Financial reporting standards incorporated by reference in regulations made under section 259(1)(dc) that expire or that are revoked or that cease to have effect cease to have legal effect as part of those regulations only if regulations made under that section state that the standards cease to have legal effect.

"**259H Access to standards incorporated by reference**

"(1) The department responsible for the administration of this Act must—

"(a) provide electronic access to any financial reporting standards incorporated by reference in regulations made under section 259(1)(dc); and

"(b) make the standards available for inspection during working hours, free of charge, at the department's head office and at any other place that the Secretary determines is appropriate.

"(2) A failure to comply with this section does not invalidate regulations that incorporate any financial reporting standards incorporated by reference in regulations made under section 259(1)(dc).

"**259I Acts and Regulations Publication Act 1989 not applicable to standards incorporated by reference**

The Acts and Regulations Publication Act 1989 does not apply to—

"(a) financial reporting standards incorporated by reference in regulations made under section 259(1)(dc); or

"(b) an amendment to, or replacement of, those standards.

"**259J Application of Regulations (Disallowance) Act 1989 to standards incorporated by reference**

"(1) Nothing in section 4 of the Regulations (Disallowance) Act 1989 requires financial reporting standards that are incorporated by reference in regulations made under section 259(1)(dc) to be presented to the House of Representatives.

"(2) The Regulations (Disallowance) Act 1989, apart from the modification to the application of section 4 of that Act made by subsection (1) of this section, applies to regulations made under section 259(1)(dc) that incorporate financial reporting standards by reference."

34 Section 260 amended (Amendment of Schedule 2 by Order in Council)

In section 260(3), replace "that gives effect to any reorganisation scheme" with "made under section 25".

35 Schedule 2 amended

In Schedule 2, Part 3, clauses 1(4) and 2(4), replace "giving effect to a reorganisation scheme" with "made under section 25".

36 Schedule 3 replaced

Replace Schedule 3 with the Schedule 3 set out in Schedule 1 of this Act.

37 Schedule 6 amended

(1) In Schedule 6, clause 6,—

(a) replace "clause 3 of Schedule 3" with "clause 19 of Schedule 3"; and

(b) replace "reorganisation proposals" with "draft proposals".

(2) In Schedule 6, clause 9(1)(a), replace "giving effect to a reorganisation scheme" with "made under section 25".

38 Schedule 7 amended

(1) This section amends Schedule 7.

(2) Replace clause 6 with:

"**6 Remuneration Authority to determine remuneration**

"(1) The Remuneration Authority must determine the remuneration, allowances, and expenses payable to—

"(a) mayors, deputy mayors, chairpersons, deputy chairpersons, and members of local authorities:

"(b) chairpersons of committees of local authorities:

"(c) chairpersons and members of community boards:

"(d) chairpersons of committees of community boards:

"(e) chairpersons and members of local boards:

"(f) chairpersons of committees of local boards.

"(2) The Remuneration Authority may also determine the remuneration, allowances, and expenses payable to the following persons, if requested to do so by a local authority:

"(a) members of the local authority with specified responsibilities other than those listed in subclause (1):

"(b) members of community boards of the local authority with specified responsibilities other than those referred to in subclause (1):

"(c) members of local boards with specified responsibilities other than those listed in subclause (1).

"(3) The Remuneration Authority may do 1 or more of the following things under subclause (1) or (2):

"(a) fix—

"(i) scales of salaries:

"(ii) scales of allowances:

"(iii) ranges of remuneration:

"(iv) different forms of remuneration:

"(b) prescribe—

"(i) rules for the application of those scales, ranges, or different forms of remuneration:

"(ii) rules for reimbursing expenses incurred by members:

"(c) differentiate—

"(i) between persons occupying equivalent positions in different local authorities, community boards, or local boards:

"(ii) between persons occupying equivalent positions in the same local authorities, community boards, or local boards:

"(d) make determinations that apply to individuals, or groups, occupying equivalent positions:

"(e) approve rules proposed by a local authority for reimbursing expenses incurred by members, subject to any conditions that the Authority thinks fit.

"(4) The Remuneration Authority may direct a local authority to make publicly available any rules it has approved under subclause (3)(e).

"(5) The Remuneration Authority may issue separate determinations, at different times, for the different positions listed in subclauses (1) and (2).

"(6) Clause 7A applies to determinations made under this clause.

"(7) A determination by the Remuneration Authority under this clause is a regulation for the purposes of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989.

"(8) In this clause, **local boards** has the meaning given in section 4(1) of the Local Government (Auckland Council) Act 2009."

(3) Insert after clause 7:

"**7A Matters applying to determinations**

"(1) The Remuneration Authority may make a determination before or after the date on which the determination is to come into force.

"(2) However, a determination must not come into force earlier than the expiry date of the determination that it supersedes.

"(3) A determination must specify the date on which it expires.

"(4) Despite the expiry of a determination, it continues in force to the extent that it is not superseded by another determination.

"(5) The Remuneration Authority may amend a determination while it is in force.

"(6) Despite subclause (5), the Remuneration Authority may amend the expiry date of a determination only if the Authority is satisfied that in all the circumstances there are particular and special reasons that justify a period of less than the term originally set.

"(7) The Remuneration Authority must review and issue a determination for each position listed in clause 6(1) at intervals of no more than 3 years."

(4) In clause 32(1), insert after paragraph (g):

"(h) the power to adopt a remuneration and employment policy."

(5) After clause 36, insert:

"**36A Remuneration and employment policy**

"(1) A local authority may adopt a policy that sets out the policies of the local authority in relation to—

"(a) employee staffing levels; and

"(b) the remuneration of employees.

"(2) A local authority must review a policy adopted under this clause at intervals of no more than 3 years."

39 Schedule 10 amended

(1) This section amends Schedule 10.

(2) In clause 2(1)(c), delete "social, economic, environmental, or cultural well-being of the".

(3) In clause 23(d), delete "social, economic, environmental, or cultural well-being of the".

(4) After clause 32, insert:

"**32A Employee staffing levels and remuneration**

"(1) An annual report must include a report on the number of employees who were employed by the local authority—

"(a) on the last day of the financial year to which the report relates; and

"(b) on the last day of the immediately preceding financial year.

"(2) For each financial year, the report must state, as at the last day of that year,—

"(a) the number of full-time employees; and

"(b) the full-time equivalent number of all other employees; and

"(c) the number of employees receiving total annual remuneration of less than $60,000; and

"(d) the number of employees receiving total annual remuneration of $60,000 or more, expressed in bands of $20,000.

"(3) However, if the number of employees in any band to which subclause (2)(d) applies is 5 or fewer, the number for that band must be combined with the next-highest band and the statement in the report in relation to that subclause must be adjusted accordingly.

"(4) In subclause (2), **total annual remuneration** includes the value of any non-financial benefit that, during the year, was paid to an employee, or was payable to an employee, by the local authority.

"(5) The report requirement in this clause applies to—

"(a) the financial year ending 30 June 2013; and

"(b) each following financial year."

40 Schedule 15 repealed

Repeal Schedule 15.

Part 2
Transitional provision and consequential amendments

41 Commissioners and commissions currently appointed under principal Act

A Commissioner appointed under section 255 or a commission appointed under clause 14(a) of Schedule 15 of the principal Act and in office immediately before the commencement of this section is, on and from the commencement of this section, deemed to be a Commission appointed under Part 10 of the principal Act (as replaced by section 31 of this Act), and that Part applies with all necessary modifications.

42 Transitional provision relating to reorganisation proposals

(1) This section applies to a reorganisation proposal made under Schedule 3 of the principal Act before the commencement of Part 1 of this Act.

(2) The principal Act continues to apply to the reorganisation proposal as if Part 1 of this Act had not been enacted.

43 Consequential amendments

The enactments listed in Schedule 2 are consequentially amended in the manner indicated in that schedule.

Schedule 1

s 36

Schedule 3 of principal Act replaced

Schedule 3

s 24

Reorganisation of local authorities

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1 Overview

(1) This clause—

- (a) provides a guide to the scheme of this schedule; and
- (b) does not affect the interpretation or application of any provision of this schedule.

