

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 7 December 1977

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 double rule, or with double rule before first line and after last line.

Hon. Mr Highet

LOCAL GOVERNMENT AMENDMENT (NO. 3)

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A BILL INTITULED

An Act to amend the Local Government Act 1974

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

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1. Short Title and commencement—(1) This Act may be cited as the Local Government Amendment Act (No. 3) 1977, and shall be read together with and deemed part of the Local Government Act 1974* (hereinafter referred to as the principal Act).

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(2) Subject to subsections (2) and (5) of section 3 of this Act, this Act shall come into force on the 1st day of April 1978.

PART I

NEW PART I OF PRINCIPAL ACT

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2. New Part I of principal Act—The principal Act is hereby amended by repealing Part I, and substituting the following Part:

*1974, No. 66

Amendments: 1975, No. 86; 1976, No. 55; 1977, No. 6

“PART I

“THE LOCAL GOVERNMENT COMMISSION

“The Commission

5 “3. **Local Government Commission**—(1) For the purposes of this Act there shall be a Commission, to be called the Local Government Commission.

(2) The Commission shall consist of 3 members, to be appointed by the Minister, of whom—

10 (a) One member shall be appointed as Chairman of the Commission:

(b) One member shall be appointed on the nomination of the New Zealand Counties Association Incorporated:

15 (c) One member shall be appointed on the nomination of the Municipal Association of New Zealand Incorporated.

(3) The powers of the Commission shall not be affected by any vacancy in its membership.

20 (4) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason of his being a member of the Commission.

Cf. 1974, No. 66, s. 3

25 “4. **Term of office of members**—(1) The Chairman of the Commission shall be appointed for such term, not exceeding 5 years, as is specified in his appointment.

(2) Every member of the Commission other than the Chairman shall be appointed for such term, not exceeding 3 years, as is specified in his appointment.

30 (3) Every member of the Commission shall be eligible for reappointment.

Cf. 1974, No. 66, s. 4

35 “5. **Extraordinary vacancies**—(1) Any member of the Commission may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may at any time resign his office by writing addressed to the Minister.

(2) If any member of the Commission dies, or resigns, or is removed from office, his office shall become vacant.

(3) Any vacancy under this section shall be deemed to be an extraordinary vacancy, and shall be filled in the manner in which the appointment to the vacant office was made.

(4) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

Cf. 1974, No. 66, s. 5

“6. Deputies of members—(1) Where the Chairman of the Commission is incapacitated or likely to be incapacitated by reason of illness, absence, or other sufficient cause and it appears to the Minister that the incapacity is likely to continue for a period of more than 14 days, or is incapacitated under subsection (7) of this section, the Minister may appoint a deputy to act for the Chairman during that incapacity. The deputy of the Chairman shall, while he acts as such, be deemed to be a member of the Commission and, notwithstanding that there is a Deputy Chairman of the Commission under section 7 of this Act, to be the Chairman of the Commission.

(2) Any appointment of a deputy of the Chairman made under subsection (1) of this section may be at any time revoked by the Minister.

(3) The Minister shall from time to time, on the nomination of the New Zealand Counties Association Incorporated, appoint a person as the deputy of the member of the Commission appointed under section 3 (2) (b) of this Act.

(4) The Minister shall from time to time, on the nomination of the Municipal Association of New Zealand Incorporated, appoint a person as the deputy of the member of the Commission appointed under section 3 (2) (c) of this Act.

(5) Every appointment of a deputy under subsection (3) or subsection (4) of this section may be revoked at any time by the Association by which he was nominated for appointment.

(6) A deputy appointed under subsection (3) or subsection (4) of this section shall act as a member of the Commission only when the member for whom he is the deputy—

(a) Is incapacitated or likely to be incapacitated by reason of illness, absence or other sufficient cause, and it appears that the incapacity is likely to continue for more than 14 days; or

(b) Is incapacitated under subsection (7) of this section.

(7) If the Commission decides to consider a proposal affecting the district of any local authority and a member of the Commission is also a member of that local authority, the
5 member shall be deemed to be incapacitated from performing the duties of his office in respect of that proposal.

(8) Every deputy appointed under subsection (3) or subsection (4) of this section shall, while he acts as such, be
10 deemed to be a member of the Commission.

(9) No appointment of a deputy and no acts done by him as such, and no acts done by the Commission while any deputy is acting as such, shall be questioned in any proceedings on the grounds that the occasion for his appointment had not arisen or had ceased.

