

Local Government Amendment Act (No 2) 1989

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Date of assent 6 June 1989

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**Local Government Amendment Act
(No 2) 1989**

1989 No 29

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An Act to amend The Local Government Act 1974

1 Short Title and commencement

- (1) This Act may be cited as the Local Government Amendment Act (No 2) 1989, and shall be read together with and deemed part of The Local Government Act 1974 (hereinafter referred to as the principal Act).
- (2) Except as otherwise provided in this Act, this Act shall come into force on the day on which it receives the Royal assent.

2 Interpretation

- (1)
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Subsection (8) was impliedly repealed, as from 25 September 1989, by section 2 Local Government Amendment Act (No 3) 1989

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- (19) The following enactments are hereby consequentially repealed:
 - (a) Section 2(2) of the Local Government Amendment Act 1976:
 - (b) So much of Part 1 of Schedule 3 to the Local Government Amendment Act (No 3) 1977 as relates to the definition of the terms **Chairman, community,** and **principal administrative officer** in section 2(1) of the principal Act:
 - (c) Section 2(1) of the Local Government Amendment Act 1980:
 - (d) So much of Part 1 of Schedule 1 to the Local Government Amendment Act (No 2) 1982 as relates to section 2(1) of the principal Act:
 - (e) Section 2(1) of the Local Government Amendment Act 1988.
- (20) Except as provided in subsection (6) of this section, this section shall come into force on the 1st day of November 1989.

3 Repeal of part of Part 1

- (1) Sections 15 to 37I of the principal Act are hereby repealed.
- (2) This section shall come into force on the first day of November 1989.

4 Repeal of balance of Part 1

- (1) The provisions of Part 1 of the principal Act that are in force immediately before the 1st day of April 1990 are repealed as from the commencement of that day.
- (2) This section shall come into force on the first day of April 1990.

5

Section 5 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

6

This section repealed Part 2 of the principal Act, as from 1 November 1989.

7

Section 7 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

8

Section 8 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

9 Repeals

- (1) The following enactments are hereby consequentially repealed, namely,—
 - (a) Section 37A of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 2) 1977):
 - (b) Section 10 of the Local Government Amendment Act 1980.
- (2) This section shall come into force on the 1st day of November 1989.

10

This section was repealed, as from 10 October 1992, by s 8(2)(a) Local Government Amendment Act 1992 (1992 No 42).

11 Repeal of part of Part 3

- (1) Part 3 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977) is hereby amended by repealing sections 70 to 83.
- (2) Sections 3 to 5 of the Local Government Amendment Act (No 2) 1988 are hereby consequentially repealed.
- (3) This section shall come into force on the 1st day of July 1989.

12 Repeal of part of Part 3 and Part 4

- (1) Part 3 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977) is hereby amended by repealing sections 62 and 63 and sections 65 to 69.
- (2) Part 4 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977) is hereby repealed.
- (3) The following enactments are hereby consequentially repealed, namely,—
 - (a) Paragraphs (a) and (b) of section 3(6) of the Local Government Amendment Act 1978:
 - (b) Section 6 of the Local Government Amendment Act (No 2) 1981:
 - (c) Sections 4 and 5 of the Local Government Amendment Act (No 2) 1982:
 - (d) Section 3 of the Local Government Amendment Act 1983:
 - (e) Sections 6 to 8 of the Local Government Amendment Act 1986:
 - (f) Section 3 of the Local Government Amendment Act (No 3) 1986:
 - (g) Section 2 of the Local Government Amendment Act (No 2) 1988.
- (4) This section shall come into force on the 1st day of November 1989.

13

Section 13 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). See sections 273 to 314 of that Act as to the savings and transitional provisions.

14

Section 14 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

15

This section inserted Part 4C (comprising ss 101ZZD-101ZZV) in the principal Act, as from 1 July 1989.