(2) Clause 2 contains definitions of terms used in this schedule.

(3) Part 1 contains 2 subparts, as follows:

- (a) subpart 1—
  - (i) provides that any person, body, or group may make a reorganisation application to the Commission; and
  - (ii) prohibits the making of a reorganisation application in certain circumstances; and
  - (iii) specifies what a reorganisation application must contain; and
- (b) subpart 2—
  - (i) requires the Commission to decide whether to assess a reorganisation application; and
  - (ii) specifies the grounds on which an application may be declined; and
  - (iii) requires the Commission to be satisfied that an application has demonstrable community support; and
  - (iv) if it has, requires the Commission to give public notice inviting alternative applications; and

Schedule 3—*continued*

(v) then requires the Commission to identify the reasonably practicable options for local government of the affected area and select the option that best promotes good local government (the **preferred option**).

(4) Part 2 contains 3 subparts, as follows:

(a) subpart 1—

(i) requires the Commission to develop the preferred option into a draft proposal; and

(ii) provides for consultation by the Commission on the draft proposal; and

(iii) then provides for the Commission to issue and notify a final proposal; and

(b) subpart 2 provides for petitions requiring a poll on a final proposal and for the holding of a poll if required; and

(c) subpart 3 places restrictions on advertising by a local authority to promote or oppose a final proposal in the period from the issue of the final proposal to when a poll is held (if required) or the close of the day for receiving a petition. This subpart contains an exception for publication of material that is factual or referential.

(5) Part 3 provides for the establishment of transition bodies and related matters.

(6) Part 4 contains 3 subparts, as follows:

(a) subpart 1 requires the Commission to prepare a reorganisation scheme if no poll is required on a final proposal or a poll has been held and has not defeated the final proposal; and

(b) subpart 2 specifies the matters the Commission must and may include in a reorganisation scheme; and

(c) subpart 3 contains provisions that apply to a reorganisation scheme unless amended or declared not to apply by the scheme.

2 Interpretation

In this schedule, unless the context otherwise requires,—

Schedule 3—*continued*

affected area, in relation to a reorganisation application, draft proposal, or final proposal, means—

(a) an area that would be included in the district or region of a new or different local authority if local government in relation to the area were to be reorganised in accordance with the reorganisation application, draft proposal, or final proposal:

(b) an area that remains in the district or region of a local authority, but the local authority's responsibilities would be changed if local government in relation to the area were to be reorganised in accordance with the reorganisation application, draft proposal, or final proposal:

(c) an area of the district or region of a local authority, if the Commission has declared it to be an affected area because the operational scale, scope, or capability of the local authority would be materially affected if local government in relation to the area were to be reorganised

affected elector means—

(a) a person who is a residential elector (within the meaning of section 23 of the Local Electoral Act 2001), if the address in respect of which the person is registered is in an affected area:

(b) a person who is a ratepayer elector (within the meaning of section 24 of the Local Electoral Act 2001), if the person is qualified as a ratepayer elector in respect of a rating unit in an affected area

applicant means the person making a reorganisation application

implementation date means the date specified in an Order in Council made under section 25(1)(b) as the date on which the local government reorganisation described in the final proposal takes effect

public notice, in relation to a notice of a reorganisation application, draft proposal, or final proposal given by the Commission,—

(a) means a notice published—

Schedule 3—*continued*

(i) in 1 or more newspapers circulating in the affected area; and

(ii) on the Internet site of the Commission; and

(b) includes any other notice that the Commission thinks desirable in the circumstances

reorganisation application means an application under clause 3 or 10 proposing local government reorganisation and dealing with 1 or more of the matters specified in section 24.

Part 1
Reorganisation applications

Subpart 1—Making reorganisation applications

3 Who may make reorganisation application

(1) A reorganisation application may be made to the Commission by any person, body, or group, including (but not limited to)—

(a) 1 or more affected local authorities; or

(b) the Minister.

(2) A reorganisation application must be made to the chief executive officer of the Commission.

4 Prohibition on making certain reorganisation applications

No person may make a reorganisation application if—

(a) the application relates to a local authority that has been the subject of local government reorganisation; and

(b) the application, if it were made, would have been made during a period specified by the Commission under clause 21.

5 Contents of reorganisation application

(1) A reorganisation application must include the following:

(a) the name and address of the person making the application; and

Schedule 3—*continued*
Part 1—*continued*
Subpart 1—*continued*

(b) if more than 1 person is making the application, the name and address of the person who is the representative of the applicants; and

(c) a description of the proposed changes, including (but not limited to)—

(i) which of the matters listed in section 24(1) is being sought; and

(ii) a plan or other description sufficient to identify the affected area or affected areas concerned; and

(d) a full and detailed explanation of what the proposed changes are seeking to achieve and how the changes would be achieved by the approach proposed in the application; and

(e) a description of the potential improvements that would result from the proposed changes and how they would promote good local government as described in clause 12; and

(f) information that demonstrates that the application has community support in the district of each affected territorial authority.

(2) A reorganisation application may include—

(a) any information requested or recommended in any guidelines issued by the Commission; and

(b) any other information that the applicant considers relevant to the Commission's consideration of the application.

(3) A reorganisation application may be accompanied by a petition of affected electors for the purposes of clause 8(2).

(4) If a reorganisation application is accompanied by a petition, each elector who signed the petition must state, against his or her signature, the person's name and address in sufficient detail to enable the person to be identified as an elector.

Schedule 3—*continued*
Part 1—*continued*

Subpart 2—Commission to decline or assess reorganisation application

6 Action on receipt of application

As soon as practicable after receiving a reorganisation application, the Commission must—

(a) decide whether to assess the application; and
(b) notify the applicant of its decision; and
(c) if the Commission decides to decline to assess the application, in the notice to the applicant specify the ground or grounds in clause 7 on which the application is declined and explain why the ground or grounds apply; and
(d) if the Commission decides to assess the application, notify the affected local authorities of its decision.

7 When Commission may decline to assess reorganisation application

The Commission may decline to assess a reorganisation application on 1 or more of the following grounds:

(a) the application is frivolous:
(b) the application does not contain the information required by clause 5(1):
(c) the application does contain the information required by clause 5(1), but not in sufficient detail for the Commission to assess the application:
(d) 1 or more of the aspects that would be essential if the application were implemented are inconsistent with this Act or any other enactment:
(e) changes substantially similar to those proposed in the application have been considered by the Commission but were not considered to constitute a reasonably practicable option, and the grounds for that decision continue to apply:
(f) the Commission is not or is not likely to be in a position to assess the application during the period in which the information in the application is timely and reliable:

Schedule 3—*continued*
Part 1—*continued*
Subpart 2—*continued*

(g) the application is received after the date specified under clause 9 as the deadline for the receipt of alternative applications, but before a final decision on a reorganisation of the affected area is made:
(h) it is not in the public interest to assess the application.

8 Community support

(1) If the Commission decides to assess a reorganisation application, the Commission must first be satisfied that there is demonstrable community support in the district of each affected territorial authority for local government reorganisation in the affected area.

(2) The matters the Commission may consider for the purposes of subclause (1) include (but are not limited to)—
(a) a petition or petitions of affected electors:
(b) questionnaires or surveys of ratepayers or residents:
(c) submissions or other correspondence about existing or proposed local government arrangements:
(d) meetings with community members or their representatives in which views on the existing or proposed local government arrangements are expressed.

(3) To avoid doubt, for the purposes of subclause (1),—
(a) the Commission may use information that is reasonably available and does not have to (but may) make its own inquiries and conduct its own investigations:
(b) the Commission does not need to determine whether the persons who support local government reorganisation are a majority of the persons in an affected area.

(4) If the reorganisation application is accompanied by a petition,—
(a) the chief executive officer of the Commission must refer the application to the electoral officers of the affected local authority or local authorities to confirm the names and addresses of electors who signed the petition; and

Schedule 3—*continued*
Part 1—*continued*
Subpart 2—*continued*

(b) the electoral officers must advise the Commission of the number of qualified electors of each territorial authority district who—
  (i) were entitled to sign the petition; and
  (ii) have signed the petition.

