

## **CHATHAM ISLANDS COUNCIL BILL**

**AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL  
GOVERNMENT COMMITTEE**

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THIS Bill was formerly part of the Local Government Law Reform Bill which was introduced and referred to the Internal Affairs and Local Government Committee on 6 December 1994. Pursuant to a power granted to it by the House, the Internal Affairs and Local Government Committee divided Part VII and the Ninth Schedule from the Local Government Law Reform Bill to form the Chatham Islands Council Bill. Clause 129 has been replaced by clause 1, the Short Title clause of this Bill.

The Internal Affairs and Local Government Committee has retained the remaining Parts and Schedules of the Local Government Law Reform Bill for further consideration.

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[AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL  
GOVERNMENT COMMITTEE]

*House of Representatives, 20 July 1995.*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line. The Parts and Schedules retained by the Committee for further consideration are indicated in the Bill by points of ellipsis.

*Hon. John Banks*

**CHATHAM ISLANDS COUNCIL**

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A BILL INTITULED

An Act—

- (a) To reform the local government of the Chatham Islands by establishing a Chatham Islands Council with appropriate functions, duties, and powers: 5
- (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 10

BE IT ENACTED by the Parliament of New Zealand as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Chatham Islands Council Act 1995.

(2) Except as provided in section 136 (7) of this Act, this Act shall come into force on the 1st day of November 1995. 15

130. **Interpretation**—(1) In this Act, unless the context otherwise requires,—

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“District dues” means the dues authorised by section 144 of this Act to be levied by the Chatham Islands District Council:

*New*

“Council dues” means the dues authorised by section 144 of this Act to be levied by the Chatham Islands Council: 25

“Former council” means the Chatham Islands County Council:

“Goods”—

(a) Means all kinds of property; and

(b) Includes animals; but

(c) Does not include ships’ stores or aircraft stores:

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“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

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(b) Includes a barge:

“Member”, in relation to the Chatham Islands (*District*) Council, includes the Mayor.

*Dissolution of Chatham Islands County Council*

**131. Dissolution of Chatham Islands County Council—**

15 The Chatham Islands County Council is hereby dissolved.

*Abolition of Chatham Islands County*

**132. Abolition of Chatham Islands County—**The Chatham Islands County is hereby abolished.

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*Constitution of Chatham Islands District*

**133. Constitution of Chatham Islands District—**There is hereby constituted a district, to be known as “The Chatham Islands District”, which district comprises the islands known as the Chatham Islands and the area of the territorial sea adjoining those islands.

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*New*

*Constitution of Chatham Islands Territory*

**133. 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.

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*Struck Out*

*Constitution of Chatham Islands District Council*

**134. Constitution of Chatham Islands District Council**—A district council to be known as the Chatham Islands District Council is hereby constituted for the Chatham Islands District. 5

*New*

*Constitution of Chatham Islands Council*

**134. Constitution of Chatham Islands Council**—A territorial authority to be known as the Chatham Islands Council is hereby constituted for the Chatham Islands Territory. 10

*Struck Out*

**135. Functions, duties, and powers**—(1) Except as otherwise specified in this Act or any other Act, the following Acts shall apply to the Chatham Islands District Council, namely,— 15

- (a) The Local Government Act 1974:
- (b) The Resource Management Act 1991:
- (c) The Rating Powers Act 1988: 20
- (d) Any other public Act relating to the Chatham Islands District Council or the former council:
- (e) Any local Act relating to the Chatham Islands District Council or the former council.

(2) The Acts specified in paragraphs (a) to (d) of subsection (1) of this section shall, except as otherwise specified in this Act or any other Act, apply to the Chatham Islands District Council as if it were a district council constituted under Part 1A of the Local Government Act 1974. 25

*New*

**135. Functions, duties, and powers**—(1) Except as otherwise provided in this Act or any other Act, the Chatham 30

*New*

Islands Council shall have the functions, duties, and powers conferred on a territorial authority by—

- (a) The Local Government Act 1974; and
- 5 (b) The Resource Management Act 1991; and
- (c) The Rating Powers Act 1988; and
- (d) Any other public Act.

(2) Except as otherwise provided in this Act or any other Act, the Chatham Islands Council shall have the functions, 10 duties, and powers conferred on the former council by or under any Act that is for the time being in force.

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*Membership*

15 **136. Membership**—(1) Every person holding office as a member of the former council, immediately before its abolition, shall become, as from the commencement of the 1st day of July 1995,—

(a) In the case of the person holding office as the mayor of the former council, the mayor of the Chatham Islands District Council; and

(b) In the case of any other person holding office as a member of the former council, a member of the Chatham Islands District Council.

