

Local Government Regulatory Systems Amendment Bill

Government Bill

As reported from the Governance and Administration Committee

Commentary

Recommendation

The Governance and Administration Committee has examined the Local Government Regulatory Systems Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

This is an omnibus bill that would amend seven statutes administered by the Department of Internal Affairs relating to local government matters. The bill seeks to improve the regulatory systems set out in the principal Acts.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Dog Control Act 1996

Part 1 of the bill would amend the Dog Control Act 1996. Under the Act, local authorities are required to produce reports about various dog control matters (such as the number of registered dogs, and the number of dog-related complaints received and prosecutions taken). They must publicly notify that a report has been prepared and adopted, and must send a copy to the Secretary for Local Government. However, local authorities are not currently required to make the reports publicly available.

We recommend replacing clause 5(3) to require local authorities to make these reports publicly available.

Fostering participation in local elections

As introduced, clause 10 would amend the Local Electoral Act 2001 to place a duty on the electoral officer of a local authority to facilitate and foster representative and substantial electoral participation.

We agree that it is appropriate for this duty to be placed on impartial public servants rather than on incumbent elected representatives. However, we consider that the chief executive of a local authority would be better resourced to carry out the duty than the electoral officer. Therefore, we recommend deleting clause 10 and instead inserting new clause 15A in Part 3 of the bill to amend the Local Government Act 2002.

Local Government Act 2002

Part 4 of the bill would amend the Local Government Act 2002.

We recommend amending clause 15(3) to change the definition of “working day” in section 5 of the Local Government Act. Our proposed definition would exclude the provincial anniversary day observed in each local authority’s area, and days between 20 December and 10 January. This would be consistent with the definition in the Building Act 2004. We consider that the definition should be consistent across legislation as much as practicable, as variances can create anomalies when interacting with local authorities on different matters.

As noted above, we recommend that the duty to facilitate and foster representative and substantial elector participation should be placed on the chief executive of a local authority rather than its electoral officer. Our proposed new clause 15A would insert this obligation into the Local Government Act.

Clause 25 would insert new section 261I in the Local Government Act. This would give the Secretary for Local Government the power to make rules about the required form for information and documents which local authorities are required to publicly release. We recommend amending clause 25 to insert a provision explaining the purposes for which the Secretary could make these rules. They are to ensure that the information and documents are widely accessible, including to people with disabilities, and that they are in a reusable format to assist collation and research.

Local Government Official Information and Meetings Act 1987

Part 5 of the bill would amend the Local Government Official Information and Meetings Act. We recommend inserting clause 29(3) to amend the definition of “working day” in that Act so that it is consistent with the change we recommend to the Local Government Act 2002.

Rates Rebate Act 1973

Part 7 of the bill would amend the Rates Rebate Act 1973.

Recipients of main benefits, New Zealand Superannuation, or the Veterans’ Pension are entitled to receive a winter energy payment under the Families Package (Income and Tax Benefits) Act 2017. We understand that the winter energy payment would count as “income” when assessing eligibility for a rates rebate, which could mean that

some recipients' rebates are reduced. We consider this an unintended consequence, and recommend the insertion of clause 34(2) to exclude the winter energy payment from the definition of "income" when assessing eligibility for a rates rebate under the Act.

Other matters

Clause 15(2) would amend the definition of "public notice" in the Local Government Act 2002 and clause 29 would amend the definition of "publicly notified" in the Local Government Official Information and Meetings Act 1987. Although we support these amendments, we consider that further gains could be achieved by updating the form requirements of notices published in newspapers. We consider that a plain language explanation of the subject matter of the notice, with reference to a further source for more detailed information, may be preferable. We invite the House to consider this matter.

During our consideration of this bill, several issues were raised that fell outside the bill's scope. Many related to the process and rules for local elections. We note that the Justice Committee is conducting an Inquiry into the 2017 General Election and 2016 Local Elections. We have written to the Justice Committee asking them to consider these issues as part of their inquiry.

Appendix

Committee process

The Local Government Regulatory Systems Amendment Bill was referred to the committee on 28 June 2018. The closing date for submissions was 17 August 2018. We received and considered 18 written submissions from interested groups and individuals. We heard oral evidence from 5 submitters at hearings in Wellington.

We received advice from the Department of Internal Affairs.