(5) If the Commission is not satisfied about community support as required by subclause (1), the Commission must—
  (a) decline the application without completing the assessment of it; or
  (b) require the applicant to provide further evidence of community support; or
  (c) undertake any other investigations it considers appropriate to determine community support for the application.

9 Commission to seek alternative applications

(1) If the Commission is satisfied about community support, as required by clause 8, the Commission must give—
  (a) public notice; and
  (b) notice to—
    (i) the affected local authorities; and
    (ii) each local authority whose district or region adjoins the district or region of an affected local authority; and
    (iii) any other person, body, or group that the Commission considers should be notified.

(2) A notice given under subclause (1) must—
  (a) state that a reorganisation application has been received by the Commission; and
  (b) describe the type of reorganisation proposed, the affected local authorities, and the extent of the affected area; and
  (c) indicate where further information about the application can be obtained; and

Schedule 3—*continued*
Part 1—*continued*
Subpart 2—*continued*

(d) invite persons, bodies, and groups to submit, by a date specified in the notice, alternative applications in relation to the affected area; and

(e) indicate that any alternative applications received after the date specified under paragraph (d) may be declined.

(3) The date specified by the Commission under subclause (2)(d) for the receipt of alternative applications must not be earlier than 20 working days after the last notice given under subclause (1).

10 Alternative applications

(1) An alternative application must comply with clause 5 as if it were a reorganisation application.

(2) However, an alternative application is not required to comply with clause 5(1)(f) in relation to a district of a territorial authority in which community support has been demonstrated in the reorganisation application received under clause 3.

11 Commission to determine preferred option

(1) As soon as practicable after the deadline for the receipt of alternative applications, the Commission must, in accordance with this clause, determine its preferred option for local government of the affected area.

(2) The Commission must first identify the reasonably practicable options for local government of the affected area.

(3) In deciding the extent to which it identifies the reasonably practicable options, the Commission must have regard to—

(a) the scale and scope of the changes proposed; and

(b) the degree of community support for relevant applications that has been demonstrated to the Commission; and

(c) the potential benefits of considering other options; and

(d) the desirability of early certainty about local government arrangements for the affected area.

(4) The reasonably practicable options—

Schedule 3—*continued*
Part 1—*continued*
Subpart 2—*continued*

(a) must include the existing arrangements for local government; and
(b) may include—
  (i) the proposals in the application made under clause 3; or
  (ii) the proposals in an alternative application made under clause 10; or
  (iii) options, other than those referred to in paragraph (a) and subparagraphs (i) and (ii), formulated by the Commission; or
  (iv) a combination of aspects derived from 2 or more of the options referred to in paragraph (a) and subparagraphs (i) to (iii).

(5) The Commission must be satisfied that any local authority proposed to be established or changed under a reasonably practicable option will—
(a) have the resources necessary to enable it to carry out effectively its responsibilities, duties, and powers; and
(b) have a district or region that is appropriate for the efficient performance of its role as specified in section 11; and
(c) contain within its district or region 1 or more communities of interest, but only if they are distinct communities of interest; and
(d) in the case of a regional council or unitary authority, enable catchment-based flooding and water management issues to be dealt with effectively by the regional council or unitary authority.

(6) For the purposes of subclause (5), the Commission must have regard to—
(a) the area of impact of the responsibilities, duties, and powers of the local authorities concerned; and
(b) the area of benefit of services provided; and
(c) the likely effects on a local authority of the exclusion of any area from its district or region; and

Schedule 3—*continued*
Part 1—*continued*
Subpart 2—*continued*

(d) any other matters that it considers appropriate.

(7) In deciding whether any proposed changes are reasonably practicable, the Commission may—
(a) request further information from applicants and affected local authorities; and
(b) undertake any investigations and make any inquiries that the Commission considers appropriate.

(8) If the Commission identifies 2 or more reasonably practicable options, the Commission must determine, having regard to the criteria in clause 12, its preferred option, being the option that best promotes good local government.

12 Promotion of good local government

For the purposes of clause 11(8), the Commission must be satisfied that its preferred option—
(a) will best promote, in the affected area, the purpose of local government as specified in section 10; and
(b) will facilitate, in the affected area, improved economic performance, which may (without limitation) include—
(i) efficiencies and cost savings; and
(ii) productivity improvements, both within the local authorities and for the businesses and households that interact with those local authorities; and
(iii) simplified planning processes within and across the affected area through, for example, the integration of statutory plans or a reduction in the number of plans to be prepared or approved by a local authority.

13 Procedure after preferred option determined

(1) After determining the preferred option under clause 11, the Commission must—
(a) give notice of its determination and the reasons for it to—
(i) each applicant; and

Schedule 3—*continued*
Part 1—*continued*
Subpart 2—*continued*

(ii) every affected local authority; and

(b) proceed under clause 14 to develop a draft reorganisation proposal to give effect to the preferred option.

(2) However, subclause (1)(b) does not apply if the Commission's preferred option, under clause 11, is the existing arrangements for local government.

Part 2
Reorganisation proposals

Subpart 1—Preparation of proposals

14 Development of proposal

(1) This clause applies to a draft reorganisation proposal developed by the Commission to give effect to its preferred option (**draft proposal**).

(2) A draft proposal must describe, for each affected local authority proposed to continue in existence,—

(a) the type of local authority; and

(b) the name of the district or region of the local authority; and

(c) the nature and extent of any proposed changes to—

(i) the boundaries of the district or region; and

(ii) the representation arrangements of the local authority; and

(iii) the extent to which the areas of interest of iwi and hapū are included in the district or region; and

(iv) any communities and any community boards of the local authority; and

(d) any other matters the Commission considers necessary or desirable.

(3) A draft proposal must describe, for each local authority proposed to be established,—

(a) the type of local authority; and

(b) the name of the district or region of the local authority; and

Schedule 3—*continued*
Part 2—*continued*
Subpart 1—*continued*

(c) the boundaries of the district or region; and
(d) the representation arrangements of the local authority; and
(e) the names and areas of interest of iwi and hapū in the district or region; and
(f) any communities and any community boards of the local authority; and
(g) any other matters the Commission considers necessary or desirable.

(4) However, the Commission may decide, if it considers it more appropriate to do so, to defer including in a draft proposal the representation arrangements or community board arrangements, or both, and include them in the reorganisation scheme.

(5) A draft proposal must also—
(a) contain information about the role, powers, and composition of the transition body, including—
(i) whether the transition body would include a transition board; and
(ii) if a transition board would be included in a transition body, how each affected local authority will be represented on the transition board and whether the transition board will include other persons; and
(b) have attached to it a full and detailed explanation of the advantages and disadvantages of the draft proposal and of how it will promote good local government.

(6) In preparing a draft proposal, the Commission may require a local authority affected by the proposal to provide information to assist the Commission to prepare the proposal.

(7) In preparing a draft proposal, the Commission may undertake inquiries and consultations in relation to the draft proposal with any persons, bodies, and groups it considers appropriate.

Schedule 3—*continued*
Part 2—*continued*
Subpart 1—*continued*

15 Local boards

(1) This clause applies if—

(a) the Commission has determined, under clause 11, that the preferred option for local government of an area is a unitary authority; and

(b) the area—

(i) will be urban or predominantly urban in nature; and

(ii) has, or is predicted to have within a period of 5 years after public notice of the draft proposal, a population that exceeds 400 000.

(2) In preparing a draft proposal in relation to the affected area, the Commission may include provisions for local boards if it considers that good local government of the district of the unitary authority would be best promoted by providing for local boards.

(3) Provisions for local boards must be consistent with sections 7, 10 to 32B, 97 to 99, 102, and 105 of the Local Government (Auckland Council) Act 2009, and those sections apply in relation to the proposed unitary authority as if—

(a) every reference to the Council or Auckland Council were a reference to the unitary authority; and

(b) every reference to Auckland were a reference to the district of the unitary authority.

(4) A draft proposal must, in addition to the matters specified in clause 14, specify—

(a) the number and names of local board areas within the district; and

(b) the boundaries of—

(i) each local board area; and

(ii) electoral subdivisions, if any, of each local board area; and

(c) the number of elected members of the local board for each local board area and, if a local board area is sub-

Schedule 3—*continued*
Part 2—*continued*
Subpart 1—*continued*

divided for electoral purposes, the number of members to be elected by the electors of each subdivision.