(2) Notwithstanding sections 101c and 101H (1) of the Local Government Act 1974, the Chatham Islands District Council to be elected at the general election of members of the Chatham Islands District Council to be held on the 14th day of October 1995 and, at any general election thereafter of members of the Chatham Islands District Council, shall comprise a mayor and 30 6 other members.

*New*

*Membership and Elections*

35 **136. Membership and elections**—(1) The first election of the Chatham Islands Council shall be held on the 14th day of October 1995 and the members of the Chatham Islands

*New*

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. 5

(3) The first election of the Chatham Islands Council shall be conducted by postal voting. 10

(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) The 1st day of November 1995; or 15
- (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 the 14th day of October 1995. 20

(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. 25

(7) This section shall come into force on the day on which this Act receives the Royal assent.

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**137. Fees and Travelling Allowances Act 1951 excluded**—(1) Nothing in sections 101zzu and 101zzv of the Local Government Act 1974 or in the Fees and Travelling Allowances Act 1951 shall apply in respect of the members of the Chatham Islands District Council. 35

(2) Notwithstanding subsection (1) of this section, where the Chatham Islands District Council resolves that any member should attend any meeting outside the Chatham Islands District as a representative of the Chatham Islands District

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5 Council and public transport is used on that journey, the Chatham Islands District Council may resolve to reimburse that member all reasonable fares paid and expenses incurred on the journey.

*Procedure**Struck Out*

- 10 **138. Teleconference meeting**—(1) Notwithstanding section 114c (2) of the Local Government Act 1974, and section 54 of the Local Government Official Information and Meetings Act 1987, a contemporaneous telephone link or other means of communication of members, shall be deemed to constitute a meeting of the Chatham Islands District Council or of a committee of the Chatham Islands District Council if—
- 15 (a) A quorum of the Council or council committee is linked at all times throughout the meeting; and
- (b) Each member taking part in the meeting by telephone or other means of communication—
- 20 (i) Is linked by telephone or other means of communication for the purposes of the meeting; and
- (ii) At the commencement of the meeting, is informed of the presence of the other members taking part; and
- 25 (iii) Is able throughout the meeting to hear each of the other members taking part; and
- (iv) On any vote, individually expresses his or her vote to the meeting; and
- (c) The Chatham Islands District Council has caused the meeting to be publicly notified; and
- 30 (d) The public has, at the place notified as the place at which the meeting will take place, been allowed to hear a broadcast of the meeting.
- (2) For the purposes of casting a vote on any resolution during a meeting held in accordance with **subsection (1)** of this section—
- 35 (a) The Chairman shall put the motion to the members and shall call the roll of members, each of whom—
- (i) Shall respond positively by saying “aye”; or



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- (ii) Shall respond negatively by saying “no”; or  
 (iii) Shall indicate that he or she is abstaining from voting by saying that he or she is abstaining.
- (3) Where a vote is held in accordance with **subsection (1)** of this section, the principal administrative officer shall record the votes and declare the result. 5
- (4) Where any member is linked by telephone or other means of communication for the purposes of a meeting, that person shall be deemed to be in attendance at that meeting. 10
- Cf. 1993, No. 22, Second Schedule, cl. 10

**139. Public notice**—(1) Where the Chatham Islands (*District*) Council is required to give public notice under any Act, that public notice shall consist of—

- (a) Notices or placards affixed to a notice board that is accessible to the public without charge in Waitangi, Kaingaroa, Owenga, and Pitt Island; and 15
- (b) Broadcasts transmitted on (*consecutive days on radio*) not less than 2 days on radio or television received generally within the (*district*) Chatham Islands Territory, (with 2 or more broadcasts on each of those days), which broadcasts shall specify— 20
- (i) That the Chatham Islands Council is giving public notice; and
- (ii) The general effect of the notice; and 25
- (iii) Each of the locations at which the public notice can be accessed under **subsection (1) (a)** of this section and each of the places at which copies of the notice can be obtained.

*Annual Reports*

**140. Annual report to public concerning plans**—  
 (1) The Chatham Islands (*District*) Council shall, in accordance with the special consultative procedure, prepare and adopt, for each financial year, a report— 30

- (a) In respect of the Chatham Islands (*District*) Council; and 35
- (b) In respect of each local authority trading enterprise, company, and other organisation that is under the control of the Chatham Islands Council or is a trading enterprise, company, or organisation in

which the Chatham Islands (*District*) Council has a significant interest.

(2) The Chatham Islands (*District*) Council shall, not later than 5 working days after giving notice under section 716A (1) (b) of the Local Government Act 1974 of a proposal to adopt a report under this section, send a copy of the proposal to the Secretary for Local Government.

