

Version
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Chatham Islands Council Act 1995

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Commencement see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Department of Internal Affairs.

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Schedule

17

Transitional provisions in relation to dissolution of Chatham Islands County Council and establishment of Chatham Islands Council

An Act—

- (a) **to reform the local government of the Chatham Islands by establishing a Chatham Islands Council with appropriate functions, duties, and powers:**
- (b) **to dissolve the Chatham Islands County Council:**
- (c) **to make provision incidental to the establishment of the Chatham Islands Council and the dissolution of the Chatham Islands County Council**

1 Short Title and commencement

- (1) This Act may be cited as the Chatham Islands Council Act 1995.
- (2) Except as provided in section 8(7), this Act shall come into force on 1 November 1995.

2 Interpretation

In this Act, unless the context otherwise requires,—

council-controlled organisation has the meaning set out in section 6(1) of the Local Government Act 2002

council dues means the dues authorised by section 14 to be levied by the Chatham Islands Council

former council means the Chatham Islands County Council

generally accepted accounting practice has the meaning given to it by section 5(1) of the Local Government Act 2002

goods—

- (a) means all kinds of property; and
- (b) includes animals; but
- (c) does not include ships' stores or aircraft stores

ship—

- (a) means every description of vessel, boat, ferry, or craft used in navigation, whether or not it has any means of propulsion, and regardless of that means; and
- (b) includes a barge

member, in relation to the Chatham Islands Council, includes the Mayor.

Section 2 **council-controlled organisation**: inserted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2 **generally accepted accounting practice**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Dissolution of Chatham Islands County Council

3 Dissolution of Chatham Islands County Council

The Chatham Islands County Council is hereby dissolved.

Abolition of Chatham Islands County

4 Abolition of Chatham Islands County

The Chatham Islands County is hereby abolished.

Constitution of Chatham Islands Territory

5 Constitution of Chatham Islands Territory

There is hereby constituted a district, to be known as The Chatham Islands Territory, which district comprises the islands known as the Chatham Islands and the area of the territorial sea adjoining those islands.

Constitution of Chatham Islands Council

6 Constitution of Chatham Islands Council

A territorial authority to be known as the Chatham Islands Council is hereby constituted for the Chatham Islands Territory.

7 Functions, duties, and powers

- (1) Except as otherwise provided under this or any other Act, the Chatham Islands Council has the functions, duties, and powers of—
 - (a) a territorial authority under—
 - (i) the Local Government Act 2002; and
 - (ii) the Local Government Act 1974; and
 - (iii) the Local Government (Rating) Act 2002; and
 - (iv) the Resource Management Act 1991; and
 - (v) any other public Act; and
 - (b) a regional council under the Resource Management Act 1991; and
 - (c) a regional authority under the Building Act 2004.
- (2) Except as otherwise provided in this Act or any other Act, the Chatham Islands Council shall have the functions, duties, and powers conferred on the former council by or under any Act that is for the time being in force.

Section 7(1): substituted, on 7 July 2004, by section 3 of the Chatham Islands Council Amendment Act 2004 (2004 No 60).

Section 7(1)(a)(iv): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 7(1)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 7(1)(b): amended, on 7 July 2010, by section 4 of the Chatham Islands Council Amendment Act 2010 (2010 No 52).

Section 7(1)(c): added, on 7 July 2010, by section 4 of the Chatham Islands Council Amendment Act 2010 (2010 No 52).

Membership and elections

8 Membership and elections

- (1) The first election of the Chatham Islands Council shall be held on 14 October 1995 and the members of the Chatham Islands Council to be elected at that first election shall comprise a Mayor and 8 other members.
- (2) For the purposes of the first election of the Chatham Islands Council, the Returning Officer and the principal administrative officer for the Chatham Islands Territory shall be respectively the Returning Officer and the principal administrative officer for the Chatham Islands County.
- (3) The first election of the Chatham Islands Council shall be conducted by postal voting.
- (4) Notwithstanding section 6 of the Local Elections and Polls Act 1976, every member of the Chatham Islands Council who is elected at the first election of members of the Chatham Islands Council shall come into office on the later of—
 - (a) 1 November 1995; or
 - (b) the day next after the day on which he or she is declared to be elected by the Returning Officer.
- (5) Notwithstanding section 4 of the Local Elections and Polls Act 1976, no election of the Chatham Islands County Council shall be held on 14 October 1995.
- (6) Every member of the Chatham Islands County Council shall, unless he or she sooner vacates office by reason of death, resignation, retirement, or disqualification, vacate his or her office as a member of the Chatham Islands County Council when the members of the Chatham Islands Council elected at the first election of the Chatham Islands Council come into office.
- (7) This section shall come into force on the day on which this Act receives the Royal assent.