(5) In determining the matters referred to in subclause (4)(a), (b), or (c), the Commission must ensure that—

(a) there are no fewer than 4 and no more than 9 members for each local board; and

(b) so far as is practicable, the boundaries of local board areas, and any electoral subdivisions, and the number of members to be elected, provide effective representation of communities of interest within the district; and

(c) the subdivision of any local board area for electoral purposes provides fair representation for the electors of the local board area; and

(d) the local board area boundaries, or subdivisions of those areas for electoral purposes, coincide with boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and

(e) so far as is practicable, local board area boundaries coincide with ward boundaries.

(6) For the purpose of giving effect to subclause (5)(c), the Commission must ensure that the population of each subdivision divided by the number of members to be elected by the subdivision produces a figure no more than 10% greater or smaller than the population of the local board area divided by the total number of elected members of the local board.

(7) However, if the Commission considers that effective representation of communities of interest so requires, subdivisions may be defined, and membership distributed between them, in a way that does not comply with subclause (6).

(8) Clause 14(4) does not apply to a draft proposal under subclause (2).

(9) To avoid doubt, clauses 14(3)(f) and 19 do not apply to a draft proposal under subclause (2).

Schedule 3—*continued*
Part 2—*continued*
Subpart 1—*continued*

(10) A reorganisation scheme in respect of a final proposal to which subclause (2) applies must, in addition to the matters specified in section 30, make an initial allocation of decision-making responsibility for the non-regulatory activities of the unitary authority between the authority's governing body and its local boards in accordance with section 17 of the Local Government (Auckland Council) Act 2009 as applied by subclause (3).

16 Cities

A draft proposal may not provide that a territorial authority is to be called a city council unless the district of the territorial authority—

(a) has a population of not less than 50 000 persons; and
(b) is predominantly urban; and
(c) is a distinct entity and a major centre of activity.

17 Appropriate boundaries

In determining boundaries for a draft proposal, the Commission must ensure that,—

(a) if practicable, the boundaries of regions conform with catchment boundaries; and
(b) if practicable, the boundaries of districts conform with the boundaries of regions; and
(c) the boundaries of regions and the boundaries of districts conform with the boundaries of statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.

18 Representation

In determining the representation arrangements of a local authority for a draft proposal or (if clause 14(4) applies) a reorganisation scheme, the Commission must—

(a) have regard to the existing electoral and representation arrangements of the affected local authorities; and

Schedule 3—*continued*
Part 2—*continued*
Subpart 1—*continued*

(b) provide fair and effective representation for individuals and communities of the local authority; and
(c) comply with the requirements of the Local Electoral Act 2001; and
(d) take into account the responsibilities, duties, and powers of the local authority.

19 Communities

When preparing a draft proposal or (if clause 14(4) applies) a reorganisation scheme, the Commission may consider whether good local government of any affected district would be best promoted by—

(a) a system of communities and the responsibilities, duties, and powers of the community boards in the district; or
(b) an alternative to an existing system of communities; or
(c) a change in the responsibilities, duties, and powers of the community boards in the district.

20 Consultation on proposal

(1) As soon as practicable after completing a draft proposal, the Commission must—

(a) take the action that it considers necessary to ensure that the persons, bodies, and groups who may be interested in the draft proposal are informed of the proposal; and
(b) give public notice of the draft proposal, which must—
  (i) specify the location where the draft proposal may be inspected or how a copy of the draft proposal may be obtained; and
  (ii) invite submissions on the draft proposal; and
  (iii) specify the date by which submissions must be made to the Commission; and
  (iv) specify the manner in which submissions are to be made; and
(c) seek the views of—

Schedule 3—*continued*
Part 2—*continued*
Subpart 1—*continued*

(i) the affected local authorities; and
(ii) the applicant; and
(iii) the Auditor-General; and
(iv) the Parliamentary Commissioner for the Environment; and
(v) the Secretary; and
(vi) the Secretary for the Environment; and
(vii) the chief executive of Te Puni Kōkiri; and
(viii) the Commissioner of Inland Revenue; and
(ix) any other chief executive of a department of State that may, in the opinion of the Commission, have an interest in or be affected by the proposal; and
(x) any affected iwi and Māori organisations identified by Te Puni Kōkiri; and
(xi) each local authority whose district or region adjoins the district or region of an affected local authority; and
(xii) any local boards, council-controlled organisations, and community boards of affected local authorities; and
(xiii) any other persons, bodies, or groups that the Commission considers appropriate.

(2) A person, body, or group that wishes to make a submission on a draft proposal must make the submission to the Commission in the manner and by the date specified by the Commission in the public notice.

(3) The Commission must consider each submission received and may hold hearings of submissions or meet with the persons making submissions or their representatives.

(4) The Commission must grant the opportunity to meet, and be heard by, the Commission on the draft proposal to—
(a) the affected local authorities; and
(b) each local authority whose district or region adjoins the district or region of an affected local authority; and
(c) the applicant.

Schedule 3—*continued*
Part 2—*continued*
Subpart 1—*continued*

(5) The Commission may also undertake, in a manner that it thinks fit, inquiries and consultations in relation to the draft proposal with any other persons, bodies, and groups it considers appropriate.

21 Decisions on draft proposals

(1) After complying with clause 20, the Commission must do 1 of the following:
- (a) issue the draft proposal as a final proposal:
- (b) issue a modified draft proposal as a final proposal:
- (c) identify, under clause 11, another preferred option as the basis for a new draft proposal:
- (d) decide not to issue a final proposal and give public notice of the decision and the reasons for it.

(2) In making a decision about how to proceed under subclause (1), the Commission must—
- (a) consider the submissions, views, and any other information received under clause 20; and
- (b) have regard to—
  - (i) the matters specified in clause 12; and
  - (ii) the scale and scope of the changes proposed; and
  - (iii) the degree of community support for the draft proposal already demonstrated to the Commission; and
  - (iv) the potential benefits and disadvantages of modified proposals or alternative options; and
  - (v) the desirability of early certainty about local government organisation in the affected area.

(3) The Commission must not issue a final proposal under subclause (1)(b) unless the Commission is satisfied that it has sufficient information about the views of the persons referred to in clause 20(1)(c).

(4) A final proposal must comply with clauses 14(2), (3), (4), and (5)(a) and 16 to 19 as if references in those provisions to a draft proposal were references to a final proposal.

Schedule 3—*continued*
Part 2—*continued*
Subpart 1—*continued*

(5) A final proposal may specify a period for the purpose of clause 4.

(6) Before deciding to issue a final proposal, the Commission must be satisfied that the final proposal is likely to have demonstrable community support in the district of each affected territorial authority.

(7) For the purposes of subclause (6), clause 8(2) and (3)(b) apply in relation to a final proposal.

22 Notification of final proposal

(1) As soon as practicable after issuing a final proposal, the Commission must—

(a) give public notice of the final proposal and, in the notice, specify where copies of the proposal may be inspected; and

(b) take any other action that it considers necessary to inform the persons, bodies, and groups who made submissions or provided views under clause 20 of the final proposal.

(2) The Commission must attach to a final proposal a full and detailed statement that—

(a) explains how the final proposal will promote the purpose of local government and facilitate economic performance, as described in clause 12; and

(b) provides a balanced assessment of the final proposal, outlining the advantages and disadvantages of the proposal in respect of—

(i) a proposed new or altered district or region; and

(ii) any remaining area of a district or region affected by the proposal; and

(iii) any changes to the responsibilities of each affected local authority.

Schedule 3—*continued*
Part 2—*continued*

Subpart 2—Polls

23 Application of this subpart

This subpart applies to a final proposal that provides for any of the matters specified in section 24(1)(a), (b), (c), and (f).

24 Petition to require poll

(1) If a final proposal has been issued under clause 21(1)(a) or (b), affected electors may demand a poll to determine whether or not the final proposal is to proceed and become a reorganisation scheme.

(2) A poll may be demanded under subclause (1) by a petition of 10% or more of affected electors enrolled in the district of a territorial authority.