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- (3) A report under this section shall contain—
- 10 (a) An outline of the long-term financial strategy required to be prepared and adopted under **section 122D** of the Local Government Act 1974 by the Chatham Islands District Council; and
  - 15 (b) In particular terms for the financial year to which the report relates, and in general terms for each of the following 2 financial years,—
    - 20 (i) The intended significant policies and objectives of the Chatham Islands District Council, local authority trading enterprise, company, or other organisation; and
    - (ii) The nature and scope of the significant activities to be undertaken; and
    - 25 (iii) The financial performance targets and other measures by which performance may be judged in relation to the objectives; and
  - 30 (c) In particular terms for the financial year to which the report relates, and in general terms for each of the following 2 financial years, in total and for each significant activity of the Chatham Islands District Council,—
    - (i) The indicative costs; and
    - (ii) The sources of funds; and
  - 35 (d) The funding policy required to be prepared and adopted by **section 122E** of the Local Government Act 1974 by the Chatham Islands District Council; and
  - 40 (e) In particular terms for the financial year in which the report relates, and in general terms for each of the following 2 financial years—
    - (i) The borrowing needs of the Chatham Islands District Council; and
    - (ii) The borrowing programme of the Chatham Islands District Council, including proposals for the

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- funding of the payment of interest and the repayment of capital; and
- (f) An outline of the borrowing management policy adopted under **section 122G** of the Local Government Act 1974 by the Chatham Islands District Council identifying any significant changes to the policy disclosed in the previous annual report.

*New*

- (3) A report under this section shall contain— 10
- (a) In particular terms for the financial year to which the report relates, and in general terms for each of the following two financial years,—
- (i) The intended significant policies and objectives of the Chatham Islands Council, local authority trading enterprise, company, or other organisation; and 15
- (ii) The nature and scope of the significant activities to be undertaken; and
- (iii) The financial performance targets and other measures by which performance may be judged in relation to the objectives; and 20
- (b) In particular terms for the financial year to which the report relates, and in general terms for each of the following two financial years, in total and for each significant activity of the Chatham Islands Council,— 25
- (i) The indicative costs; and
- (ii) The sources of funds; and
- (iii) The rating policy of the Chatham Islands Council. 30

(4) A report under this section shall include an explanation of any significant changes between the policies, objectives, activities, and financial performance targets specified in the report as being those for the financial year to which the report relates and those specified in the report for the immediately preceding financial year as being those for the financial year to which the report relates. 35

(5) A report under this section shall include a summary of the equal employment opportunities programme for the

Chatham Islands (*District*) Council for the financial year to which the report relates.

5 (6) A report under this section shall be adopted, before the end of the third month of the financial year to which the report relates, at a meeting of the Chatham Islands (*District*) Council.

(7) Nothing in **section 223D** of the Local Government Act 1974 applies in respect of the Chatham Islands (*District*) Council.

Cf. 1974, No. 66, s. 223D (1)–(6); 1991, No. 49, s. 16 (1)

10 **141. Annual report to public concerning performance**—(1) The Chatham Islands (*District*) Council shall prepare and adopt in respect of each financial year a report assessing the performance of the Chatham Islands (*District*) Council against the policies, (*objections*) objectives,  
15 activities, performance targets, indicative costs, and sources of funds specified in the report adopted in respect of that financial year under **section 140** of this Act.

(2) The report adopted under **subsection (1)** of this section shall contain audited financial statements for the Chatham Islands  
20 (*District*) Council for the financial year consisting of—

- (a) A statement of financial position; and
- (b) An overall operating statement; and
- (c) One operating statement in respect of each significant activity; and
- 25 (d) A statement of cash flows; and

*Struck Out*

- (e) A statement of the nature, general terms, and extent of the equity securities and financial interests of the Chatham Islands District Council in any local authority trading enterprise; and
- 30 (f) A summary of the term liabilities and incidental arrangements of the Chatham Islands District Council by maturity showing, in respect of each financial year in which term liabilities are repayable, the amounts repayable in that year together with a summary of the interest costs and other costs incurred in connection with those amounts and arrangements for that year; and
- 35 (g) The amount of the term liabilities that are secured, and a brief description of the nature of the security; and
- 40

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- (h) Any variations from or changes to, the borrowing management policy in effect during the year; and
- (i) Such other statements as may be necessary to fairly reflect the financial position of the Chatham Islands *(District)* Council, the resources available to it, and the financial results of its operations. 5
- (3) The Chatham Islands *(District)* Council shall not be required to provide, under **subsection (2)** of this section,—
- (a) An assessment of the cost of capital; or 10
- (b) The value of its infrastructural assets.
- (4) The report adopted under **subsection (1)** of this section shall contain audited consolidated financial statements for the financial year in respect of—
- (a) The Chatham Islands *(District)* Council; and 15
- (b) Each local authority trading enterprise in which the Chatham Islands *(District)* Council holds equity securities or has a financial interest; and
- (c) Each other company or organisation that is under the control of the Chatham Islands *(District)* Council or is 20  
a local authority trading enterprise, company, or organisation in which the Chatham Islands *(District)* Council has a significant interest.
- (5) The audited consolidated financial statements under **subsection (4)** of this section shall consist of— 25
- (a) A statement of financial position; and
- (b) One operating statement in respect of each significant activity; and
- (c) A statement of cash flows; and
- (d) Such other statements as may be necessary to fairly 30  
reflect the financial position of each of the bodies to which those statements relate, the resources available to each of those bodies, and the financial results of the operations of each of *(their)* those bodies. 35