16 Savings and revocations

- (1) Notwithstanding Part 4C of the principal Act (as inserted by section 15(1) of this Act) and the repeals effected by section 23 of this Act, every determination, resolution, or other document which is in force immediately before the commencement of this section and which determines the maximum or actual remuneration of any person whose maximum or minimum remuneration is to be determined in accordance with Part 4C of the principal Act (as so inserted) shall continue in force until the maximum or minimum remuneration is determined in accordance with this Act, and shall then expire.
- (2) Any determination under Part 4C of the principal Act (as inserted by section 15(1) of this Act) may revoke any determination, resolution, or other document that has expired in accordance with subsection (1) of this section or that will expire on the coming into force of the determination.
- (3) This section shall come into force on the 1st day of July 1989.

17 Repeal of Part 5

- (1) Part 5 of the principal Act is hereby repealed.
- (2) The following enactments are hereby consequentially repealed:
 - (a) So much of Part A of Schedule 3 to the Local Government Amendment Act 1979 as relates to section 104 of the principal Act:
 - (b) Section 5 of the Local Government Amendment Act (No 3) 1986.
- (3) This section shall come into force on the 1st day of November 1989.

18

Section 18 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

19 Repeal of Part 6

- (1) Part 6 of the principal Act is hereby repealed.
- (2) This section shall come into force on the 1st day of November 1989.

20

Section 20 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

21 Repeal of Part 8

- (1) Part 8 of the principal Act is hereby repealed.
- (2) This section shall come into force on the 1st day of April 1990.

22 Repeal of provisions of Part 12 relating to accounting documents, special funds, trading undertakings, and expenditure

- (1) The following enactments are hereby repealed, namely,—
 - (a) Section 201 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977):
 - (b) Section 202 of the principal Act (as enacted by section 27(1) of the Local Government Amendment Act 1980 and as amended by section 14 of the Local Government Amendment Act (No 2) 1982 and by section 208(1) of the Rating Powers Act 1988):
 - (c) Sections 204 to 213 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977):
 - (d) Section 219 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977 and as amended by section 19 of the Local Government Amendment Act 1985):

- (e) Section 220 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977):
 - (f) Section 221 of the principal Act (as enacted by section 29(1) of the Local Government Amendment Act 1980):
 - (g) Section 222 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977):
 - (h) Section 223 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977 and as amended by section 8(1) of the Local Government Amendment Act 1979):
 - (i) Section 223A of the principal Act (as enacted by section 10 of the Local Government Amendment Act (No 2) 1981):
 - (j) So much of Part 1 of Schedule 3 to the Local Government Amendment Act 1979 as relates to section 223 of the principal Act:
 - (k) Sections 27(1), 29(1), and 30 of the Local Government Amendment Act 1980:
 - (l) Section 10 of the Local Government Amendment Act (No 2) 1981:
 - (m) Section 14 of the Local Government Amendment Act (No 2) 1982:
 - (n) Section 19 of the Local Government Amendment Act 1985:
 - (o) So much of Schedule 5 to the Rating Powers Act 1988 as relates to section 202 of the principal Act:
 - (p) So much of Schedule 2 to the Trustee Amendment Act 1988 as relates to the principal Act.
- (2) This section shall come into force on the 1st day of July 1990.

23 Repeal of provisions of Part 12 relating to remuneration and expenses of and use of facilities by, Mayor or Chairman and other members

- (1) The following enactments are hereby repealed, namely,—
- (a) Sections 214 and 214A of the principal Act (as enacted by section 16 of the Local Government Amendment Act 1985):

- (b) Section 214B of the principal Act (as enacted by section 7 of the Local Government Amendment Act (No 3) 1986):
 - (c) Sections 214C to 214M (as enacted by section 16 of the Local Government Amendment Act 1985):
 - (d) Section 215 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977):
 - (e) Section 216 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977 and as amended by section 39(1) of the Local Government Amendment Act 1985):
 - (f) Sections 217 and 218 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977):
 - (g) Section 16 of the Local Government Amendment Act 1985:
 - (h) So much of Part 1 of Schedule 3 to the Local Government Amendment Act 1985 as relates to section 216 of the principal Act (as enacted by section 2 of the Local Government Amendment Act (No 3) 1977):
 - (i) Section 7 of the Local Government Amendment Act (No 3) 1986.
- (2) This section shall come into force on the 1st day of July 1989.