Committee membership

Brett Hudson (Chairperson)

Ginny Andersen

Kanwaljit Singh Bakshi

Hon Jacqui Dean

Paul Eagle

Hon Peeni Henare

Jamie Strange

Dr Jian Yang

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Nanaia Mahuta

Local Government Regulatory Systems Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government Regulatory Systems Amendment Act **2018**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1

Amendments to Dog Control Act 1996

3 Amendments to Dog Control Act 1996

This Part amends the Dog Control Act 1996 (the **principal Act**). 10

4 Section 2 amended (Interpretation)

In section 2, replace the definition of **disability assist dog** with:

disability assist dog means a dog certified by one of the organisations listed in **Schedule 5** as being a dog that has been trained (or is being trained) to assist a person with a disability 15

5 Section 10A amended (Territorial authority must report on dog control policy and practices)

Replace section 10A(3) and (4) with:

~~(3) The territorial authority must give public notice, as defined in section 5(1) of the Local Government Act 2002, of the report.~~ 20

~~(3) The territorial authority must—~~

~~(a) give public notice, as defined in section 5(1) of the Local Government Act 2002, of the report; and~~

~~(b) make the report publicly available, as described in section 5(3) of that Act.~~ 25

6 Section 78D replaced (Regulations authorising organisation to certify dogs as disability assist dogs)

Replace section 78D with:

- 78D Regulations amending Schedule 5**
- (1) The Governor-General may, by Order in Council, amend **Schedule 5** by—
- (a) adding or removing the name of an organisation that is authorised to certify a dog as being a dog that has been trained (or is being trained) to assist a person with a disability; or
 - (b) amending an item in that schedule referring to an organisation.
- (2) Regulations under this section may be made only on the recommendation of the Minister after the Minister has consulted the Minister for Disability Issues.
- 7 New Schedule 5 inserted**
- After Schedule 4, insert the **Schedule 5** set out in the **Schedule** of this Act.

Part 2

Amendments to Local Electoral Act 2001

- 8 Amendments to Local Electoral Act 2001**
- This Part amends the Local Electoral Act 2001 (the **principal Act**).
- 9 Section 4 amended (Principles)**
- Before section 4(1)(a), insert:
- (aa) representative and substantial electoral participation in local elections and polls:
- 10 Section 15 amended (General duties of electoral officer)**
- After section 15(2)(d), insert:
- (da) facilitating and fostering representative and substantial electoral participation:
- 11 Section 115 amended (When members come into office)**
- Replace section 115(1) with:
- (1) A candidate who is declared to be elected comes into office on the day after the day on which the official result of the election is declared by public notice under section 86.

Part 3

Amendment to Local Government Act 1974

- 12 Amendment to Local Government Act 1974**
- This Part amends the Local Government Act 1974 (the **principal Act**).

13 Section 336 amended (Pedestrian malls)

Replace section 336(9) with:

- (9) When the special consultative procedure is used for the purposes of subsection (1), the council must, in addition to the matters referred to in section 83(1)(b)(i) to (iii) of the Local Government Act 2002, ensure that an explanation of the right of appeal under subsection (3) is publicly available. 5

Part 4**Amendments to Local Government Act 2002****14 Amendments to Local Government Act 2002**

This Part amends the Local Government Act 2002 (the **principal Act**). 10

15 Section 5 amended (Interpretation)

- (1) In section 5(1), insert in its appropriate alphabetical order:

Internet site, in relation to a local authority or other person or entity, means an Internet site that is maintained by, or on behalf of, the local authority, person, or entity and to which the public has free access 15

- (2) In section 5(1), replace the definition of **public notice** with:

public notice, in relation to a notice given by a local authority, means one that—

- (a) is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority's Internet site; and 20

- (b) is published in at least—

- (i) 1 daily newspaper circulating in the region or district of the local authority; or

- (ii) 1 or more other newspapers that have a combined circulation in that region or district at least equivalent to that of a daily newspaper circulating in that region or district 25

- (3) In section 5(1), replace the definition of **working day** with:

working day means a day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and 30

- (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

- (ba) the day observed in the appropriate area as the anniversary of the province of which the area forms a part; and 35