(3) A petition must be in the prescribed form (if any).

(4) The Commission must, in the public notice of a final proposal under clause 22(1)(a), advise electors of—

- (a) the opportunity to demand a poll under this clause; and
- (b) the requirements relating to the submission of a petition under this clause; and
- (c) the date by which a petition must be received by the Commission, being the close of the 60th working day after the first publication of the notice under clause 22(1)(a); and
- (d) the affected area.

(5) Each person who signs a petition must state, against his or her signature, the person's name and address in sufficient detail to enable the person to be identified as an elector.

(6) The chief executive officer of the Commission must send a copy of the petition to the electoral officer of each affected territorial authority, and the electoral officers must advise the Commission, within the time frame required by the Commission, of—

- (a) the number of affected electors enrolled as eligible to vote in the district of the territorial authority; and

Schedule 3—*continued*
Part 2—*continued*
Subpart 2—*continued*

(b) the number of those electors who have signed the petition; and

(c) whether the number of those electors who signed the petition constitute 10% or more of the affected electors enrolled in the district of the territorial authority.

(7) To avoid doubt, a petition may not be started before a final proposal is issued.

(8) For the purposes of this subpart, **petition** means 1 or more petitions submitted to the Commission that relate to the same final proposal.

25 Poll to be held

(1) A poll of electors must be held in the affected area if the Commission is satisfied that the petition—

(a) is made in accordance with clause 24; and

(b) relates to the final proposal.

(2) Except as otherwise provided in this Part, a poll under this clause must be held under the Local Electoral Act 2001 and the provisions of that Act apply, with any necessary modifications, to the conduct of the poll.

(3) The Commission must ensure that 1 electoral officer is designated to conduct the poll and to declare the official result of the poll under clause 27.

(4) The costs of the poll are to be apportioned among the affected local authorities on the basis of the number of affected electors on the electoral rolls of the affected local authorities.

26 Timing of poll

(1) A poll required by clause 25 must be held on a date determined by the Commission in accordance with this clause.

(2) In determining the date on which a poll is to be held, the Commission must consult the electoral officer required to conduct the poll.

Schedule 3—*continued*
Part 2—*continued*
Subpart 2—*continued*

(3) The Commission must, as soon as practicable after complying with subclause (2), give written notice of the date determined under subclause (1) to the Secretary, to the chief executive of each affected local authority, and to the electoral officer required to conduct the poll.

(4) The electoral officer who receives written notification under subclause (3) must, within 7 days after receiving the notification, give public notice of—
  (a) the poll; and
  (b) the place or places at which the final proposal and the explanatory statement may be inspected.

(5) The date determined under subclause (1) for the conduct of the poll must,—
  (a) if written notice under subclause (3) is to be given on or after 28 September and before 21 November in any year, be a day not earlier than 10 February and not later than 17 February in the following year; and
  (b) if written notice under subclause (3) is to be given on or after 21 November and before 16 December in any year, be a day not earlier than 7 March and not later than 14 March in the following year; and
  (c) if written notice under subclause (3) is to be given on or after 16 December in any year and before 13 January in the following year, be a day not earlier than 4 April and not later than 11 April in that following year; and
  (d) in any other case, be a day not later than 82 days after the day on which written notice under subclause (3) is given to the electoral officer.

27 Official result of poll

The electoral officer must,—
  (a) when declaring the official result of the poll under section 86 of the Local Electoral Act 2001, include a statement of—

Schedule 3—*continued*
Part 2—*continued*
Subpart 2—*continued*

(i) the total number of electors on the roll or rolls compiled for the purpose of the poll; and
(ii) the total number of valid votes cast:

(b) as soon as practicable after declaring the result, notify the Secretary, the chief executive of each affected local authority, and the Commission of the result.

28 Fate of proposal after poll

(1) If more than 50% of the valid votes cast in the poll are for a final proposal then clause 41 applies.

(2) In every other case, the final proposal must not proceed.

Subpart 3—Advertising

29 Interpretation

In this subpart, unless the context otherwise requires,—

advertising means advertising in any medium

publish, in relation to advertising,—

(a) means to bring to the notice of a person in any manner, including (but not limited to)—
(i) displaying in any medium:
(ii) distributing by any means:
(iii) delivering to an address:
(iv) leaving at a place:
(v) sending by post or otherwise:
(vi) printing in a newspaper or other periodical:
(vii) broadcasting by any means:
(viii) disseminating by means of the Internet or any other electronic medium:
(ix) storing electronically in a way that is accessible to the public:
(x) incorporating in a device for use with a computer:
(xi) inserting in a film or video; but

(b) excludes addressing 1 or more persons face to face

Schedule 3—*continued*
Part 2—*continued*
Subpart 3—*continued*

specified period means,—

(a) if a poll is required to be held under clause 25, the period commencing on the day after the date on which public notice of the final proposal is first given and ending with the close of the day on which the poll is held:

(b) if a poll is not required to be held under clause 25, the period commencing on the day after the date on which public notice of the final proposal is given and ending with the close of the day specified by the Commission for the purposes of clause 24(4)(c).

30 Advertising in relation to polls

(1) A local authority affected by a final proposal may not, at any time in a specified period, do anything (including publishing any advertising) that—

(a) involves the expenditure of the authority's money or use of the authority's resources; and

(b) promotes or opposes the implementation of the final proposal or a provision of the final proposal.

(2) This clause does not apply to—

(a) any investigations or research undertaken by, or on behalf of, the local authority that relate to the final proposal or its effects; or

(b) the making of submissions or other representations to the Commission by the local authority; or

(c) the publication of any news or comment relating to the final proposal or the poll in any medium by any person other than the local authority; or

(d) anything done to comply with the requirements of Part 7 of the Local Government Official Information and Meetings Act 1987.

31 Provision of referential information

(1) Clause 30 does not preclude a local authority affected by a final proposal from publishing material that—

Schedule 3—*continued*
Part 2—*continued*
Subpart 3—*continued*

(a) does not expressly or impliedly promote or oppose the final proposal; but
(b) contains factual or referential material presented—
  (i) in a balanced way; and
  (ii) to assist electors considering promoting or signing a petition for the purposes of subpart 2 or voting in a poll to make a better-informed decision.

(2) A local authority may (but does not have to) seek a ruling from the Commission that material proposed to be published by the local authority under subclause (1) complies with that subsection.

(3) If the Commission provides a ruling that the material complies with subclause (1), then publication of the material by the local authority is to be treated as published in accordance with subclause (1).

32 Authorisation of advertising

(1) A person may not publish advertising that promotes or opposes the implementation of the final proposal or a provision of the final proposal unless the advertising contains a statement setting out the name and address of the person who initiated or instigated the publication of the advertising.

(2) In subclause (1), **address** means,—
(a) in relation to an individual,—
  (i) the full street address of the place where the individual usually lives; or
  (ii) the full street address of any other place where the individual can usually be contacted between the hours of 9 am and 5 pm on any working day:
(b) in relation to a body corporate or unincorporated,—
  (i) the full street address of the body's principal place of business; or
  (ii) the full street address of the body's head office.

Schedule 3—*continued*

Part 3
Transition bodies

33 Application

This subpart applies to a final proposal that is issued under clause 21 and notified under clause 22 and in relation to which—

(a) a poll, under clause 25,—

(i) has not been held because—

(A) the reorganisation proposal does not include any of the matters specified in section 24(1)(a), (b), (c), or (f); or

(B) the requirements for a petition under clause 24 have not been met; or

(ii) has been held and more than 50% of the valid votes cast in the poll are for the final proposal; and

(b) an Order in Council giving effect to the final proposal is to be made under section 25(1).

34 Establishment and purpose of transition body

(1) This clause applies to a transition body established by an Order in Council giving effect to a final proposal under section 25(1).

(2) The purpose of a transition body is to—

(a) work with the Commission on, and facilitate local input into, the development of the reorganisation scheme to complete the final proposal; and

(b) provide advice to the Commission and affected local authorities, as appropriate, on practical matters relating to the reorganisation scheme; and

(c) do anything else requested by the Commission in relation to the development and implementation of the reorganisation scheme.