24

Section 24 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

25 Repeal of Parts 15 and 16 and Schedule 9

- (1) Parts 15 and 16 of, and Schedule 9 to, the principal Act are hereby repealed.
- (2) The following enactments are hereby consequentially repealed:
 - (a) Section 8 of the Local Government Amendment Act (No 3) 1986:
 - (b) So much of Part A of Schedule 1 to the State-Owned Enterprises Amendment Act 1987 as relates to section 243(1) of the Local Government Act 1974:

(c) Sections 6 to 8 of the Local Government Amendment Act 1988.

(3) Notwithstanding the repeal of Schedule 9 to the principal Act by subsection (1) of this section, that Schedule shall continue to apply in respect of every tender invited or contract entered into before the 1st day of November 1989 except to the extent that the parties otherwise agree.

(4) This section shall come into force on the 1st day of November 1989.

26

Section 26 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

27

Section 27 was repealed, as from 1 July 1992, by section 32(2) Local Government Amendment Act 1992 (1992 No 42).

28**29**

This section repealed Parts 18, 19, and 41 of the principal Act as from 1st November 1989.

30**31****32**

Section 32 was repealed, as from 1 July 1992, by section 37(2)(d) Local Government Amendment Act 1992 (1992 No 42).

33

Section 33 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

34

Section 34 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

35

Section 35 was repealed, as from 1 April 1993, by section 11(4)(c) Income Tax Amendment Act (No 2) 1993 and section YB 3(1) Income Tax Act 1994 (1994 No 164).

36**37**

Section 37 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

38

Section 38 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

39

Section 39 was repealed, as from 25 December 2002, by section 267(b) Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act for the savings and transitional provisions.

40

Section 40 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

41 Power to substitute new Schedule 1

- (1) The Governor-General shall, before the 1st day of November 1989, make an Order in Council revoking Schedule 1 to the principal Act, and substituting a new Schedule.
- (2) The new Schedule 1, which shall be in 4 Parts, shall name the bodies that, unless the context otherwise requires, are local authorities for the purposes of the principal Act.
- (3) Regional councils shall be named in Part 1 of the new Schedule 1.
- (4) District councils shall be named in Part 2 of the new Schedule 1.
- (5) City councils shall be named in Part 3 of the new Schedule 1.
- (6) Special purposes authorities shall be named in Part 4 of the new Schedule 1.
- (7) The Order in Council made under this section shall come into force on the 1st day of November 1989.
- (8) As from the commencement of the 1st day of November 1989, the following enactments are hereby repealed:
 - (a) Section 2(1) of, and the Schedule to, the Local Government Amendment Act 1976:

- (b) So much of Schedule 2 to the Reserves Act 1977 as relates to the principal Act:
 - (c) Section 120(6) of the Noxious Plants Act 1978:
 - (d) So much of Schedule 2 to the Local Government Amendment Act 1979 as relates to Schedule 1 to the principal Act:
 - (e) Section 52 of the Local Government Amendment Act 1980:
 - (f) Section 19(5) of the Auckland Aotea Centre Empowering Act 1985:
 - (g) So much of the Schedule to the Airport Authorities Amendment Act 1986 as relates to the principal Act:
 - (h) Section 12 of the Local Government Amendment Act (No 3) 1988.
- (9) Nothing in this section limits the provisions of section 2(2) of the principal Act.

42 Repeal of Schedule 2

- (1) The principal Act is hereby amended by repealing Schedule 2 (as inserted by section 4(1) of the Local Government Amendment Act (No 2) 1977).
- (2) The following enactments are hereby consequentially repealed:
 - (a) So much of Schedule 2 to the Local Government Amendment Act 1979 as relates to Schedule 2 to the principal Act:
 - (b) So much of Schedule 2 to the Civil Defence Act 1983 as relates to the principal Act.
- (3) This section shall come into force on the 1st day of November 1989.

43 Repeal of Schedule 3

- (1) The principal Act is hereby amended by repealing Schedule 3 (as substituted by section 13 of the Local Government Amendment Act (No 3) 1988).
- (2) Section 13 of, and Schedule 3 to, the Local Government Amendment Act (No 3) 1988 are hereby consequentially repealed.

