

Mrs Hercus

**CHATHAM ISLANDS COUNTY COUNCIL
EMPOWERING**

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to repeal the Chatham Islands County Council Empowering Act 1936, to restore the power of the Council to make and levy rates of whatever kind, and to empower
5 the Council to make and levy county dues

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Chatham
10 Islands County Council Empowering Act 1980.

2. **Interpretation**—In this Act, unless the context otherwise requires,—

“Council” means the Chatham Islands County Council:

“County” means the County of Chatham Islands:

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“County dues” means the dues authorised to be levied by section 4 of this Act:

“General rate” means the general rate which may be made and levied by a territorial authority pursuant to section 136 of the Local Government Act 1974 (as inserted by section 2 of the Local Government Amendment Act (No. 3) 1977): 5

“Goods” includes all kinds of movable personal property (including animals) but does not include ships’ stores or aircraft’s stores. 10

3. Power to levy rates—(1) Subject to this section, the power of the Council to make and levy rates of whatever kind upon rateable property within the county shall be restored in and from the financial year commencing on the 1st day of April 1981. 15

(2) The Council shall, before striking its first rate pursuant to this Act, by resolution of a special meeting called for the purpose, determine which rating system or rating systems shall initially be in force in the county, and such system or systems shall continue in force until altered in accordance with the provisions of the Rating Act 1967. 20

(3) Upon the passing of this Act the provisions of sections 142 and 143 of the Local Government Act 1974 (as inserted by section 2 of the Local Government Amendment Act (No. 3) 1977) together with such other provisions therein as relate to the works and services rate and separate rates leviable by a territorial authority shall apply to the Council and, accordingly, it may make and levy the following kinds of rates: 25

(a) A works and services rate in accordance with the provisions of the said section 142 (1): 30

(b) Any separate rate referred to in the said section 143 (1) which it may appropriately make and levy.

4. Power to levy county dues—(1) In addition to its power to make and levy rates upon rateable property, the Council is hereby empowered to levy, in accordance with the provisions of this Act, county dues on goods imported into or exported from the county by any means whatsoever. 35

(2) The Council may from time to time, but not more frequently than once in each financial year, decide by special order to fix scales of county dues payable under this Act. 40

(3) Without limiting the extent of the powers conferred upon the Council by this section, a resolution to make a special order fixing scales of county dues under this Act may provide for any of the following:

- 5 (a) The fixing of a differential scale of county dues so that higher county dues shall be payable in respect of goods imported into or exported from that portion of the county comprising Chatham Island than are payable in respect of goods imported into or
10 exported from the other Islands within the County:
- (b) The fixing of a differential scale of county dues so that different rates are payable, depending upon whether the goods are carried by sea or by air:
- 15 (c) The exemption of any specified class or classes of goods from the payment of county dues under this Act.

5. Application of proceeds of dues—All money received by the Council from county dues collected in accordance with the provisions of this Act shall be paid into the County Fund, and, subject to section 6 (3) of this Act, shall be available
20 for the purposes of that fund.

6. Calculation of general rate and application of surplus—

(1) Every general rate shall be so calculated that in the year of that rate the aggregate of the total amount derivable from the general rate and the total amount derivable from
25 county dues shall not exceed the maximum amount which the Council would be entitled to receive if it were to make and levy a general rate only, at the maximum amount in the dollar permitted by any enactment, on every rateable property within the county.

30 (2) In the event that the aggregate of the total amount recoverable from the general rate and the total amount recoverable from county dues shall in any year exceed the maximum amount which the Council is entitled to levy by general rate on every rateable property within the county,
35 and such excess is less than \$1,000, the Council may use the surplus for the general purposes of the Council pursuant to a resolution in that behalf.

(3) In the event that such excess is \$1,000 or greater and is not attributable to any invalidity in the general rate made and
40 levied in that year the surplus shall, at the commencement of

the next ensuing financial year, be transferred from the County Fund to the Rates and Appropriations Account of the Council and shall be deemed to be part of the general rate made and levied upon every rateable property within the county in that next ensuing financial year for all purposes, including (but without limiting the generality of the foregoing) the purposes of any enactment which imposes a limitation on the maximum amount in the dollar which the Council is empowered to levy by general rate. 5

(4) Any such excess which is required to be dealt with in accordance with subsection (3) of this section shall, no later than the last day of that next ensuing financial year, be applied in the manner prescribed by section 122 (1) of the Local Government Act 1974 as inserted by section 2 of the Local Government Amendment Act (No. 3) 1977). 10 15

(5) Nothing in this section shall be so construed as to authorise the Council to make and levy a general rate in excess of the limits imposed by any enactment.