(3) The transition body is established and continues in existence during the following periods:

(a) between the day on which a final reorganisation proposal is given effect to by Order in Council under section 25(1) and the day on which the reorganisation

Schedule 3—*continued*
Part 3—*continued*

scheme is given effect to by Order in Council under section 25(4) (**phase 1**); and

(b) between the day on which the reorganisation scheme is given effect to and the implementation date (**phase 2**).

(4) To avoid doubt, different arrangements for the roles, functions, membership, and accountability of the transition body may apply during phase 1 and phase 2.

35 Composition and membership of transition body

(1) A transition body—

(a) must include an implementation team; and

(b) may include a transition board.

(2) In developing a draft proposal, the Commission must determine whether or not a transition board is required by the type and scale of the changes proposed to be made by the reorganisation.

(3) However, a transition body must include a transition board if the final proposal involves—

(a) the establishment of 1 or more new local authorities; or

(b) a significant change to 1 or more of the affected local authorities.

(4) A transition body must be broadly representative of the affected area.

(5) Members of the transition body must be appointed by the Commission, which may seek advice or nominations from the affected local authorities.

(6) The Commission must appoint, on such terms and conditions as it thinks fit, a person to be the manager of the implementation team.

(7) If a transition body includes a transition board,—

(a) the majority of the members of the transition board must be elected members of the affected local authorities; and

(b) persons who are not elected members of affected local authorities may be appointed as non-voting members of

Schedule 3—*continued*
Part 3—*continued*

the transition board to provide particular expertise that elected members do not have or are unlikely to have.

36 Roles and functions of transition body

(1) A transition body is responsible for—
- (a) undertaking the roles and responsibilities specified in an Order in Council under section 25(1); and
- (b) preparing and implementing a change management plan to guide the transition to the new arrangements specified in a reorganisation scheme; and
- (c) carrying out any other actions that the Commission considers are necessary or desirable for the transition to the new arrangements.

(2) During phase 1, the role of a transition board may include 1 or more of the following functions:
- (a) making recommendations to the Commission on matters of policy:
- (b) providing advice to the Commission:
- (c) exercising any powers and responsibilities delegated by the Commission to it.

(3) If the appointment of an interim chief executive is provided for in the Order in Council under section 25(1), the transition board must make that appointment.

(4) The role of an implementation team may include 1 or more of the following functions:
- (a) giving effect to decisions made by—
  - (i) the transition board; and
  - (ii) the Commission; and
  - (iii) affected local authorities:
- (b) providing advice on technical and operational matters to—
  - (i) the transition board; and
  - (ii) the Commission; and
  - (iii) affected local authorities:
- (c) providing support to the interim chief executive, if an interim chief executive is appointed.

Schedule 3—*continued*
Part 3—*continued*

37 Accountability arrangements for transition body

(1) During phase 1, the transition body is responsible to the Commission for the performance of its role, responsibilities, and functions under clause 36.

(2) During phase 2,—

(a) if a transition body includes a transition board,—

(i) members of the transition board are to represent the interests of the communities within the affected area; and

(ii) the manager of the implementation team is responsible to the transition board; and

(b) if a transition body does not include a transition board, the manager of the implementation team is responsible to the chief executive of each of the affected local authorities.

38 Appointment of interim chief executive

(1) If an Order in Council under section 25(1) provides for the appointment of an interim chief executive for a local authority, the transition board must, as soon as practicable, appoint a chief executive for the local authority.

(2) The term of an interim chief executive's appointment must end—

(a) not earlier than 2 years after the effective date of the appointment; and

(b) not later than 3 years after the implementation date specified in the Order in Council.

(3) In making an appointment under subclause (1), the transition board must have regard to—

(a) the matters that a local authority must consider in relation to appointing an interim chief executive under clause 33 of Schedule 7; and

(b) the skills and experience required of a chief executive in order to—

(i) prepare for the establishment of the local authority on the implementation date; and

Schedule 3—*continued*
Part 3—*continued*

(ii) exercise, to the extent authorised by Order in Council, the powers set out in clause 39; and
(iii) provide effective leadership of the staff and management of the systems and resources of the local authority in the early years of its existence.

39 Interim chief executive may appoint staff, enter into contracts, and call first meeting of local authority

(1) A chief executive appointed under clause 38 may, if authorised by the Order in Council,—
(a) employ, on behalf of the local authority, staff for the local authority with a start date before the implementation date; and
(b) employ, on behalf of the local authority, staff for the local authority with a start date on or after the implementation date; and
(c) on behalf of the local authority, enter into contracts, leases, and other agreements to enable the local authority to operate efficiently and effectively on and from the implementation date; and
(d) exercise the duties of a chief executive under clause 21 of Schedule 7 to call, before the implementation date, the first meeting of the local authority to be held on or after that date.

(2) The chief executive must exercise the powers in subclause (1) in accordance with the change management plan developed under clause 36(1)(b) and any other protocols or processes developed by the Commission.

(3) For the purposes of this clause, the chief executive must exercise the powers and perform the functions described in this clause as if the local authority were established, and—
(a) any appointment under subclause (1)(a) and (b) made by him or her before the implementation date is—
(i) deemed to be made with the express authority of the local authority; and
(ii) valid and enforceable; and

Schedule 3—*continued*
Part 3—*continued*

(b) any contract, lease, or other agreement entered into under subclause (1)(c) by him or her before the implementation date is—
  (i) deemed to be entered into with the express authority of the local authority; and
  (ii) valid and enforceable.

(4) Despite subclause (3), all costs and other obligations associated with any appointment, contract, lease, or other agreement made by the chief executive under subclause (1) and incurred before the implementation date must be apportioned between the affected local authorities in accordance with the determination of the Commission under clause 40.

40 Apportionment of transition costs

(1) The Commission must, as soon as practicable after an Order in Council is made under section 25(1), determine how the costs associated with the transition will be apportioned between the affected local authorities.

(2) Before making a determination under subclause (1), the Commission must consult every affected local authority.

(3) This clause applies to—
  (a) the costs associated with—
    (i) the operation of the transition body or transition bodies; and
    (ii) the appointment and employment of the interim chief executive; and
  (b) the costs referred to in clause 39(4).

Part 4
Reorganisation schemes

Subpart 1—Preparation of reorganisation schemes

41 Preparation of reorganisation scheme

(1) This clause applies in relation to a final proposal that is given effect to by an Order in Council under section 25(1).

Schedule 3—*continued*
Part 4—*continued*
Subpart 1—*continued*

(2) The Commission must prepare and issue a reorganisation scheme that—
  (a) completes the final proposal; and
  (b) is consistent with the final proposal, this Act, and any other enactment; and
  (c) promotes good local government in a way that meets the needs and preferences of affected communities.

(3) In preparing a reorganisation scheme, the Commission—
  (a) must consult the Secretary; and
  (b) may consult or make inquiries of any other persons, bodies, or groups that it thinks fit.

(4) The Commission may delegate, wholly or in part, to a transition body the responsibility for preparing a reorganisation scheme, but the Commission retains responsibility for ensuring, before the Commission issues it, that the reorganisation scheme complies with subclause (2)(a) to (c).

Subpart 2—Contents of and provisions that apply to reorganisation schemes

42 Provisions for inclusion in reorganisation schemes

(1) In preparing a reorganisation scheme, the Commission—
  (a) must set out again the matters specified in clause 14(2) and (3); and
  (b) must include the provisions that are necessary to give effect to the scheme and, in particular, must include—
    (i) the provisions specified in clause 43 that are considered necessary or desirable as a consequence of the scheme; and
    (ii) any provisions considered necessary for—
      (A) the purposes of the district or region of an affected local authority; or
      (B) the discharge of the responsibilities of an affected local authority; or
      (C) any other matter that is necessary or desirable to give effect to the provisions; and

Schedule 3—*continued*
Part 4—*continued*
Subpart 2—*continued*

(c) may provide that 1 or more of the provisions of clauses 45 and 46—
  (i) apply to the scheme with modifications; or
  (ii) do not apply; and
(d) may provide for the application, with the modifications that may be necessary or desirable, of any provisions of any Act for the time being in force that are considered appropriate to the particular matter; and
(e) may make provision for any arrangements the Commission considers necessary or desirable for the purposes of the reorganisation; and
(f) may incorporate any other matters that it considers necessary or appropriate to give effect to the proposal.