- (c) a day in the period commencing with 25-20 December in any year and ending with 15-10 January in the following year.
- (4) In section 5(3)(a), replace “on an Internet site maintained by or on behalf of the local authority” with “on the local authority’s Internet site”.
- 15A Section 42 amended (Chief executive)** 5
- After section 42(2)(d), insert:
- (da) facilitating and fostering representative and substantial elector participation in elections and polls held under the Local Electoral Act 2001; and
- 16 Section 93 amended (Long-term plan)**
- Replace section 93(10) with: 10
- (10) A local authority must, within 1 month after the adoption of its long-term plan, make the plan publicly available.
- 17 Section 93C amended (Content of consultation document for adoption of long-term plan)**
- (1) In section 93C(2)(c)(i), replace “on rates, rates increases,” with “on rate increases” 15
- (2) In section 93C(3)(c), replace “on an Internet site maintained by or on behalf of the local authority” with “on the local authority’s Internet site”.
- 18 Section 95 amended (Annual plan)**
- Replace section 95(7) with: 20
- (7) A local authority must, within 1 month after the adoption of its annual plan, make the plan publicly available.
- 19 Section 95A amended (Purpose and content of consultation document for annual plan)**
- In section 95A(3)(c), replace “on an Internet site maintained by or on behalf of the local authority” with “on the local authority’s Internet site”. 25
- 20 Section 98 amended (Annual report)**
- Replace section 98(6) with:
- (6) A local authority must, within 1 month after the adoption of its annual report, make the report and the summary prepared under subsection (4)(b) publicly available. 30
- 21 Section 101A amended (Financial strategy)**
- In section 101A(3)(b)(i), replace “on rates, rate increases,” with “on rate increases”.

- 22 Section 261B amended (Secretary must make rules specifying performance measures)**
- In section 261B(4)(b), replace “on an Internet site maintained by, or on behalf of, the Secretary” with “on the Secretary’s Internet site”.
- 23 Section 261G amended (Consultation on proposal to incorporate material by reference)** 5
- In section 261G(1)(c), replace “on an Internet site maintained by or on behalf of the Secretary” with “on the Secretary’s Internet site”.
- 24 Section 261H amended (Access to material incorporated by reference)**
- In section 261H(1)(c), replace “on an Internet site maintained by or on behalf of the Secretary” with “on the Secretary’s Internet site” 10
- 25 New section 261I and cross-heading inserted**
- After section 261H, insert:
- Rules establishing requirements of form*

261I Secretary may make rules establishing requirements of form 15

(1) The Secretary may make rules establishing requirements of form for information or documents ~~or information~~ that a local authority is required under this Act or any other Act to make publicly available or to provide to anyone.

(1A) The purposes for which rules may be made under **subsection (1)** are—

(a) to ensure that information or documents that a local authority is required to make publicly available are widely accessible, including to persons with disabilities; 20

(b) to ensure that information that a local authority is required to make publicly available is presented in a reusable format to facilitate collation or research. 25

(2) Before making any such rules, the Secretary must—

(a) consult every local authority; and

(b) publish in the *Gazette* a notice of his or her intention to make the rules; and

(c) give interested persons a reasonable time, which must be specified in the notice, to make submissions on the proposal. 30

(3) After making such rules, the Secretary must—

(a) make the rules available, at all reasonable times, on the Secretary’s Internet site; and

- (b) give notice in the *Gazette* stating that the rules have been made and are available on the Secretary’s Internet site and specifying the Internet site address.
- (4) Rules made under this section are effective 28 days after the date on which the notice is given in the *Gazette*, or on any later date that is specified in the rules. 5
- (5) A rule made under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- 26 Schedule 7 amended**
- (1) In Schedule 7, clause 19(5), replace “clause 22” with “**clause 22 or 22A**”. 10
- (2) In Schedule 7, replace clause 22 with:
- 22 Extraordinary meetings**
- (1) Despite clause 19(4) to (6), an extraordinary meeting of a local authority may be called by—
- (a) a resolution of the local authority; or 15
- (b) requisition in writing delivered to the chief executive and signed by—
- (i) the mayor or chairperson; or
- (ii) not less than one-third of the total membership of the local authority (including vacancies).
- (2) Notice in writing of the time and place of the meeting called under **subclause (1)** and of the general nature of business must be given by the chief executive to each member of the local authority— 20
- (a) at least 3 working days before the day appointed for the meeting; or
- (b) if the meeting is called by a resolution, within a lesser period of notice that is specified in the resolution, being not less than 24 hours. 25
- 22A Emergency meetings**
- (1) Despite clause 19(4) to (6), if the business to be dealt with requires a meeting to be held at a time earlier than is allowed by the notice requirements of **clause 22(2)(a)** and it is not practicable to call the meeting by resolution, an emergency meeting may be called by— 30
- (a) the mayor or chairperson; or
- (b) if the mayor and chairperson are unavailable, the chief executive.
- (2) Notice of the time and place of an emergency meeting and of the matters in respect of which the emergency meeting is being called must be given by the person calling the meeting or by another person on that person’s behalf, by whatever means is reasonable in the circumstances, to each member of the local authority and to the chief executive at least 24 hours before the time appointed for the meeting. 35