15 Cf. 1974, No. 66, s. 6

“7. **Deputy Chairman**—(1) The Minister shall from time to time appoint one of the members of the Commission to be Deputy Chairman thereof.

(2) Subject to section 6 of this Act, the Deputy Chairman
20 shall have and may exercise and perform all the powers and duties of the Chairman—

(a) With the consent of the Chairman, at any time during the temporary absence of the Chairman:

(b) Without that consent, at any time while the Chairman
25 is temporarily incapacitated or prevented by illness or other cause from performing the duties of his office:

(c) While there is any vacancy in the office of the Chairman.

30 (3) No acts done by the Deputy Chairman acting as the Chairman shall in any proceedings be questioned on the ground that the occasion for his so acting had not arisen or had ceased.

Cf. 1974, No. 66, s. 7

35 “8. **Temporary members**—(1) If the Commission is to consider a proposal affecting a local authority other than a territorial authority, it may request the Minister to appoint a person having special knowledge of the functions undertaken by that local authority to be a temporary member of
40 the Commission for the purposes of that proposal.

(2) This Part of this Act, so far as it applies to members of the Commission, shall apply, with the necessary modifications, to any person appointed by the Minister to be a temporary member under this section.

“9. **Meetings of Commission**—(1) The first meeting of the Commission shall be held on a day to be appointed in that behalf by the Chairman. 5

(2) Subsequent meetings of the Commission shall be held at such times and places as the Commission or the Chairman thereof from time to time appoints. 10

(3) At all meetings of the Commission a quorum shall consist of 2 members, including the Chairman or the Deputy Chairman.

(4) The Chairman shall preside at every meeting of the Commission attended by him. Subject to section 6 of this Act, in the absence of the Chairman from any meeting the Deputy Chairman shall preside. 15

(5) At any meeting of the Commission the Chairman or Deputy Chairman presiding shall have a deliberative vote, and in the case of an equality of votes, shall also have a casting vote. The decision of the Commission on any matter shall be determined by a majority of the valid votes recorded thereon. 20

(6) Subject to this Act, the Commission may regulate in such a manner as it thinks fit the procedure of the Commission. 25

Cf. 1974, No. 66, s. 8

“10. **Remuneration and travelling expenses**—There shall be paid out of money appropriated by Parliament for the purpose to the members of the Commission (including deputy members and temporary members acting as such and any conciliator appointed under section 27 of this Act) remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and that Act shall apply accordingly as if the Commission were a statutory Board within the meaning of that Act. 30 35

Cf. 1974, No. 66, s. 9

“11. **Commission may co-opt specialist advice**—The Commission may invite any officer of the Public Service or any other person or a representative of any body who or which, in the opinion of the Commission, has expert knowledge 40

which is likely to be of assistance to the Commission to attend any meeting or discussion held under this Part of this Act and to take part in the proceedings.

Cf. 1974, No. 66, s. 10

5 “12. **Officers of Commission**—(1) There may from time to time be appointed under the State Services Act 1962 a Chief Executive Officer of the Commission and such other officers as may be required for the purposes of this Part of this Act.

10 (2) Any person may hold any office under this section in conjunction with any other office in the Public Service.

Cf. 1974, No. 66, s. 11

15 “13. **Commission to be a Commission of Inquiry**—(1) The Commission shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to this Act, the provisions of that Act (except sections 2 and 4A and sections 11 to 15), as far as they are applicable, shall apply accordingly.

20 (2) The Chairman of the Commission, or any other member or the Chief Executive Officer of the Commission purporting to act by direction or with the authority of the Chairman, may issue summonses requiring the attendance of witnesses before the Commission, or the production of documents, or may do any other act preliminary or incidental to the investigation or consideration of any matter by the
25 Commission.

Cf. 1974, No. 66, s. 12

30 “14. **Evidence in proceedings before Commission**—(1) The Commission may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter being dealt with, whether or not the same would be otherwise admissible in a Court of law.

35 (2) Subject to the foregoing provisions of this section, the Evidence Act 1908 shall apply to the Commission and the members thereof and to all proceedings before the Commission in the same manner as if the Commission were a Court within the meaning of that Act.