(2) If the Commission has, under clause 14(4), deferred including representation arrangements or community board arrangements, or both, in a proposal, the Commission must include the representation arrangements or community board arrangements, or both, in the reorganisation scheme.

43 Provisions to be included if necessary or desirable

If considered necessary or desirable, the following provisions may be included in a reorganisation scheme:

(a) provisions necessary for the first or any election or appointment of members of a local authority or community board affected by the scheme:
(b) provisions that are necessary for the effective transition and future carrying out of responsibilities that are to be transferred from one local authority to another local authority:
(c) provisions dealing with the requirements and application of long-term plans, annual plans, and annual reports as provided for under this enactment:
(d) provisions dealing with the requirements in any enactment that relate to plans, programmes, and strategies, including (but not limited to) regional land transport

Schedule 3—*continued*
Part 4—*continued*
Subpart 2—*continued*

programmes and regional land transport strategies under the Land Transport Management Act 2003:

(e) provisions dealing with—

(i) the administration of an existing, proposed, or operative district plan or regional plan under the Resource Management Act 1991:

(ii) the administration of any designations, resource consents, and notices of requirement under the Resource Management Act 1991, but subject to sections 81 to 180 of that Act:

(f) if an area is included in the district of another territorial authority, provisions that the civil defence emergency management group plan for the district in which the area is included applies to the area so included and is the only operative local civil defence plan to apply in that area:

(g) if a new district or region is constituted, provisions that every civil defence emergency management group plan that is in force in respect of any area included in that district or region continues in force until a new plan is prepared and approved for the district under the Civil Defence Emergency Management Act 2002:

(h) provisions for committees for the first term of the new local authority and membership and responsibilities of those committees:

(i) provisions dealing with the apportionment or disposition of the assets and liabilities of all or any of the local authorities affected by the scheme, which provisions may include the date on which any of the apportionment or disposition takes place or may be treated as having taken place:

(j) provisions dealing with the transfer, in accordance with clause 49, of employees of the local authorities affected by the scheme:

(k) provisions concerning rating in a new district or region, or enlarged district or region, which may—

Schedule 3—*continued*
Part 4—*continued*
Subpart 2—*continued*

(i) specify the date by which a single integrated rating system must be adopted in the district or region; and

(ii) specify the valuation system for any general rate forming part of the initial integrated rating system; and

(iii) specify the basis on which rates may be set and assessed within the district or region between the date the order takes effect and the date specified under subparagraph (i), which may include the use of different rating systems for specified rates, or for specified rates in different parts of the district or region; and

(iv) make such other provision for the transition to, or implementation of, the single integrated rating system as the Commission considers desirable:

(l) if a district or region is abolished and the whole or any part of it is included in the district or region of another local authority, provisions for the representation of the district or region being abolished or part of it on the other local authority until the next triennial general election of members of the other local authority.

Subpart 3—Implementation and effect of reorganisations

44 Application

(1) This subpart applies—

(a) in relation to a reorganisation scheme on and from the date the scheme is given effect to by an Order in Council under section 25(4); and

(b) to the extent that the matters in this subpart have not already been provided for in an Order in Council made under section 25(1) giving effect to a final proposal.

(2) In this subpart, **reorganisation order** means an Order in Council made under section 25(4).

Schedule 3—*continued*
Part 4—*continued*
Subpart 3—*continued*

45 Provisions that apply to reorganisation scheme unless modified or excluded

The following provisions apply to a reorganisation scheme unless amended by the reorganisation scheme or declared by the reorganisation scheme not to apply:

(a) the local authority that assumes, under the scheme, jurisdiction over an area formerly comprising or forming part of a separate district or region, or that takes over the responsibilities of a local authority, has, and may exercise, and is responsible for,—

(i) all the powers, duties, acts of authority, and responsibilities that were previously exercised by the former local authority, or that would have been exercised by it if it had remained in existence or in control of that area:

(ii) all the liabilities, obligations, engagements, and contracts that were previously the responsibility of the former local authority, or that would have been its responsibility if it had remained in existence or in control of that area:

(iii) all the actions, suits, and proceedings pending by or against the former local authority, or that would have been its responsibility if it had remained in existence or in control of that area:

(b) the responsibilities, duties, and powers of the mayor, chairperson, and chief executive of the former local authority must be exercised by the mayor, chairperson, and chief executive of its successor:

(c) all real and personal property vested in an abolished local authority vests in its successor, subject to all existing encumbrances:

(d) a local authority that assumes jurisdiction over an area that was formerly part of a separate district or region has, subject to all existing encumbrances, vested in it all the land situated in that area that was vested in the

Schedule 3—*continued*
Part 4—*continued*
Subpart 3—*continued*

local authority that formerly had jurisdiction over that area:

(e) all rates or levies and other money payable in respect of an abolished local authority, or of an area of land included in the district or region of another local authority, are due and payable to the new local authority:

(f) if the area of an abolished district or region comprises part only of another district or region,—

(i) any money to the credit of the abolished local authority's accounts must, after all liabilities have been provided for, be expended to the benefit of the residents of that area; and

(ii) any money required to be paid into the accounts of the abolished local authority to meet any deficiency must be raised within the area of the abolished local authority:

(g) the rights or interests of creditors of a district or region are not affected:

(h) the valuation rolls, electoral rolls, and rate records in force in the district or region of an abolished local authority, or in relation to any part of the district or region of a local authority included in the district or region of another local authority, continue in force in the district or region of the new controlling local authority until those rolls or records are made by that local authority, and, until that time, the Local Government (Rating) Act 2002 applies:

(i) except in the circumstances specified in clause 1, 2, 4, or 5 of Schedule 7, if part of a district or region is excluded from that district or region and included in another district or region, the members of the local authority of the first-mentioned district or region continue to be members of that district or region as if that part had not been excluded from the district or region.

Schedule 3—*continued*
Part 4—*continued*
Subpart 3—*continued*

46 Bylaws

(1) The provisions of this clause apply unless amended by a reorganisation scheme or declared by the reorganisation scheme not to apply.

(2) Subclauses (3) to (8) apply to bylaws if—

(a) they are in force in all or part of a district or region that, under a reorganisation order, is included in the jurisdiction of a local authority other than the local authority that made them; and

(b) they are in force immediately before the implementation date; and

(c) they are not excluded from the application of this clause by the reorganisation order.

(3) On and from the implementation date, the bylaws are deemed to have been made by the local authority assuming jurisdiction of the area.

(4) Each bylaw must be reviewed by the local authority assuming jurisdiction over the area at the time and in accordance with the requirements of any enactment under which it was made, or last reviewed, by the authority that made it.

(5) Each bylaw remains in force, in the area to which it applied immediately before the commencement of the reorganisation order, for a period of 5 years, and is then revoked, unless before that period ends—

(a) the local authority assuming jurisdiction of the area confirms the bylaw, in which case the confirmed bylaw becomes a bylaw made by that local authority and remains in force until it expires or is revoked; or

(b) the local authority assuming jurisdiction of the area amends the bylaw, in which case the bylaw as amended becomes a bylaw made by that local authority and remains in force until it expires or is revoked; or

(c) the local authority assuming jurisdiction of the area revokes the bylaw.

Schedule 3—*continued*
Part 4—*continued*
Subpart 3—*continued*

(6) The local authority assuming jurisdiction of the area must use the special consultative procedure before confirming, amending, or revoking a bylaw under subclause (5)(a), (b), or (c).

(7) If section 159 applies to a bylaw confirmed or amended under this clause, for the purposes of that section the date of the confirmation or amendment of the bylaw must be treated as if it were the date of the last review of the bylaw.

(8) In this clause, **bylaw** includes—
- (a) a set of bylaws; and
- (b) an individual bylaw in a set of bylaws; and
- (c) a provision within an individual bylaw.

47 No compensation payable if responsibility transferred

(1) If provision is made in a reorganisation order for a responsibility to be transferred to, or assumed by, a local authority, provision may not be made for the payment of compensation to the local authority from which that responsibility is transferred or assumed.

