

# **Local Government Regulatory Systems Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill is an omnibus Bill. It contains amendments to legislation administered by the Department of Internal Affairs. The policy objective of the Bill is to maintain the effectiveness and efficiency of the regulatory systems established in the principal Acts amended by this Bill.

The amendments contained within this Bill will achieve this by—

- clarifying and updating statutory provisions to give effect to the intended purposes of the Acts and their provisions, and to keep the regulatory system up to date and relevant;
- addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation;
- removing unnecessary compliance costs.

The local government legislative framework is a complex arrangement of multiple Acts and regulations. Over time, amendments to local government legislation have introduced errors and inconsistencies into the regulatory system. In addition, the regulatory system should be flexible to keep pace with technological opportunities, process improvements, and community expectations.

The Bill responds to the New Zealand Productivity Commission's July 2014 report *Regulatory institutions and practices*. The New Zealand Productivity Commission found that it can be difficult to find time on the Parliamentary calendar for “repairs and maintenance” of existing legislation. As a result, regulatory agencies often have to work with legislation that is out of date or not fit for purpose. This can create unnecessary costs, complexity, and ambiguity for regulators and regulated parties. It also means the regulatory regimes may not keep up with public or political expectations.

The Bill is an opportunity for minor and technical amendments to be implemented across the local government legislative regime.

The Bill includes the following amendments:

*Dog Control Act 1996*

The amendments to the Dog Control Act 1996 will replace the definition of disability assist dog, align the notification requirements of local authorities with those in the Local Government Act 2002, and clarify which organisations are authorised to certify dogs as disability assist dogs.

*Local Electoral Act 2001*

The purpose of the changes to the Local Electoral Act 2001 is to empower councils to improve representative and substantial participation in local elections, and to clarify when a successful candidate in a by-election may come into office.

*Local Government Act 1974*

The amendment to the Local Government Act 1974 will clarify the consultation and public notification requirements when designating a road as a pedestrian mall by aligning the requirements with those in the Local Government Act 2002.

*Local Government Act 2002*

The changes to the Local Government Act 2002 will provide for efficient local government operations and administration as well as effective local governance and representation. The changes will also reduce filing requirements on local government and will improve document accessibility. This will be achieved by:

- inserting a definition of Internet site and updating or aligning other definitions:
- aligning the delegation and sub-delegation powers of local authorities:
- requiring digital public notices:
- removing the requirements to send copies of long-term plans, annual reports, and annual plans to various entities and to have a statement on the quantified limit on rates within the long-term plans:
- enabling the Secretary for Local Government to set requirements of form for documents or information that must be made publicly available.

*Local Government Official Information and Meetings Act 1987*

The amendments to the Local Government Official Information and Meetings Act 1987 will update and clarify public notification requirements, particularly those for extraordinary or emergency meetings.

*Local Government (Rating) Act 2002*

This amendment will remove the requirement to send a copy of any resolution setting rates to the Secretary for Local Government, and instead require only that it be made publicly available.

*Rates Rebate Act 1973*

The changes to the Rates Rebate Act 1973 will update the definition of income to reflect changes arising from the Veterans' Support Act 2014, and to clarify provisions relating to the eligibility of retirement village residents in relation to rates rebates.

**Departmental disclosure statement**

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2018&no=66>

**Regulatory impact assessment**

The Department of Internal Affairs produced a regulatory impact assessment on 23 June 2016 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- [https://www.dia.govt.nz/diawebsite.nsf/wpg\\_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument](https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument)
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

**Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* provides that this Bill comes into force on the day after the date on which it receives the Royal assent.

**Part 1****Amendments to Dog Control Act 1996**

*Clause 3* provides that this Part amends the Dog Control Act 1996.

*Clause 4* replaces the definition of disability assist dog in section 2, the definition now referring to the organisations listed in *new Schedule 5*.

*Clause 5* amends the notice requirements in section 10A for public notification of a local authority's report on its dog control policy and practices to require that public notice of the report be given in the manner in which public notice is given under the Local Government Act 2002 (which now includes notice on the local authority's Internet site).

*Clause 6* replaces the former power in section 78D to make Orders in Council specifying organisations that are authorised to certify dogs as disability assist dogs with a power to amend the *new Schedule 5* list of such organisations by Order in Council.

*Clause 7* inserts a *new Schedule 5* that lists the organisations that are authorised to certify dogs as disability assist dogs.

## **Part 2**

### **Amendments to Local Electoral Act 2001**

*Clause 8* provides that this Part amends the Local Electoral Act 2001.

*Clause 9* amends section 4 to add a new principle that the Act is designed to implement: a principle of representative and substantial electoral participation in local elections and polls.

*Clause 10* inserts *new section 15(2)(da)* to add a new responsibility for electoral officers to facilitate and foster representative and substantial electoral participation.

*Clause 11* replaces section 115(1) to make it applicable to all elections, not only triennial general elections.

## **Part 3**

### **Amendment to Local Government Act 1974**

*Clause 12* provides that this Part amends the Local Government Act 1974.

*Clause 13* amends section 336(9) of the Local Government Act 1974 to allow the provision to interact correctly with section 83 of the Local Government Act 2002.

## **Part 4**

### **Amendments to Local Government Act 2002**

*Clause 14* provides that this Part amends the Local Government Act 2002.

*Clause 15* amends section 5(1) to insert a definition of Internet site, to replace the definition of public notice so that it includes making a matter available on the local authority's Internet site, and to replace the definition of working day so that it will be consistent with other Acts. It also amends section 5(3) to reflect the new definition of Internet site.

*Clause 16* replaces section 93(10), eliminating the present requirement to send copies of the long-term plan to various entities, instead requiring only that it be made publicly available (which includes making it available on the local authority's Internet site).