*Procedure***9 Public notice**

Where the Chatham Islands Council is required to give public notice under any Act, that public notice shall consist of—

- (a) notices or placards affixed to a noticeboard that is accessible to the public without charge in Waitangi, Kaingaroa, Owenga, and Pitt Island; and
- (b) broadcasts transmitted on not less than 2 days on radio or television received generally within the Chatham Islands Territory (with 2 or more broadcasts on each of those days), which broadcasts shall specify—
 - (i) that the Chatham Islands Council is giving public notice; and
 - (ii) the general effect of the notice; and
 - (iii) each of the locations at which the public notice can be accessed under paragraph (a) and each of the places at which copies of the notice can be obtained.

*Annual reports***10 Annual plan**

[Repealed]

Section 10: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

11 Annual report

[Repealed]

Section 11: repealed, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

12 Public inspection of reports

Where the Chatham Islands Council adopts a report under section 10 or section 11, the Chatham Islands Council—

- (a) shall make that report available for public inspection at its office; and
- (b) shall make copies of that report available to the public—
 - (i) free of charge; or
 - (ii) at a reasonable charge; and
- (c) shall, within 20 working days after its adoption, send copies of that plan and report to—
 - (i) the Secretary for Local Government; and
 - (ii) the Controller and Auditor-General; and
 - (iii) the Parliamentary Library.

Compare: 1974 No 66 ss 223D(7), 223E(9); 1989 No 29 s 24(1); 1991 No 49 s 17(2)

Financial systems

13 Financial systems

- (1) The Chatham Islands Council shall adopt financial systems and reporting and record keeping procedures in accordance with this section and shall in addition establish and maintain a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting of the Chatham Islands Council.
- (2) The Chatham Islands Council shall adopt financial systems and reporting and record keeping procedures that shall—
 - (a) identify the expenses, revenues, and financial performance of the various activities of the Chatham Islands Council and of each of its significant activities:
 - (b) correctly record and correctly explain the transactions of the Chatham Islands Council:
 - (c) at any time enable the financial position of the Chatham Islands Council to be determined with reasonable accuracy:
 - (d) enable a fair reflection of the financial position and performance of the Chatham Islands Council to be presented at the end of the financial year:
 - (e) enable the financial statements for the Chatham Islands Council to be readily and properly audited:
 - (f) show in a full and complete manner—
 - (i) all revenue and expenses:
 - (ii) all assets and liabilities including contingent liabilities and guarantees:
 - (iii) the application of all funds held or received for any particular purpose (such as special funds, rates, targeted rates, and trusts) and the amount and location of such funds while held by the Chatham Islands Council:
 - (g) enable the Chatham Islands Council to prepare the funding and financial policies required by section 102 of the Local Government Act 2002 and to comply with the principles of financial management set out in section 101 of the Local Government Act 2002.
- (3) Nothing in section 223F of the Local Government Act 1974 applies in respect of the Chatham Islands Council.

Section 13: substituted, on 27 July 1996, by section 9 of the Local Government Amendment Act (No 3) 1996 (1996 No 83).

Section 13(2)(f)(iii): amended, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 13(2)(g): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