*Struck Out*

- (6) Where the Chatham Islands District Council has a financial interest in, or has otherwise provided finance or financial assistance to any local authority trading enterprise

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referred to in **subsection (4) (b)** of this section or to any company or organisation referred to in **subsection (4) (c)** of this section, the Chatham Islands District Council shall include, with the  
5 audited financial statements under **subsection (4)** of this section, a separate statement disclosing the actual costs to the enterprise, company, or organisation concerned of that interest, finance, or financial assistance.

(7) For the purpose of **subsection (6)** of this section, the  
10 provision of finance or financial assistance includes provision that is direct or indirect and whether by way of share capital, loan guarantee, the giving of security, or otherwise.

(8) The report adopted under **subsection (1)** of this section shall contain—

15 (a) The auditor's report—

(i) On the financial statements specified in **subsections (2) to (5)** of this section; and

20 (ii) On the financial performance targets and other measures by which performance has been judged in relation to the objectives; and

(iii) On compliance with **subsections (10) and (11)** of this section; and

(b) Such other information as is necessary to enable an informed assessment of the operations of each entity reported on including—

25 (i) A comparison between the actual performance of the Chatham Islands (*District*) Council for the financial year and the projected performance of the Chatham Islands (*District*) Council for the financial year as set out in the report adopted in respect of the  
30 financial year under **section 140 (1)** of this Act; and

(ii) A comparison between the actual performance of each local authority trading enterprise for the financial year and the relevant statement of  
35 corporate intent for the financial year.

(9) The report shall include an account of the extent to which the Chatham Islands (*District*) Council was able to meet, during the year to which the report relates, the equal employment opportunities programme for that year.

40 (10) The report shall include, in a form to be determined from time to time, by the Minister of Local Government, information on the remuneration being received by each

executive officer appointed under section 119c (1) of the Local Government Act 1974.

(11) The report shall include, in *(a form to be)* the form determined from time to time by the Minister of Local Government for the purposes of section 223E (7A) of the Local Government Act 1974, information in relation to the cost to the Chatham Islands (*District*) Council, in the year to which the report relates, of any severance agreement between the Chatham Islands (*District*) Council and any employee appointed under section 119B (1) or section 119c (1) of the Local Government Act 1974, being an agreement under which—

- (a) The employee has agreed to the termination of the employee's employment; and
- (b) The Chatham Islands (*District*) Council has, in respect of the employee's agreement to the termination of his or her employment, agreed to provide any consideration, whether of a monetary nature or otherwise, additional to any entitlement of that employee to—
  - (i) Any final payment or salary; or
  - (ii) Any holiday pay; or
  - (iii) Any superannuation contributions; and
- (c) The total cost to the Chatham Islands (*District*) Council of the consideration referred to in **paragraph (b)** of this subsection, including any liability for taxation, exceeds \$50,000.

*Struck Out*

(12) A determination under **subsection (9)** of this section may require that the information in the report include information identifying the specific position held by the employee, or the specific positions held by the employees, as the case may be, in respect of whom the cost has been incurred by the Chatham Islands District Council.

(13) The report adopted under **subsection (1)** of this section shall be adopted before the end of the fifth month after the close of the financial year to which it relates.

(14) Nothing in section 223E of the Local Government Act 1974 applies in respect of the Chatham Islands (*District*) Council.

5 Cf. 1974, No. 66, s. 223E (1)–(8); 1989, No. 29, s. 24 (1);  
1991, No. 49, s. 17 (2); 1992, No. 42, s. 25

**142. Public inspection of reports**—Where the Chatham Islands (*District*) Council adopts a report under **section 140** or **section 141** of this Act, the Chatham Islands (*District*) Council—

10 (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

15 (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.

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

*Financial Systems*

25 **143. Financial systems**—(1) The Chatham Islands (*District*) Council shall adopt financial systems and reporting and record keeping procedures that are consistent with generally accepted accounting practices recognised by the New Zealand accounting profession as appropriate and relevant for the reporting of financial information in the public sector.