- (3) This section shall come into force on the 1st day of November 1989.

44

Section 44 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

45

Section 45 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

46

Section 46 was repealed, as from 1 July 2003, by section 266 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

47

Sections 47–49 were impliedly repealed, as from 1 November 1989, by section 3(1) Local Government Amendment Act (No 2) 1989 (1989 No 29).

48

Sections 47–49 were impliedly repealed, as from 1 November 1989, by section 3(1) Local Government Amendment Act (No 2) 1989 (1989 No 29).

49

Sections 47–49 were impliedly repealed, as from 1 November 1989, by section 3(1) Local Government Amendment Act (No 2) 1989 (1989 No 29).

50

51

Section 51 was impliedly repealed, as from 25 September 1989, by section 4 Local Government Amendment Act (No 3) 1989 (1989 No 72).

52

53

54

55 Repeal of Local Authorities (Employment Protection) Act 1963

- (1) The Local Authorities (Employment Protection) Act 1963 is hereby repealed.
- (2) This section shall come into force on the 1st day of November 1990.
- (3) Notwithstanding the repeal of the Local Authorities (Employment Protection) Act 1963 by subsection (1) of this section,

that Act shall continue to apply in respect of persons whose employment is transferred or deemed to have been transferred under that Act before the 1st day of November 1990.

56 Winding up of operations of Joint Council for Local Authorities Services

Having regard to the provisions of section 57 of this Act, the Joint Council for Local Authorities Services,—

- (a) Shall do all in its power to provide for the winding up of the Council and, in particular, for securing the payment of all money owed by and the recovery of debts due to the Council; and
- (b) Shall cause to be prepared final accounts of the Council as at the close of the 31st day of December 1989.

57 Dissolution of Joint Council for Local Authorities Services

On the 1st day of January 1990—

- (a) The Joint Council for Local Authorities Services shall be dissolved and the term of office of every member of the Council shall cease:
- (b) All real and personal property held by the Joint Council for Local Authorities Services shall, subject to section 58 of this Act, become vested in the Crown subject to all liabilities, charges, and obligations:
- (c) All money payable to the Joint Council for Local Authorities Services shall become payable to the Crown:
- (d) All rights, constraints, obligations, and liabilities of the Joint Council for Local Authorities Services shall become the rights, constraints, obligations, and liabilities of the Crown:
- (e) All proceedings pending by or against the Joint Council for Local Authorities Services may be carried on, completed, or enforced by or against the Crown:
- (f) The Joint Council for Local Authorities Services Act 1977 and the Joint Council for Local Authorities Services Amendment Act 1978 shall be repealed:
- (g) So much of Schedule 17 to the principal Act (as inserted by section 6 of the Local Government Amendment Act

1979) as relates to the Joint Council for Local Authorities Services Act 1977 shall be repealed:

- (h) So much of Schedule 2 to the Higher Salaries Commission Amendment Act (No 2) 1985 as relates to the Joint Council for Local Authorities Services Act 1977 shall be repealed:
- (i) The Joint Council for Local Authorities Services (Levy) Order 1988 shall be revoked.

58 Distribution of surplus funds

- (1) The Minister of Local Government may, after discharging or making due provision for the liabilities of the Joint Council for Local Authorities Services, direct that the surplus funds of the Council be paid to the local authorities specified, or belonging to a class of local authorities specified, on the 31st day of December 1989, in Schedule 2 to the Joint Council for Local Authorities Services Act 1977.
- (2) Any amount paid to a local authority under subsection (1) of this section shall be in proportion to the levy that would have been payable by that local authority on the 1st day of January 1990 if section 20 of the Joint Council for Local Authorities Services Act 1977 and the Joint Council for Local Authorities Services (Levy) Order 1988 had continued in force.