7. Persons liable for county dues—(1) The following persons shall be liable to pay the county dues payable in respect of any goods carried in any ship or aircraft, that is to say: 20

- (a) The owner of the goods; and
- (b) Any consignor, consignee, shipper, or agent for the sale or custody of the goods; and
- (c) Any person entitled to the possession of the goods either as owner or agent for the owner; and 25
- (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. 30

(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.

8. Right to hold owner's money—Every person referred to in section 7 of this Act who is liable to pay county dues (other than the owner of the goods) may, out of any money in his hands received on account of those goods, or belonging to the owner thereof, retain the amount of dues so paid by him, together with any reasonable expenses he may have incurred by reason of the payment and liability. 35 40

9. Bylaws—(1) The Council may from time to time, by bylaws made under this Act, do all or any of the following things, namely:

- 5 (a) Empower a collector of county dues to enter any ship or aircraft in order to ascertain the county dues payable in respect of goods therein:
- 10 (b) Require the master, owner, or agent of any ship or, as the case may be, the pilot in command of any aircraft, to supply a copy or copies of the bill of lading or manifest of the goods or other proper account of all goods intended to be carried on or unloaded from the ship or aircraft, and the name of the consignee of the goods:
- 15 (c) Regulate the time when and place where county dues are to be payable:
- (d) Provide for such other matters as may be necessary to enable the objects of this Act to be carried out effectually.

10. Offences—(1) If any master, owner, consignor, consignee, shipper, aircraft pilot, or agent evades or attempts to evade the payment of any county dues, or makes a false declaration in respect of any goods liable to payment of county dues, he commits an offence against this Act, and shall be liable on summary conviction to a fine, either not
25 exceeding \$500, or in case the amount of the county dues which he has evaded or attempted to evade or in respect of which he has made a false declaration exceeds \$500, then not exceeding the amount of those dues.

(2) The imposition on any person of a fine upon his conviction for an offence under subsection (1) of this section
30 shall not preclude the Council from recovering the amount of unpaid dues in respect of any goods to which the offence may have related.

11. Recovery of unpaid dues—The amount of any unpaid
35 dues may be recovered by the Council as a debt in any Court of competent jurisdiction from any person liable to pay them under this Act.

12. Saving of other powers of Council—(1) County dues under this Act may be levied and collected in addition to—
40 (a) Any harbour dues which the Council may be empowered to levy pursuant to the provisions of the Harbours Act 1950; and

- (b) Any charges, fees, or dues which the Council may be empowered to charge pursuant to the provisions of the Civil Aviation Act 1964 or regulations in force thereunder; and
 - (c) Any charges which the Council may be entitled to prescribe by bylaws made pursuant to the provisions of the Airport Authorities Act 1966. 5
- (2) The Council may appoint the same personnel to collect both county dues and any other fees, charges, or dues which it is empowered to charge or levy by virtue of any other enactment. 10

13. Repeals and amendments—(1) The Chatham Islands County Council Empowering Act 1936 is hereby repealed.

(2) Section 178 of the Local Government Act 1974 (as inserted by section 2 of the Local Government Amendment Act (No. 3) 1977) is hereby repealed. 15

(3) Section 48A (1) of the Income Tax Amendment Act 1976 is hereby amended by repealing the definition of “Chatham Islands dues” (as added by section 5 (1) of the Income Tax Amendment Act 1979), and substituting the following definition: 20

“Chatham Islands dues’ has the same meaning as county dues as defined in section 2 of the Chatham Islands County Council Empowering Act 1980:”.

(4) Section 5 (1) of the Income Tax Amendment Act 1979 is hereby consequentially repealed. 25

(5) Section 141 (1) of the Income Tax Act 1976 is hereby amended by omitting the words “dues under the Chatham Islands Regulations 1951”, and substituting the words “county dues levied under the Chatham Islands County Council Empowering Act 1980”. 30

14. Transitional provisions—(1) Notwithstanding the repeal of the Chatham Islands County Council Empowering Act 1936, the Chatham Islands Dues Regulations 1979 shall continue in force to, and only to, the following extent: 35

- (a) Regulation 3 and the Schedule shall continue in force until the date that the initial special order fixing scales of county dues under this Act takes effect:
- (b) Regulations 4, 5 (2), and 5 (3) shall remain in force until the date that the initial bylaws made under this Act come into operation. 40

(2) While any of the said regulations continue in force sections 7, 8, 10, and 11 of this Act shall apply in all respects to dues prescribed under the Chatham Islands Dues Regulations 1979 as if they were county dues made under the authority of this Act.

(3) Nothing in this Act shall be read so as to preclude the Council from collecting any dues which remain unpaid as at whichever of the dates referred to in paragraphs (a) and (b) of subsection (1) of this section occurs the later.