*Council dues***14 Power to levy council dues**

- (1) The Chatham Islands Council may, in accordance with the provisions of this Act, levy dues on goods imported into or exported from the Chatham Islands Territory by any means whatsoever.
- (2) The Chatham Islands Council may from time to time decide, not less than 14 days after giving public notice of its intention to do so, to fix by resolution rates of dues payable under this section.
- (3) Without limiting the powers conferred upon the Chatham Islands Council by this section, the Chatham Islands Council, by a resolution that levies dues under this Act and is made not less than 14 days after the Council has given public notice of its intention to do so, may—
 - (a) provide for dues to be levied on—
 - (i) any specified goods:
 - (ii) goods of any specified class or classes:
 - (iii) all goods except goods of a specified class or of specified classes:
 - (iv) all goods imported into or exported from the Chatham Islands Territory by any means whatsoever:
 - (b) provide for dues to be levied at different rates in respect of different goods or different classes of goods or both:
 - (c) specify, in relation to goods imported into or exported from any island within the Chatham Islands Territory, a rate of dues that is different from that payable in respect of goods imported into or exported from the other islands within the Chatham Islands Territory:
 - (d) specify, in relation to goods carried by sea, a rate of dues that is different from that payable in respect of goods carried by air:
 - (e) specify the basis of measurement by which the amount of the dues payable in respect of any specified goods or any specified class of goods is to be determined:
 - (f) specify the period of time within which dues on any goods or any class of goods are to be paid:
 - (g) specify any goods or any classes of goods in respect of which dues are not payable:
 - (h) specify circumstances in which dues are not to be payable in respect of any goods.

Compare: 1980 No 6 (L) s 4

Section 14(2): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 14(3): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

15 Application of proceeds of council dues

All money received by the Chatham Islands Council from council dues collected in accordance with this Act shall form part of the general revenues of the Chatham Islands Council.

Compare: 1980 No 6 (L) s 5

16 Persons liable to pay council dues

- (1) The persons jointly and severally liable to pay council dues in respect of any goods carried in any ship or aircraft are as follows:
 - (a) the owner of the goods:
 - (b) any consignor, consignee, shipper, or agent for the sale or custody of the goods:
 - (c) any person entitled to the possession of the goods either as owner or agent for the owner:
 - (d) in the case of goods landed from a ship or unloaded from an aircraft and not claimed within 7 days thereafter, the owner and master of the ship or, as the case may be, the owner and pilot of the aircraft.
- (2) The consignor and consignee of any goods carried in a ship or aircraft shall, until the contrary is shown, be deemed to be the persons so named in the manifest of the ship or aircraft, as the case may be.
- (3) Notwithstanding subsection (1), the Chatham Islands Council may from time to time, by written notice given to any person (being a person who operates a ship or aircraft between the Chatham Islands Territory and any other part of New Zealand), require that person to collect, on behalf of the Chatham Islands Council, any council dues payable in respect of goods imported into or exported from the Chatham Islands Territory on any ship or aircraft operated by that person.
- (3A) A person required by notice under subsection (3) to collect council dues on behalf of the Chatham Islands Council—
 - (a) holds the dues collected in trust for the Chatham Islands Council; and
 - (b) must pay those dues into a separate account at a bank.
- (4) A person in respect of whom a notice under subsection (3) is in force—
 - (a) shall be entitled to reimbursement of all reasonable costs and expenses (including reasonable remuneration for clerical and other work) incurred in collecting dues and in complying with subsection (5); and
 - (b) may, with the agreement of the Chatham Islands Council, retain, in payment of the reimbursement to which that person is entitled under paragraph (a), an agreed amount or proportion of any council dues collected by that person.

- (5) Where any person is required by a notice given under subsection (3), to collect council dues payable in respect of goods carried on any ship or aircraft, that person shall, within 28 days after the end of each month in which any council dues are collected by that person, pay to the Chatham Islands Council the amount of the council dues so collected (less any amount retained by that person in accordance with any agreement entered into under subsection (4)(b)) and shall deliver to the Chatham Islands Council, at the same time, a return setting forth—
- (a) particulars of the goods in respect of which the council dues were paid; and
 - (b) the dates on which the council dues were paid to that person; and
 - (c) the names of the persons by whom the council dues were paid; and
 - (d) the dates on which the goods were imported into or exported from the Chatham Islands Territory; and
 - (e) particulars of the ships or aircraft on which the goods were carried; and
 - (f) the amounts (if any) retained by that person in accordance with any agreement entered into under subsection (4)(b); and
 - (g) such other relevant particulars as the Chatham Islands Council may from time to time require.
- (5A) If a person required by notice under subsection (3) to collect council dues does not pay them to the Chatham Islands Council in accordance with subsection (5), the Chatham Islands Council may—
- (a) add to the amount owing a penalty of 10% of the amount owing; but
 - (b) remit all or part of a penalty added under paragraph (a).
- (5B) Subsection (5A) applies only to council dues that are payable 3 months or more after the commencement of the Chatham Islands Council Amendment Act 2002.
- (6) The Chatham Islands Council may at any time revoke a notice given under subsection (3) by giving to the person to whom that notice was given a written notice revoking the notice given under subsection (3).
- (7) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,500—
- (a) who fails to comply with a notice under subsection (3); or
 - (b) who fails to comply with subsection (5).