(2) This clause applies subject to clauses 48 and 53.

48 Payment if trading undertaking transferred

(1) If a reorganisation order provides for the transfer of a trading undertaking from a local authority (the **transferor**) to any other local authority (the **transferee**), the transferor may request the Commission to determine whether any payment for the transfer of the trading undertaking should be made by the transferee to the transferor and, if so, the amount of the payment.

(2) The Commission may, in considering a request under subclause (1), require the local authorities to each appoint an independent person as an assessor to report to the Commission on whether any payment should be made.

(3) The costs incurred by assessors must be met jointly by the local authorities appointing the assessors.

Schedule 3—*continued*
Part 4—*continued*
Subpart 3—*continued*

(4) The Commission may make a determination under this clause subject to any conditions that it considers desirable.

49 Employees

(1) This clause applies where—
- (a) a local authority (**local authority A**) ceases to exist under a reorganisation scheme and its district or region is included in the district or region of another local authority (**local authority B**); or
- (b) a reorganisation scheme provides, under clause 43(j) for the transfer of employees from a local authority **(local authority A)** to another local authority (**local authority B**).

(2) On and from the implementation date, a person who was, immediately before that date, an employee of local authority A becomes an employee of local authority B.

(3) For the purposes of every enactment law, award, determination, contract, and agreement relating to the employment of the person,—
- (a) his or her employment agreement is unbroken; and
- (b) the period of his or her service with local authority A is to be treated as a period of service with local authority B.

(4) The terms and conditions of employment of the person with local authority B are—
- (a) identical to the terms and conditions of his or her employment with local authority A immediately before the implementation date; and
- (b) capable of variation in the same manner.

(5) The person is not entitled to receive any payment or other benefit because he or she has, under this Act, ceased to be an employee of local authority A and become an employee of local authority B.

Schedule 3—*continued*
Part 4—*continued*
Subpart 3—*continued*

50 KiwiSaver Act 2006 does not apply to transferred employee

The transfer of an employee's employment under clause 49 does not constitute new employment for the purposes of the KiwiSaver Act 2006.

51 Certain matters not affected by transfer of responsibilities, duties, or powers

A reorganisation order does not—

(a) place a local authority or other person in breach of contract or confidence or otherwise make the local authority or other person guilty of a civil wrong; or

(b) give rise to a right for a person to terminate or cancel any contract or arrangement, or to accelerate the performance of an obligation; or

(c) place a local authority or other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of property or the disclosure of information; or

(d) release a surety wholly or in part from an obligation; or

(e) invalidate or discharge a contract or security.

52 Registers

(1) The Registrar-General of Land or other person charged with the keeping of books or registers is not required solely by reason of a reorganisation order to change the name of the transferor to that of the transferee in those books or registers or other documents.

(2) The presentation to the Registrar-General of Land or other person of an instrument, whether or not comprising an instrument of transfer by the transferee, is, in the absence of proof to the contrary, sufficient evidence that the property is vested in the transferee if the instrument—

(a) is executed, or purports to be executed, by the transferee; and

Schedule 3—*continued*
Part 4—*continued*
Subpart 3—*continued*

(b) is related to property held by the transferor; and
(c) contains a recital that the property has become vested in the transferee by virtue of a reorganisation order made under this Act.

53 Apportionment of assets and liabilities

(1) If a reorganisation order does not make provision for the apportionment of the assets and liabilities of the local authorities affected by the order, the local authorities may, by agreement, determine the manner in which those assets and liabilities must be apportioned.

(2) If an agreement is not entered into by the local authorities concerned within 3 months after the date of the coming into force of the reorganisation order, a local authority directly affected may apply to the Commission for an order apportioning assets and liabilities, and the Commission must make an order directing the manner in which assets and liabilities must be apportioned among the local authorities concerned.

(3) For the purpose of deciding an application to the Commission under subclause (2), the Commission—
(a) must consult the Auditor-General and the local authorities directly affected; and
(b) may make the inquiries that it thinks fit; and
(c) 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 subclause (2), the Commission may identify the assets and liabilities to be transferred, and assets and liabilities to be transferred must include all amounts and items that properly ought 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.

Schedule 3—*continued*
Part 4—*continued*
Subpart 3—*continued*

(5) An order of the Commission under subclause (2) may be enforced as if it were an agreement between the local authorities concerned.

(6) For the purposes of the Income Tax Act 2007, the Goods and Services Tax Act 1985, and the Accident Compensation Act 2001, a local authority constituted under a reorganisation order is deemed to be the same local authority as each of the local authorities whose district, region, or functions are wholly transferred to that local authority.

54 Apportionment of fuel tax revenue

(1) Despite Part 11 of the Local Government Act 1974, the local authorities established or affected by a reorganisation order may, by agreement, determine that the proceeds of fuel tax levied under that Part are to be distributed among them other than in accordance with that Part.

(2) If agreement under subclause (1) cannot be reached within 3 months after the date on which the reorganisation order comes into force, any of those local authorities may apply to the Commission for an order determining the matter in accordance with clause 53(2) to (5).

(3) An agreement under subclause (1), or an order under subclause (2), applies only to the end of the first financial year that commences after the date on which the reorganisation order comes into force.

Schedule 2
s 43

Consequential amendments

Auckland Regional Amenities Funding Act 2008 (2008 No 3 (P))

In section 4, repeal the definition of **reorganisation scheme**.

Local Electoral Act 2001 (2001 No 35)

In section 19W(a), replace "reorganisation proposals" with "local government reorganisation".

In section 19Z(5)(b), replace "section 255(1)(b) or Schedule 15" with "section 258I or 258M".

In section 19ZG(2)(c) and (4)(c), replace "section 255(1)(b) or Schedule 15" with "section 258I or 258M".

In section 24A(3) and (4), replace "section 255(1)(b) or Schedule 15" with "section 258I or 258M".

In section 24D(3) and (4), replace "section 255(1)(b) or Schedule 15" with "section 258I or 258M".

In section 27(4)(b), replace "section 255(1)(b) or Schedule 15" with "section 258I or 258M".

In section 34(1)(c) and (2)(c), replace "section 255(1)(b) or Schedule 15" with "section 258I or 258M".

Local Government (Auckland Council) Act 2009 (2009 No 32)

Replace section 10(b) with:

> "(b) better enabling the purpose of local government to be given effect to within the local board area."

In section 11(1A)(b), replace "reorganisation proposal" with "local government reorganisation".

In section 13A(1), replace "proposal" with "application".

In section 13A(2), replace "26" with "26A".

In section 13A(2), replace "a proposal" with "an application".

In section 13A(3), replace "proposal" with "application".

In section 32A, replace "sections 254 to 257" with "Part 10".

In section 32A, replace "those sections and Part 1 of Schedule 15 of that Act apply" with "that Part applies".

In section 32A, insert as subsection (2):

"(2) This section applies despite section 255 of that Act."

Local Government (Auckland Council) Act 2009 (2009 No 32)—*continued*

Repeal Part 3.

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37)

In section 9(1), after "proposal", insert "or reorganisation application".

Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)

In section 17(1) and (2), replace "giving effect to the relevant reorganisation scheme under" with "under section 25 of".

Receiverships Act 1993 (1993 No 122)

In the Schedule, clause 3, replace "Commissioner appointed under section 255 or section 258 of the Local Government Act 2002 or to a commission appointed under clause 14 of Schedule 15 of that Act" with "Commission appointed under section 258F of the Local Government Act 2002".

In the Schedule, clause 4, replace "the appointment of a Commissioner under section 255 or section 258 of the Local Government Act 2002 or to a commission appointed under clause 14 of Schedule 15 of that Act" with "a Commission appointed under section 258F of the Local Government Act 2002".

Legislative history

30 May 2012	Introduction (Bill 27–1)
12 June 2012	First reading and referral to Local Government and Environment Committee
30 October 2012	Reported from Local Government and Environment Committee (Bill 27–2)
15 November 2012	Second reading
27 November 2012	Committee of the whole House (Bill 27–3)
29 November 2012	Third reading
4 December 2012	Royal assent

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