(2) The systems and procedures adopted shall—

*Struck Out*

30 (a) Identify the costs, revenues, and financial performance of each of the Chatham Islands District Council's significant activities:

*New*

35 (a) Identify the costs, revenues, and financial performance of the various activities of the Chatham Islands Council and of each of that Council's significant activities:



- (b) Correctly record and correctly explain the transactions of the Chatham Islands (*District*) Council:
- (c) At any time enable the financial position of the Chatham Islands (*District*) Council to be determined with reasonable accuracy: 5
- (d) Enable a true and fair view of the state of affairs of the Chatham Islands (*District*) Council to be presented at the end of the financial year:

*Struck Out*

- (e) Enable the accounts of the Chatham Islands District Council to be properly audited: 10

*New*

- (e) Enable the accounts of the Chatham Islands Council to be readily and properly audited:

- (f) Show in a full and complete manner— 15
- (i) All income and expenditure:
- (ii) The application of all funds held or received for any particular purpose (such as special funds, rates, special rates, separate rates and charges, and trusts) and the amount and location of such funds while held by the Chatham Islands (*District*) Council. 20

*Struck Out*

- (g) Enable the Chatham Islands District Council to prepare the strategy and policies required by **sections 122D, 122E, 122F, and 122G** of the Local Government Act 1974 and to comply with the principles of financial management contained in **section 122B** of that Act. 25

(3) For the purposes of this section, but subject to the provisions of **sections 140 and 141** of this Act and of this section, in relation to the Chatham Islands District Council, financial statements are prepared in accordance with generally accepted accounting practice only if the financial statements comply with— 30

- (a) Approved financial reporting standards (within the meaning of section 2 of the Financial Reporting Act 35

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1993) so far as those standards apply to local authorities; and

(b) In relation to matters for which no provision is made in such approved financial reporting standards and which are not subject to any applicable rule of law, accounting policies that—

(i) Are appropriate to the Chatham Islands District Council; and

(ii) Have authoritative support within the accounting profession in New Zealand.

(4) Nothing in **section 223F** of the Local Government Act 1974 applies in respect of the Chatham Islands (*District*) Council.

Cf. 1974, No. 66, s. 223F; 1989, No. 29, s. 24 (1); 1991, No. 49, s. 18

*(District) Council Dues*

**144. Power to levy council dues**—(1) The Chatham Islands (*District*) Council may, in accordance with the provisions of this Act, levy dues on goods imported into or exported from the Chatham Islands (*District*) Territory by any means whatsoever.

(2) The Chatham Islands (*District*) Council may from time to time decide by special order to fix rates of dues payable under this section.

(3) Without limiting the powers conferred upon the Chatham Islands (*District*) Council by this section, a resolution to make a special order levying dues under this Act 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 (*District*) 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 (*the Chatham Islands District*) 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 (*District*) 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: 5
- (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: 10
- (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. 15

Cf. 1980, No. 6 (Local), s. 4

*Struck Out*

**145. Application of proceeds of district dues**—All money received by the Council from dues collected in accordance with this Part of this Act shall form part of the general revenues of the Chatham Islands District Council. 20

*New*

**145. 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. 25

Cf. 1980, No. 6 (Local), s. 5

**146. Persons liable to pay council dues**—(1) The persons jointly and severally liable to pay (*district*) council dues in respect of any goods carried in any ship or aircraft are as follows: 30

- (a) The owner of the goods:
- (b) Any consignor, consignee, shipper, or agent for the sale or custody of the goods: 35
- (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.

5 (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.

*New*

10 (3) Notwithstanding **subsection (1)** of this section, 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  
15 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.

(4) A person in respect of whom a notice under **subsection (3)** of this section is in force—

20 (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)** of this section; and

25 (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)** of this subsection, an agreed amount or proportion of any council dues collected by that person.

30 (5) Where any person is required by a notice given under **subsection (3)** of this section, 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  
35 (less any amount retained by that person in accordance with any agreement entered into under **subsection (4) (b)** of this section) and shall deliver to the Chatham Islands Council, at the same time, a return setting forth—

40 (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

*New*

- (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 5
- (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)** of this section; and 10
- (g) Such other relevant particulars as the Chatham Islands Council may from time to time require.
- (6) The Chatham Islands Council may at any time revoke a notice given under **subsection (3)** of this section by giving to the person to whom that notice was given a written notice 15  
revoking the notice given under **subsection (3)** of this section.
- (7) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500—
- (a) Who fails to comply with a notice under **subsection (3)** of this section; or 20
- (b) Who fails to comply with **subsection (5)** of this section.

Cf. 1980, No. 6 (Local), s. 7

**147. Right to hold owner's money**—Every person referred to in **section 146** of this Act who is liable to pay (*district*) council dues under this Act (other than the owner of the goods) 25  
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 (*district*) 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. 30

Cf. 1980, No. 6 (Local), s. 8

*Struck Out*

**148. Information to be supplied by importer and exporter**—(1) Where a ship or aircraft is to arrive in the Chatham Islands, 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 35

*Struck Out*

5 aircraft at its destination on the Chatham Islands, transmit to the Chatham Islands District Council, or an officer or agent of that Council, by facsimile or other means of communication, a copy of the bills of lading, freight lists, or manifest of the goods, 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.