Compare: 1980 No 6 (L) s 7

Section 16(3A): inserted, on 19 December 2002, by section 3(1) of the Chatham Islands Council Amendment Act 2002 (2002 No 61).

Section 16(5A): inserted, on 19 December 2002, by section 3(2) of the Chatham Islands Council Amendment Act 2002 (2002 No 61).

Section 16(5B): inserted, on 19 December 2002, by section 3(2) of the Chatham Islands Council Amendment Act 2002 (2002 No 61).

Section 16(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

17 Right to hold owner's money

Every person referred to in section 16 who is liable to pay council dues under this Act (other than the owner of the goods) may, out of any money in his or her hands received on account of those goods or belonging to the owner thereof, retain the amount of any council dues so paid by that person, together with any reasonable expenses that that person may have incurred by reason of the payment and liability.

Compare: 1980 No 6 (L) s 8

18 Information to be supplied by importer and exporter

- (1) Where a ship or aircraft is to arrive in the Chatham Islands Territory, the master in command of the ship or the pilot in command of the aircraft or the agent of the master or pilot in command shall, before the arrival of the ship or aircraft at its destination in the Chatham Islands Territory, transmit to the Chatham Islands Council, or an officer or agent of the Chatham Islands Council, by facsimile or other means of communication, a copy of the bills of lading, freight lists, or manifest of the goods intended to be landed from the ship or aircraft, or other proper account of all goods intended to be landed from the ship or aircraft, and the name or names of the consignees to whom the goods are intended to be delivered.
- (2) Every such bill of lading, freight list, manifest, or other account—
 - (a) shall contain full particulars of the number of items, weights, or measurements of the goods, according as freight is payable thereon by number, weight, or measurement; and
 - (b) shall show the amount of the freight charge.
- (3) Every person exporting goods from the Chatham Islands Territory shall, before the goods are loaded on the ship or aircraft, deliver to the chief executive of the Chatham Islands Council, or other person nominated by the Chatham Islands Council, a true and full account of all the goods, containing full particulars of the number of items, weights, or measurements of the goods as required by the Chatham Islands Council (which account shall include the amount of the freight charge).

Compare: 1980 No 6 (L) s 10

Section 18(3): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

19 Verification of cargo

The Chatham Islands Council may, for the purpose of ensuring that council dues are paid, verify the goods being imported into or exported from the Chatham Islands Territory.

20 Verification Officers

- (1) The Chatham Islands Council may, for the purposes of section 19, from time to time appoint any officer or agent of the Council as a Verification Officer.
- (2) Where any Verification Officer has reasonable cause to believe that any goods on which council dues are payable are being transported, or have been transported, or are to be transported by ship or aircraft to or from the Chatham Islands Territory, that Verification Officer may, for the purpose of verifying the accuracy of any information provided to the Chatham Islands Council or its officer or agent under section 18,—
 - (a) require any such ship or aircraft to be stopped;
 - (b) search any such ship or aircraft;
 - (c) open, or require to be opened, any container that—
 - (i) is being transported on any such ship or aircraft; or
 - (ii) has been transported on any such ship or aircraft; or
 - (iii) is to be transported on any such ship or aircraft.
- (3) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,500 who wilfully obstructs or hinders any Verification Officer in the execution of his or her duties.

Section 20(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

21 Warrant of appointment

- (1) The Chatham Islands Council shall supply to every officer or agent appointed as a Verification Officer under section 20 a written warrant under the seal of the Chatham Islands Council evidencing that the appointed officer or agent has the authority vested in a Verification Officer by that section.
- (2) The production by any person of the warrant provided under subsection (1) shall be sufficient proof of that person's authority to act as a Verification Officer.
- (3) Every Verification Officer shall, if so required, produce the warrant supplied to that Verification Officer under subsection (1) before exercising any power under section 20.
- (4) Every person appointed as a Verification Officer shall, on the termination of his or her appointment, surrender to the Chatham Islands Council the warrant supplied to that person under subsection (1).