59 Apportionment of liabilities

- (1) Notwithstanding anything in section 57(d) of this Act but subject to subsection (2) of this section, every local authority specified, or belonging to a class of local authorities specified, on the 31st day of December 1989, in Schedule 2 to the Joint Council for Local Authorities Services Act 1977 shall be liable to contribute to the assets of the Joint Council for Local Authorities Services to an amount sufficient for payment of its debts and liabilities, and the costs, charges, and expenses of the winding up of the Council.
- (2) The amount that a local authority is liable to contribute under subsection (1) of this section shall be in proportion to the levy that would have been payable by that local authority on the 1st day of January 1990 if section 20 of the Joint Council for Local Authorities Services Act 1977 and the Joint Council for

Local Authorities Services (Levy) Order 1988 had continued in force.

- (3) All money payable under this section shall be payable to the Crown.

Transitional provisions

60 Apportionment of assets and liabilities arising from reform of local government

- (1) Notwithstanding section 37E of the principal Act (as substituted by section 8 of the Local Government Amendment Act (No 3) 1988) and clauses 27 to 31 of Schedule 3B to the principal Act (as enacted by section 45(1) of this Act), where any Order in Council giving effect to a final reorganisation scheme prepared by the Local Government Commission under section 15B of the principal Act does not make provision for the apportionment of the assets and liabilities of the local authorities affected by the Order, the transitional committees affected shall endeavour to enter into an agreement determining the manner in which those assets and liabilities shall be apportioned.
- (2) In order to assist the transitional committees in the performance of their functions under this section, the local authorities affected by the Order shall make all relevant information available to the transitional committees and may make recommendations concerning the apportionment of assets and liabilities.
- (3) Any agreement entered into under subsection (1) of this section shall be binding on the local authorities to be formed.
- (4) If an agreement is not entered into before the 30th day of September 1989, any transitional committee affected may require that the matter be referred to arbitration.
- (5) Where any transitional committee so refers any matter,—
 - (a) One assessor shall be appointed by each transitional committee affected; and
 - (b) The assessors shall, within 7 days after their appointment, and before entering upon their reference, appoint a person to act as arbitrator as between the assessors.
- (6) Any matters upon which the assessors cannot reach agreement shall be referred from time to time to the arbitrator for decision

and that decision shall form part of the assessors' determination.

- (7) In the exercise of their powers under this section, the assessors may identify the assets and liabilities to be transferred, which assets and liabilities shall include all amounts and items that ought properly to be treated as being of the same character irrespective of how they may be described in the accounts or records of any local authority.
- (8) The determination of the assessors shall be final and shall have the same force as if it were an agreement between the transitional committees affected.
- (9) Every person having the possession or custody of any relevant books, papers, accounts, or documents shall allow the assessors and the arbitrator to have access thereto for the purposes of this section.

Sections 15B and 37E referred to in subsection (1) were repealed, as from 1 November 1989, by section 3(1) Local Government Amendment Act (No 2) 1989 (1989 No 29).

61 Continuation of matters under Town and Country Planning Act 1977

- (1) Subject to any provision made by the Commission pursuant to section 35(1)(f) of the principal Act, any matter or procedure under the Town and Country Planning Act 1977 that has been commenced by or before any local authority before the 1st day of November 1989, may be continued and completed by or before the local authority to whom the appropriate functions, duties, or powers are transferred pursuant to a final reorganisation scheme prepared by the Local Government Commission under section 15B of the principal Act as if—
 - (a) Those local authorities were the same local authorities; and
 - (b) The planning scheme of any local authority that is abolished by any such final reorganisation scheme were a planning scheme adopted by the successor local authority.
- (2) This section shall have effect notwithstanding anything in clause 10 of Schedule 2 to the principal Act or clause 21 of

Schedule 3B to the principal Act (as enacted by section 45(1) of this Act).

62 Certain local authorities deemed to have functions, duties, and powers of transitional committees

Where any final reorganisation scheme prepared under section 15B of the principal Act does not provide for the appointment of a transitional committee, every local authority to which the scheme relates shall have, where appropriate, and to the extent appropriate, the functions, duties, and powers of a transitional committee.

63

Section 63 was repealed, as from 1 July 1991, by section 2(2) Local Government Amendment Act 1991 (1991 No 49).