Cf. 1974, No. 66, s. 13

“Functions and Powers of Commission

“15. **Functions of Commission**—(1) The functions of the Commission shall be—

(a) To carry out all such investigations, prepare all such schemes, and make all such recommendations and reports as are required or authorised by this Act, for the purpose of ensuring that— 5

(i) The system of local government in any district shall be such as best provides for the needs and well-being of the residents thereof and for the continued development of that district: 10

(ii) Local authorities have such district boundaries and such functions and powers as are necessary or expedient to enable them to provide most effectively and economically essential or desirable local government services and facilities: 15

(iii) Local authorities have such resources as will enable them to employ competent administrative and technical staff having abilities commensurate with their responsibilities, and to obtain and operate adequate managerial and technical services and facilities, plant, and equipment: 20

(iv) The districts are of such size and nature as will promote efficient local government:

(v) The purposes and provisions of this Act and of any other Act in relation to local government or any aspect thereof are as far as practicable effectively implemented: 25

(vi) Subject to this Act and to any other enactment, a united council or regional council has power to do anything which will facilitate, or is incidental to, the discharge of any of its functions, and in particular has power to undertake functions of a regional nature undertaken by any other local authority and to co-ordinate the future development of the region in the interests of the region and the residents thereof: 30 35

(b) To review and report and make such recommendations as it thinks fit to the Minister upon such matters relating to local government as may be determined by the Commission, or be referred to the Commission by the Minister: 40

- (c) To undertake research and investigate developments in local government relevant to the functions of the Commission, and disseminate knowledge and information about such research and investigation:
- 5 (d) To inquire into and report to the Minister on any question referred to the Commission under section 23 of the Hospitals Act 1957. In carrying out any such inquiry, the Commission may undertake, in
10 such manner as it thinks fit, such inquiries, discussions and negotiations in relation to the inquiry, either separately or jointly with one or more of the public bodies or persons concerned, as the Commission thinks fit.
- (2) In inquiring into any proposal for a scheme, the Commission shall have regard to the general public opinion in
15 the area proposed to be affected by the scheme.
- (3) In inquiring into any proposal for a scheme, the Commission shall take into consideration the following matters so far as, in the opinion of the Commission, they
20 are applicable to the particular circumstances of each case, namely:
- (i) Whether the proposal conforms to general principles of town and country planning, having due regard to the ultimate determination of land uses and
25 other planning matters under the procedures specified in the Town and Country Planning Act 1977; and
- (ii) The desirability of ensuring that the boundaries of the district of any local authority affected are stabilised for a reasonable period; and
- 30 (iii) The possible effect on any territorial authority of the exclusion of any area from its district; and
- (iv) The possible effect on any local authority operating both an electricity supply undertaking and a gas
35 supply undertaking of any proposal having the effect of placing the control of each undertaking under separate authorities; and
- (v) The water catchments or other geographical features of the area to which the proposal relates; and
- 40 (vi) Such other matters as the Commission considers relevant.

Cf. 1974, No. 66, ss. 14 (2), 18 (2); 1976, No. 55, s. 4

“16. **Commission may direct investigations**—(1) The Chief Executive Officer of the Commission, or any other person authorised by the Chief Executive Officer, may from time to time investigate and report to the Commission on such matters as the Commission directs. 5

(2) Every person commits an offence who, having the custody or possession of any books, papers, accounts, or documents that are relevant to the investigation, refuses or fails without lawful excuse to allow to have access thereto any person investigating any matter under subsection (1) of this section, or who without lawful excuse obstructs any such person in the making of the investigation. 10

Cf. 1974, No. 66, s. 15

“Regional Schemes

“17. **Regional schemes**—(1) It shall be a principal function of the Commission to prepare regional schemes for the constitution of regions (otherwise than by the union of 2 or more regions) so as to ensure that the district of every territorial authority, by not later than the 31st day of December 1979, or as soon thereafter as may be, is included in a region: 15 20

Provided that this subsection shall not apply to the County of Chatham Islands.

(2) The Commission may provide in its regional schemes that—

(a) The functions which are performed by local authorities that are not territorial authorities but which, in the opinion of the Commission, should be performed by regional councils or united councils are so performed: 25

Provided that no regional scheme shall include a provision for the transfer of the functions of an existing local authority (not being a territorial authority) to a regional council or united council, except with the prior consent of that local authority: 30

(b) Those functions which are performed by territorial authorities but which, in the opinion of the Commission, would be more appropriately performed by regional councils or united councils are so performed. 35

Cf. 1974, No. 66, s. 14 (1)

“18. Procedure for preparation of regional schemes—

(1) Where the Commission decides to consider a proposal that a regional scheme be prepared for the constitution of a region (otherwise than by the union of 2 or more regions), it shall convene a meeting of representatives of all the local authorities likely, in the opinion of the Commission, to be affected by the proposal, for the purpose of discussing the proposal.