10 (2) Every such bill of lading, freight list, manifest, or other account 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.

15 (3) Every person exporting goods from the district shall, before the goods are loaded on the ship or aircraft, deliver to the principal administrative officer of the Chatham Islands District Council, or other person nominated by the Chatham Islands District Council, a full and true account of all the goods, containing full particulars of the number of items, weights, or measurements of the goods as required by the Council.

20 Cf. 1980, No. 6 (Local), s. 10

**149. Verification of cargo**—The Chatham Islands District Council may, for the purpose of ensuring that district dues are paid, verify the goods being imported into or exported from the Chatham Islands District.

*New*

**148. 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 or 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

*New*

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—

5

(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.

10

(3) Every person exporting goods from the Chatham Islands Territory shall, before the goods are loaded on the ship or aircraft, deliver to the principal administrative officer 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).

15

Cf. 1980, No. 6 (Local), s. 10

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**149. 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.

**150. Verification Officers**—(1) The Chatham Islands (*District*) Council may, for the purposes of **section 149** of this Act, from time to time appoint any officer or agent of the Council as a Verification Officer.

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*Struck Out*

(2) Every Verification Officer may, for the purpose of verifying the goods that are being imported into or exported from the Chatham Islands District, open any receptacle that contains goods that are being transported by ship or aircraft to or from the Chatham Islands District.

30

*New*

- (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 148** of this Act,—
- 5
- 10 (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—
- 15 (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.
- 20 (3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500 who wilfully obstructs or hinders any Verification Officer in execution of his or her duties.

- 151. Warrant of appointment**—(1) The *(Council)* Chatham Islands Council shall supply to every officer or agent appointed as a Verification Officer under **section 150** of this Act a written warrant under the seal of the *(Council)* Chatham Islands Council evidencing that the appointed officer or agent has the authority vested in a Verification Officer by that section.
- 25
- 30 (2) The production by any person of the warrant provided under **subsection (1)** of this section shall be sufficient proof of that person's authority to act as a Verification Officer.
- 35 (3) Every Verification Officer shall, if so required, produce the warrant supplied to that Verification Officer under **subsection (1)** of this section before *(opening any receptacle containing cargo)* exercising any power under **section 150** of this Act.
- 40 (4) Every person appointed as a Verification Officer shall, on the termination of his or her appointment, surrender to the *(Council)* Chatham Islands Council the warrant supplied to that person under **subsection (1)** of this section.



**152. Offence of acting without warrant**—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1500 who, not being the holder of a warrant under **section 151** of this Act, represents himself or herself to be a Verification Officer.

5

**153. Offences of masters, owners, etc.**—(1) Every person commits an offence who, being a master, owner, consignee, shipper, aircraft pilot, or agent,—

(a) Evades or attempts to evade the payment of any *(district) council* dues; or

10

(b) Makes a false declaration in respect of any goods liable to payment of *(district) council* dues.

(2) Every person who commits an offence against **subsection (1)** of this section is liable on summary conviction—

(a) To a fine not exceeding \$1,500; or

15

(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.

20

(3) The imposition on any person of a fine upon that person's conviction for an offence against **subsection (1)** of this section 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.

25

Cf. 1980, No. 6 (Local), s. 11

**154. Recovery of unpaid dues**—The amount of any unpaid *(district) 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.

30

Cf. 1980, No. 6 (Local), s. 12

**155. Saving of other powers of Council**—

(1) *(District) 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.

35

(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.

Cf. 1980, No. 6 (Local), s. 13

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*Resource Management*

**156. Resource management planning**—(1) The Chatham Islands Council shall have a single resource management document.

5 (2) That document shall contain all that information that the Resource Management Act 1991 requires be contained in—

(a) A regional policy statement; and

(b) A regional coastal plan; and

(c) A district plan.

10 (3) That document may contain, in addition, provision for—

(a) Such matters as are 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.

15 (4) The Chatham Islands (*District*) Council may develop, in addition to the document specified in **subsection (1)** of this section, *(a regional plan)* one or more regional plans in accordance with section 65 of the Resource Management Act 1991.

20 (5) Notwithstanding section 28 (b) of the Resource Management Act 1991, the Minister of Conservation shall have the function of approving such part of the document specified in **subsection (1)** of this section as *(it)* relates to the coastal marine area.

25 (6) The Chatham Islands Council shall publicly notify the proposed Chatham Islands resource management document no later than 2 years after the commencement of this Act.

**157. 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 *(throughout)* in the course of the consent hearing process, and where the consent is required for an activity within the area of the Chatham Islands (*district*) Territory, that  
30  
35 time period shall be extended by 5 working days.