- (3) In Schedule 7, replace clause 32(3) with:
- (3) A committee or other subordinate decision-making body, community board, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or to another committee or subordinate decision-making body, community board, or member or officer of the local authority, but, to avoid doubt, if doing so is itself a sub-delegation, the power to so delegate is subject to any conditions, limitations, or prohibitions imposed in connection with the primary delegation. 5
- 27 Schedule 10 amended**
- In Schedule 10, clause 11(b), replace “on an Internet site maintained by or on behalf of the local authority” with “on the local authority’s Internet site”. 10

Part 5

Amendments to Local Government Official Information and Meetings Act 1987

- 28 Amendments to Local Government Official Information and Meetings Act 1987** 15
- This Part amends the Local Government Official Information and Meetings Act 1987 (the **principal Act**).
- 29 Section 2 amended (Interpretation)**
- (1) In section 2(1), insert in its appropriate alphabetical order: 20
- Internet site**, in relation to a particular local authority, means an Internet site that is maintained by, or on behalf of, the local authority and to which the public has free access
- (2) In section 2(1), replace the definition of **publicly notified** with: 25
- publicly notified** means made known by means of a notice that—
- (a) is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority’s Internet site; and
- (b) ~~is published in at least 1 daily newspaper circulating in the region or district of the local authority or in 1 or more other newspapers that have a combined circulation in that region or district at least equivalent to that of a daily newspaper circulating in that region or district~~ 30
- (b) is published in at least—
- (i) 1 daily newspaper circulating in the region or district of the local authority; or 35

- (ii) 1 or more other newspapers that have a combined circulation in that region or district at least equivalent to that of a daily newspaper circulating in that region or district
- (3) In section 2(1), definition of **working day**, replace paragraph (b) with:
- (b) the day observed in the appropriate area as the anniversary of the province of which the area forms a part; and 5
- (c) a day in the period commencing with 20 December in any year and ending with 10 January in the following year.
- 30 Section 46 amended (Meetings of local authorities to be publicly notified)** 10
- Replace section 46(3) and (4) with:
- (3) If an extraordinary or emergency meeting of a local authority is called and cannot be publicly notified in the manner required or permitted by subsections (1) and (2), the local authority must cause that meeting and the general nature of business to be transacted at that meeting—
- (a) to be publicly notified as soon as practicable before the meeting is to be held; or 15
- (b) if it is not practicable to publish a notice in newspapers before the meeting, to be notified as soon as practicable on the local authority’s Internet site and in any other manner that is reasonable in the circumstances.

Part 6 20

Amendment to Local Government (Rating) Act 2002

- 31 Amendment to Local Government (Rating) Act 2002**
- This Part amends the Local Government (Rating) Act 2002 (the **principal Act**).
- 32 Section 23 amended (Procedure for setting rates)** 25
- Replace section 23(5) with:
- (5) A local authority must, within 20 working days after making a resolution, make the resolution publicly available on an Internet site maintained by it or on its behalf to which the public has free access.

Part 7 30

Amendments to Rates Rebate Act 1973

- 33 Amendments to Rates Rebate Act 1973**
- This Part amends the Rates Rebate Act 1973 (the **principal Act**).

34 Section 2 amended (Interpretation)

(1) In section 2(1), definition of **income**, replace paragraph (d)(ii) with:

(ii) any payment made under the Veterans' Support Act 2014 other than—

(A) weekly income compensation; or

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(B) weekly compensation (whether for a veteran or the veteran's family); or

(C) veteran's pension; or

(D) retirement lump sum; or

(E) children's pension; or

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(F) dependant's pension:

(2) In section 2(1), definition of **income**, after paragraph (d)(vii), insert:

(viii) any winter energy payment received under the Social Security Act 2018

35 Section 7A amended (Refund to resident of retirement village of contribution towards rates)

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Replace section 7A(1)(a) with:

(a) who has a residential unit in the retirement village but is not a ratepayer in respect of that unit; and

Schedule
New Schedule 5 inserted

s 7

Schedule 5
Organisations authorised to certify dogs as disability assist dogs 5

ss 2, 78D

Hearing Dogs for Deaf People New Zealand

Mobility Assistance Dogs Trust

New Zealand Epilepsy Assist Dogs Trust

Royal New Zealand Foundation of the Blind Incorporated 10

Top Dog Companion Trust

Legislative history

11 June 2018

Introduction (Bill 66–1)

28 June 2018

First reading and referral to Governance and Administration
Committee