22 Offence of acting without warrant

Every person commits an offence and is liable on conviction to a fine not exceeding \$1,500 who, not being the holder of a warrant under section 21, represents himself or herself to be a Verification Officer.

Section 22: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

23 Offences of masters, owners, etc

- (1) Every person commits an offence who, being a master, owner, consignor, consignee, shipper, aircraft pilot, or agent,—
 - (a) evades or attempts to evade the payment of any council dues; or
 - (b) makes a false declaration in respect of any goods liable to payment of council dues.
- (2) Every person who commits an offence against subsection (1) is liable on conviction—
 - (a) to a fine not exceeding \$1,500; or
 - (b) where the amount of the council dues which that person has evaded or attempted to evade or in respect of which that person has made a false declaration exceeds \$1,500, to a fine not exceeding the amount of those dues.
- (3) The imposition on any person of a fine upon that person's conviction for an offence against subsection (1) does not preclude the Chatham Islands Council from recovering the amount of any unpaid council dues in respect of any goods to which the offence related.

Compare: 1980 No 6 (L) s 11

Section 23(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

24 Recovery of unpaid dues

The amount of any unpaid council dues may be recovered by the Chatham Islands Council as a debt in any court of competent jurisdiction from any person liable to pay them under this Act.

Compare: 1980 No 6 (L) s 12

25 Saving of other powers of Council

- (1) Council dues under this Act may be levied and collected in addition to any levies and charges made pursuant to this Act or any other Act.
- (2) The Chatham Islands Council may appoint the same officer or agent to collect both council dues and any other fees, charges, or dues which it is empowered to charge or levy by virtue of any other Act.

Compare: 1980 No 6 (L) s 13

*Resource management***26 Resource management planning**

- (1) The Chatham Islands Council must have a single resource management document.
- (2) That document must contain all the information that the Resource Management Act 1991 requires to be contained in—
 - (a) a regional policy statement; and
 - (b) a regional coastal plan; and
 - (c) a district plan.
- (3) That document may also contain provision for—
 - (a) the matters provided for in section 67 of the Resource Management Act 1991; and
 - (b) regional rules made in accordance with section 68 of the Resource Management Act 1991.
- (4) The Chatham Islands Council may develop, in addition to the document specified in subsection (1), 1 or more regional plans in accordance with section 65 of the Resource Management Act 1991.
- (5) Despite section 28(b) of the Resource Management Act 1991, the Minister of Conservation has the function of approving any part of the document specified in subsection (1) that relates to the coastal marine area.
- (6) The Chatham Islands Council must publicly notify the proposed Chatham Islands resource management document no later than 2 years after the commencement of this Act.

Section 26: inserted, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

26 Resource management planning

[Repealed]

Section 26: repealed, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

27 Time periods for consent hearings

Where the Resource Management Act 1991, or any regulations made pursuant to that Act, specifies any period of time within which the consent authority or any other person must perform any action in the course of the consent hearing process, and where the consent is required for an activity within the area of the Chatham Islands Territory, that time period shall be extended by 5 working days.

Section 27: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

28 Enforcement officers

Notwithstanding section 38 of the Resource Management Act 1991, the Chatham Islands Council may authorise—

- (a) any of its officers; or
- (b) any of the officers of the new Ministry or the Ministry of Fisheries or the Department of Conservation or the New Zealand Police, subject to such terms and conditions as to the payment of salary and expenses and as to the appointment of his or her duties as may be agreed between the relevant authorities,—

to carry out all or any of the functions and powers as an enforcement officer under that Act.

Section 28: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 28(b): amended, on 1 March 1998, pursuant to section 5(1)(c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Bylaws

29 Bylaws

- (1) The Chatham Islands Council may make bylaws to do all or any of the following things:
 - (a) regulate the time when and place at which council dues are payable;
 - (b) provide for such other matters as may be necessary to enable the objects of this Act to be carried out effectually.
- (2) Nothing in subsection (1) limits the power of the Chatham Islands Council to make bylaws under any other Act.