**158. Enforcement officers**—Notwithstanding section 38 of the Resource Management Act 1991, the Chatham Islands Council may authorise—

(a) Any of its officers; or

40 (b) Any of the officers of the Ministry of Agriculture and 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.

*Bylaws*

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**159. Bylaws**—(1) The Chatham Islands (*District*) Council may make bylaws to do all or any of the following things:

(a) Regulate the time when and place at which (*district*) 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. 10

(2) Nothing in **subsection (1)** of this section limits the power of the Chatham Islands Council to make bylaws under any other Act. 15

Cf. 1980, No. 6 (Local), s. 9

*Repeals, Amendments, and Transitional Provisions*

**160. Repeals**—The following enactments are hereby repealed:

(a) The Chatham Islands County Council Empowering Act 1980: 20

(b) The Chatham Islands County Council (Rates and Dues Validation) Act 1991.

*New*

**160A. Amendments to Local Government Act 1974**— 25

(1) Section 2 (1) of the Local Government Act 1974 is hereby amended by repealing paragraph (b) of the definition of the term “local authority” (as substituted by section 2 of the Local Government Amendment Act (No. 3) 1989), and substituting the following paragraph: 30

“(b) Includes the Chatham Islands Council.”

(2) Section 2 (1) of the Local Government Act 1974 is hereby consequentially amended by repealing subparagraph (i) of paragraph (b) of the definition of the term “territorial authority” (as substituted by section 2 (2) of the Local Government Amendment Act 1994), and substituting the following subparagraph: 35

“(i) The Chatham Islands Council; and”.



*New*

**161b. Amendments to Income Tax Act 1994—**Section DJ 3 of the Income Tax Act 1994 is hereby amended—

(a) By inserting, before the words “county dues”, the expression “dues (being ”; and

(b) By inserting, after the expression “1980”, the words “or Council dues levied under the Chatham Islands Council Act 1995”.

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**162. Transitional provisions—**The provisions of the **Ninth Schedule** to this Act shall apply in respect of the dissolution of the former council and the establishment of the Chatham Islands (*District*) Council.

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SCHEDULES

NINTH SCHEDULE

Section 162

TRANSITIONAL PROVISIONS IN RELATION TO DISSOLUTION OF CHATHAM ISLANDS COUNTY COUNCIL AND ESTABLISHMENT OF (*CHATHAM ISLANDS DISTRICT COUNCIL*) CHATHAM ISLANDS COUNCIL

**1. Transfer of responsibilities**—The (*Chatham Islands District Council*) 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.

Cf. 1974, No. 66, Schedule 3B, cl. 12; 1989, No. 29, s. 45 (1)

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

Cf. 1974, No. 66, Schedule 3B, cl. 13; 1989, No. 29, s. 45 (1)

*New*

**2A. 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 the 14th day of November 1995.

**2B. Transfer of staff**—(1) Subject to any contract of employment, every employee employed by the former council as at the 31st day of October 1995 shall become on the 1st day of November 1995 an employee of the Chatham Islands Council.

(2) The contract of employment of every employee to whom **subclause (1)** of this clause 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.

NINTH SCHEDULE—*continued*TRANSITIONAL PROVISIONS IN RELATION TO DISSOLUTION OF CHATHAM ISLANDS COUNTY COUNCIL AND ESTABLISHMENT OF (*CHATHAM ISLANDS DISTRICT COUNCIL*) CHATHAM ISLANDS COUNCIL—*continued**New*

(3) No person to whom **subclause (1)** of this clause 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.

**3. Vesting of property**—All property, real and personal, vested in the corporation of the former council as at the close of the (*30th day of June 1995*) 31st day of October 1995 is hereby vested in the corporation of the (*Chatham Islands District Council*) Chatham Islands Council, subject to all existing encumbrances.

Cf. 1974, No. 66, Schedule 3B, cl. 14; 1989, No. 29, s. 45 (1)

*Struck Out*

**4. Bylaws**—All bylaws of the former council that, as at the close of the 30th day of June 1995, are in force in the Chatham Islands County shall become bylaws of the Chatham Islands District Council; and every such bylaw shall, until revoked or altered by the Chatham Islands District Council, remain in force in the area in which it was in force as at the close of the 30th day of June 1995.

Cf. 1974, No. 66, Schedule 3B, cl. 16; 1989, No. 29, s. 45 (1)

*New*

**4. Bylaws**—(1) All bylaws of the former council that, at the close of the 31st day of 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)** of this clause, continue in force and have effect in the area in which it was in force as at the close of the 31st day of October 1995.

(2) The Chatham Islands Council may revoke or amend any bylaw continued in force by **subclause (1)** of this clause.

**4A. Special orders**—(1) Every special order of the former council that is in force at the close of the 31st day of October 1995 shall, subject to **subclause (3)** of this clause, continue in force, with all necessary modifications.