*Clause 17* amends section 93C to delete the reference to a quantified limit on rates in subsection (2) and to reflect the new definition of Internet site in subsection (3).

*Clause 18* replaces section 95(7), eliminating the present requirement to send copies of the annual plan to various entities, requiring only that it be made publicly available (which includes making it available on the local authority's Internet site).

*Clause 19* amends section 95A(3)(c) to reflect the new definition of Internet site.

*Clause 20* replaces section 98(6), eliminating the present requirement to send copies of the annual report to various entities, requiring only that it be made publicly available (which includes making it available on the local authority's Internet site).

*Clause 21* amends section 101A(3)(b)(i) to delete any reference to a quantified limit on rates.

*Clauses 22 to 24* amend sections 261B(4)(b), 261G(1)(c), and 261H(1)(c), respectively, to reflect the new definition of Internet site.

*Clause 25* inserts a new cross-heading and *new section 26II* to allow the Secretary for Local Government, by order, to establish requirements of form for documents or information that a local authority is legally required to make publicly available or to provide to anyone.

*Clause 26* amends Schedule 7 by—

- amending a cross-reference in clause 19(5) to add a reference to *new clause 22A*;
- replacing clause 22 to create 2 distinct kinds of out-of-the-ordinary meetings of a local authority: extraordinary meetings and emergency meetings;
- amending clause 32(3) to clarify that any sub-delegation under that clause is to be to the same limited class as that to which the powers were first delegated.

*Clause 27* amends clause 11(b) of Schedule 10 to reflect the new definition of Internet site.

## **Part 5**

### **Amendments to Local Government Official Information and Meetings Act 1987**

*Clause 28* provides that this Part amends the Local Government Official Information and Meetings Act 1987.

*Clause 29* inserts a definition of Internet site in section 2(1) and replaces the definition of publicly notified to require making a notice available on the local authority's Internet site.

*Clause 30* replaces section 46(3) and (4) to provide for extraordinary meetings or emergency meetings that cannot be publicly notified in the usual way to be notified as soon as practicable and by means that include notice on the local authority's Internet site.

## **Part 6**

### **Amendment to Local Government (Rating) Act 2002**

*Clause 31* provides that this Part amends the Local Government (Rating) Act 2002.

*Clause 32* replaces section 23(5), eliminating the present requirement to send a copy of any resolution setting rates to the Secretary for Local Government, requiring only that it be made publicly available on the local authority's Internet site.

## **Part 7**

### **Amendment to Rates Rebate Act 1973**

*Clause 33* provides that this Part amends the Rates Rebate Act 1973.

*Clause 34* replaces paragraph (d)(ii) of the definition of income in section 2(1) to reflect the new forms of payments under the Veterans' Support Act 2014.

*Clause 35* replaces section 7A(1)(a) to clarify that the section applies to residents of retirement villages having a residential unit in the village who are not the ratepayers for that unit (even if the unit itself may be separately rated).

*Hon Nanaia Mahuta*

# **Local Government Regulatory Systems Amendment Bill**

Government Bill

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**Schedule**  
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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

**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— 25
- (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 30  
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** 5

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
**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)** 15

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** 20**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:

25

(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.

## 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**).

### 15 Section 5 amended (Interpretation) 5

- (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

- (2) In section 5(1), replace the definition of **public notice** with: 10

**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 15

- (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 20

- (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 25

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

- (c) a day in the period commencing with 25 December in any year and ending with 15 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”. 30

### 16 Section 93 amended (Long-term plan)

Replace section 93(10) with:

- (10) A local authority must, within 1 month after the adoption of its long-term plan, make the plan publicly available. 35

- 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”.
- (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”. 5
- 18 Section 95 amended (Annual plan)**
- Replace section 95(7) with:
- (7) A local authority must, within 1 month after the adoption of its annual plan, make the plan publicly available. 10
- 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”.
- 20 Section 98 amended (Annual report)** 15
- 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.
- 21 Section 101A amended (Financial strategy)** 20
- 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”. 25
- 23 Section 261G amended (Consultation on proposal to incorporate material by reference)**
- 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”. 30
- 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”.
- 25 New section 261I and cross-heading inserted**
- After section 261H, insert: 35

*Rules establishing requirements of form***261I Secretary may make rules establishing requirements of form**

- (1) The Secretary may make rules establishing requirements of form for 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. 5
- (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. 10
- (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. 15
- (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) 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. 20

**26 Schedule 7 amended**

- (1) In Schedule 7, clause 19(5), replace “clause 22” with “**clause 22 or 22A**”.
- (2) In Schedule 7, replace clause 22 with: 25

**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
  - (b) requisition in writing delivered to the chief executive and signed by— 30
    - (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— 35
- (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.

#### **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— 5
- (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. 10 15
- (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. 20

#### **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”. 25

### **Part 5**

#### **Amendments to Local Government Official Information and Meetings Act 1987**

#### **28 Amendments to Local Government Official Information and Meetings Act 1987** 30

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: 35

**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:
- publicly notified** means made known by means of a notice that— 5
- (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 10
- 30 Section 46 amended (Meetings of local authorities to be publicly notified)**
- 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— 15
- (a) to be publicly notified as soon as practicable before the meeting is to be held; or 20
- (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

### Amendment to Local Government (Rating) Act 2002 25

- 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)**
- Replace section 23(5) with: 30
- (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

### 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) 5

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

(B) weekly compensation (whether for a veteran or the veteran's family); or 10

(C) veteran's pension; or

(D) retirement lump sum; or

(E) children's pension; or

(F) dependant's pension: 15

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

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 20



**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