Compare: 1980 No 6 (L) s 9

Repeals, amendments, and transitional provisions

30 Repeals

The following enactments are hereby repealed:

- (a) the Chatham Islands County Council Empowering Act 1980;
- (b) the Chatham Islands County Council (Rates and Dues Validation) Act 1991.

31 Amendments to Local Government Act 1974

[Repealed]

Section 31: repealed, on 1 July 2003, by section 266 of the Local Government Act 2002 (2002 No 84).

32 Amendment to Ombudsmen Act 1975

Amendment(s) incorporated in the Act(s).

33 Amendment to Local Government Official Information and Meetings Act 1987

Amendment(s) incorporated in the Act(s).

34 Amendment to Rating Powers Act 1988

[Repealed]

Section 34: repealed, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

35 Amendment to Resource Management Act 1991

[Repealed]

Section 35: repealed, on 7 July 2004, by section 4 of the Chatham Islands Council Amendment Act 2004 (2004 No 60).

36 Amendment to Biosecurity Act 1993

Amendment(s) incorporated in the Act(s).

37 Amendments to Income Tax Act 1994

[Repealed]

Section 37: repealed, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

38 Transitional provisions

The provisions of the Schedule shall apply in respect of the dissolution of the former council and the establishment of the Chatham Islands Council.

Schedule

Transitional provisions in relation to dissolution of Chatham Islands County Council and establishment of Chatham Islands Council

s 38

1 Transfer of responsibilities

The Chatham Islands Council—

- (a) shall have and may exercise, and shall be responsible for, all of the powers, duties, acts of authority, and functions which were exercised, or which could have been so exercised, by the former council had it not been dissolved; and
- (b) shall have and may exercise, and shall be responsible for, all liabilities, obligations, engagements, and contracts which previously were, or which would have been, the responsibility of the former council had it not been dissolved; and
- (c) shall have and may exercise, and shall be responsible for, all of the actions, suits, and proceedings pending by or against the former council, or which would have been the responsibility of the former council had it not been dissolved.

Compare: 1974 No 66 Schedule 3B cl 12; 1989 No 29 s 45(1)

2 Mayor and chief executive

- (1) Unless otherwise specified in this Act or any other Act, the Mayor of the Chatham Islands Council shall have and may exercise the duties, functions, and powers of the Mayor of the former council.
- (2) Unless otherwise specified in this Act or any other Act, the chief executive of the Chatham Islands Council has and may exercise the duties, functions, and powers of the principal administrative officer of the former council.

Compare: 1974 No 66 Schedule 3B cl 13; 1989 No 29 s 45(1)

Schedule clause 2 heading: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule clause 2(2): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

3 First meeting

The first meeting of the Chatham Islands Council—

- (a) shall be convened by the principal administrative officer of the Chatham Islands Council; and
- (b) shall be held no later than 14 November 1995.

4 Transfer of staff

- (1) Subject to any contract of employment, every employee employed by the former council as at 31 October 1995 shall become on 1 November 1995 an employee of the Chatham Islands Council.
- (2) The contract of employment of every employee to whom subclause (1) applies shall, for the purposes of every law, award, determination, contract, and agreement relating to the employment of that person, be deemed not to have been broken by that employee's change of employer, and the period of employment with the former council shall be deemed to have been a period of service with the Chatham Islands Council.
- (3) No person to whom subclause (1) applies shall be entitled to receive any payment or benefit by reason only of that person ceasing to be an employee of the former council.

5 Vesting of property

All property, real and personal, vested in the corporation of the former council as at the close of 31 October 1995 is hereby vested in the corporation of the Chatham Islands Council, subject to all existing encumbrances.

Compare: 1974 No 66 Schedule 3B cl 14; 1989 No 29 s 45(1)

6 Bylaws

- (1) All bylaws of the former council that, at the close of 31 October 1995, are in force in the Chatham Islands County shall become bylaws of the Chatham Islands Council; and every such bylaw shall, subject to subclause (2), continue in force and have effect in the area in which it was in force as at the close of 31 October 1995.
- (2) The Chatham Islands Council may revoke or amend any bylaw continued in force by subclause (1).