(2) Without limiting **subclause (1)** of this clause, 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 the 31st day of October 1995 shall, subject to **subclause (3)** of this clause, continue in force as if that special order had been made under **section 144** of this Act.

NINTH SCHEDULE—*continued*TRANSITIONAL PROVISIONS IN RELATION TO DISSOLUTION OF CHATHAM ISLANDS COUNTY COUNCIL AND ESTABLISHMENT OF (*CHATHAM ISLANDS DISTRICT COUNCIL*) CHATHAM ISLANDS COUNCIL—*continued**New*

(3) The Chatham Islands Council may revoke or amend any special order continued in force by this clause.

**4b. Annual report to public concerning plans**—Notwithstanding **section 140 (7)** of this Act, 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 the 30th day of June 1996 shall have effect as if it had, under **section 140** of this Act, been adopted by the Chatham Islands Council in respect of that financial year.

**4c. Annual report to public concerning performance**—(1) Notwithstanding **section 141(14)** of this Act, where the former council has not, at the close of the 31st day of 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 the 30th day of 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 131** or **section 134** of this Act, the annual report prepared and adopted by the Chatham Islands Council under **section 141** of this Act for the year ending with the 30th day of 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 the 30th day of June 1996 and, for the purposes of that report, **section 141** of this Act shall be read as if the references to the report adopted in respect of that financial year under **section 140** of this Act were references to the report to which **clause 4b** of this Schedule refers.

**5. 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 District Council*) Chatham Islands Council.

Cf. 1974, No. 66, Schedule 3B, cl. 17 (1); 1989, No. 29, s. 45 (1)

**6. Valuation rolls, electoral rolls, and rate records**—The valuation rolls, electoral rolls, and rate records in force, as at the close of the (*30th day of June 1995*) 31st day of 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 County Council*) Chatham Islands Council.

Cf. 1974, No. 66, Schedule 3B, cl. 20; 1989, No. 29, s. 45 (1)

**7. Certain matters not affected by transfer of functions, duties, or powers**—Nothing effected or authorised by this Act—



NINTH SCHEDULE—*continued*TRANSITIONAL PROVISIONS IN RELATION TO DISSOLUTION OF CHATHAM ISLANDS COUNTY COUNCIL AND ESTABLISHMENT OF (*CHATHAM ISLANDS DISTRICT COUNCIL*) CHATHAM ISLANDS COUNCIL—*continued*

- (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.

Cf. 1974, No. 66, s. 37zzx; 1989, No. 29, s. 10 (1)

**8. 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 3** of this Schedule, to change the name of the former council to that of the (*Chatham Islands District Council*) Chatham Islands Council in those books or registers or in any document.

(2) The presentation to any (*register*) Registrar or other person of any instrument, whether or not comprising any instrument of transfer by the (*Chatham Islands District Council*) Chatham Islands Council—

- (a) Executed or purporting to be executed by the (*Chatham Islands District Council*) Chatham Islands Council; and
- (b) Relating to any property held by the former council as at the close of the (*1st day of June 1995*) 31st day of October 1995; and
- (c) Containing a recital that the property has been vested in the (*Chatham Islands District Council*) Chatham Islands Council by virtue of **clause 3** of this Schedule,—

shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the (*Chatham Islands District Council*) 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.

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**9. Extraordinary vacancies**—(1) Notwithstanding sections 101zc, 101zd, and 101ze of the Local Government Act 1974, and sections 50 and 51 of the Local Elections and Polls Act 1976, any extraordinary vacancy in the office of a member of the Chatham Islands District council, being an extraordinary vacancy existing in the period beginning on the 1st day of July 1995 and ending with the close of the 13th day of October 1995, shall not be filled unless—

- (a) The vacancy is for the position of Mayor; or

NINTH SCHEDULE—*continued*

TRANSITIONAL PROVISIONS IN RELATION TO DISSOLUTION OF CHATHAM ISLANDS COUNTY COUNCIL AND ESTABLISHMENT OF (*CHATHAM ISLANDS DISTRICT COUNCIL*) CHATHAM ISLANDS COUNCIL—*continued*

*Struck Out*

- (b) The former council has, before the 1st day of July 1995, resolved to fill the vacancy; or
- (c) The extraordinary vacancy results from the Chatham Islands District Council having less than 6 members excluding the Mayor.
- (2) In the case of an extraordinary vacancy of the kind specified in paragraph (a) or paragraph (b) or paragraph (c) of subclause (1) of this clause, the Chatham Islands District Council shall fill the extraordinary vacancy in accordance with sections 101zc, 101zd, and 101ze of the Local Government Act 1974, and sections 50 and 51 of the Local Elections and Polls Act 1976.

**10. 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 section in relation to the (*Chatham Islands District Council*) Chatham Islands Council.