7 Special orders

- (1) Every special order of the former council that is in force at the close of 31 October 1995 shall, subject to subclause (3), continue in force, with all necessary modifications.
- (2) Without limiting subclause (1), every special order of the former council which has been made under section 4 of the Chatham Islands County Council Empowering Act 1980 and which is in force at the close of 31 October 1995 shall, subject to subclause (3), continue in force as if that special order had been made under section 14.
- (3) The Chatham Islands Council may revoke or amend any special order continued in force by this clause.

8 Annual report to public concerning plans

Notwithstanding section 10(7), the report that, under section 223D of the Local Government Act 1974, was adopted by the former council in respect of the financial year ending with 30 June 1996 shall have effect as if it had, under section 10, been adopted by the Chatham Islands Council in respect of that financial year.

9 Annual report to public concerning performance

- (1) Notwithstanding section 11(11), where the former council has not, at the close of 31 October 1995, adopted the report required to be adopted, under section 223E(1) of the Local Government Act 1974, in respect of the financial year that ended with 30 June 1995, the Chatham Islands Council shall, as if it were the former council, prepare and adopt, under section 223E(1) of the Local Government Act 1974, a report in respect of that financial year.
- (2) Notwithstanding anything in section 3 or section 6, the annual report prepared and adopted by the Chatham Islands Council under section 11 for the year ending with 30 June 1996 shall assess the performance of both the former council and the Chatham Islands Council over the whole of the period of 12 months ending with 30 June 1996 and, for the purposes of that report, section 11 shall be read as if the references to the report adopted in respect of that financial year under section 10 were references to the report to which clause 8 refers.

10 Rates, dues, and other money

All rates, dues, or other money that would have been payable to the former council if it had not been dissolved shall be due and payable to the Chatham Islands Council.

Compare: 1974 No 66 Schedule 3B cl 17(1); 1989 No 29 s 45(1)

11 Valuation rolls, electoral rolls, and rate records

The valuation rolls, electoral rolls, and rate records in force, as at the close of 31 October 1995, in the district of the Chatham Islands County Council shall continue in force in that district until new rolls or records are made by the Chatham Islands Council.

Compare: 1974 No 66 Schedule 3B cl 20; 1989 No 29 s 45(1)

12 Certain matters not affected by transfer of functions, duties, or powers

Nothing effected or authorised by this Act—

- (a) shall be regarded as placing any local authority, or any other person, in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or

- (c) shall be regarded as placing any local authority, or any other person, in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- (d) shall release any surety wholly or in part from any obligation; or
- (e) shall invalidate or discharge any contract or security.

Compare: 1974 No 66 s 37ZZX; 1989 No 29 s 10(1)

13 Registers

- (1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged, solely by reason of clause 5, to change the name of the former council to that of the Chatham Islands Council in those books or registers or in any document.
- (2) The presentation to any Registrar or other person of any instrument, whether or not comprising any instrument of transfer by the Chatham Islands Council—
 - (a) executed or purporting to be executed by the Chatham Islands Council; and
 - (b) relating to any property held by the former council as at the close of 31 October 1995; and
 - (c) containing a recital that the property has been vested in the Chatham Islands Council by virtue of clause 5,—shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the Chatham Islands Council.
- (3) Except as otherwise provided in this clause, nothing in this Act shall derogate from the provisions of the Land Transfer Act 1952.

14 Remuneration

Nothing in section 101ZZQ of the Local Government Act 1974 shall apply in respect of the first determination of remuneration made after the commencement of this clause in relation to the Chatham Islands Council.

Notes

1 *General*

This is a consolidation of the Chatham Islands Council Act 1995 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Natural and Built Environment Act 2023 (2023 No 46): section 805(1)

Criminal Procedure Act 2011 (2011 No 81): section 413

Chatham Islands Council Amendment Act 2010 (2010 No 52)

Chatham Islands Council Amendment Act 2004 (2004 No 60)

Income Tax Act 2004 (2004 No 35): section YA 2

Local Government Act 2002 (2002 No 84): sections 262, 266

Chatham Islands Council Amendment Act 2002 (2002 No 61)

Local Government (Rating) Act 2002 (2002 No 6): section 137(1)

Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100): section 5(1)(c)

Local Government Amendment Act (No 3) 1996 (1996 No 83): section 9