(2) Any 1 or more members of the Commission may represent the Commission at that meeting, which shall be presided over by the Chairman of the Commission if he is present, or in his absence by some other member of the Commission appointed by him.

(3) After the Commission has ascertained the views of the local authorities likely to be affected by the proposals, the Commission may undertake, in such manner as it thinks fit, further investigations and negotiations in relation to the proposal separately or jointly with 1 or more local authorities or other interested bodies or persons, and may consult any authority established by any Act having jurisdiction in respect of any matter included in the proposal.

(4) After the Commission has completed its investigations and negotiations in accordance with the foregoing provisions of this section, it shall—

(a) Prepare a statement on all or any of the matters to which the proposal relates, and give public notice and notice to each local authority affected of the place or places where the statement may be inspected; or

(b) Decide not to proceed with the proposal.

“19. Holding of public meetings—(1) If the Commission prepares and gives public notice of a statement under section 18 (4) (a) of this Act, it may hold 1 or more public meetings in the proposed region for the purpose of discussing the proposal to which the statement relates.

(2) Not less than 1 month before it holds any such public meeting or meetings, the Commission shall give public notice thereof. Every such notice shall state that representations on the proposal may be made by any person either in writing or at the meeting or meetings.

(3) The Commission shall also give notice of every such public meeting to the Minister, to the local authorities likely in the opinion of the Commission to be affected, and to such other bodies and persons as the Commission thinks fit:

Provided that failure to give notice under this subsection shall not affect the validity of any scheme prepared following the public meeting or meetings.

(4) After holding any such public meeting or meetings, the Commission shall—

(a) Prepare a provisional regional scheme providing for all or any of the matters inquired into if it is satisfied that *(the proposal has a reasonable measure of public support in the proposed region)* the proposal is not contrary to the general public opinion in the region as a whole; or

(b) Decide not to proceed with the proposal.

“20. Notice of provisional regional scheme—(1) As soon as practicable after a provisional regional scheme has been prepared by the Commission, the Commission shall give public notice of the scheme and of the place or places where it may be inspected and of the right of objection hereinafter provided for, and shall also give notice thereof to the Minister, to every local authority likely in the opinion of the Commission to be affected by the scheme, and to such other bodies and persons as the Commission thinks fit.

(2) In the preparation of a provisional regional scheme, the Commission shall prepare and publish, either separately or as an appendix to the provisional scheme, an explanatory statement specifying considerations taken into account by the Commission in preparing the scheme, reasons for any provisions of the scheme, and any other matters that the Commission considers relevant. Such a statement shall be deemed not to form part of the scheme.

Cf. 1974, No. 66, s. 19

“21. Objections to provisional regional scheme—(1) Any person or body interested shall have a right of objection to any provisional regional scheme, and may give notice in writing to the Commission of the objection and of the grounds thereof at any time within 2 months after the first public notification of the scheme, or within such further time as may in any case be allowed by the Commission.

(2) The Commission shall as soon as practicable consider all such objections, and may for that purpose—

(a) Convene such meetings, either jointly or separately with all or any of the objectors and all or any of the local authorities concerned and such other persons or bodies, and hold discussions with such persons or bodies, as the Commission thinks fit:

(b) At any such meeting or discussions, hear such representations submitted as the Commission considers relevant to the matters being inquired into:

5 (c) Make such further inquiries as it considers necessary or desirable.

(3) The Commission shall not consider any objection to the provisional regional scheme, unless reasonable notice of the date and time when the objection is to be considered and of the place where it is to be considered has been given
10 to the objector, who, if present at the appointed time and place, shall be entitled to be heard in support of his objection.

(4) At any meeting or discussion at which any objection is being considered or any representations are being received, no cross-examination shall be allowed except with the consent of the Commission, but the Commission may ask
15 questions relating to the objection or the representations.

(5) In determining any objection, the Commission may uphold the objection wholly or partly, and may abandon or modify the scheme accordingly, or may dismiss the objection.

20 (6) Notice in writing of the decision of the Commission on any objection, setting out reasons for its decision, shall be given by the Commission to the objector and also to all the local authorities concerned.

25 (7) The Commission may at any time, in its discretion, decide not to proceed with a provisional regional scheme.

Cf. 1974, No. 66, s. 20

“22. **Final regional scheme**—(1) After all objections to a provisional regional scheme have been considered and any further investigations or inquiries or negotiations considered
30 by the Commission to be necessary or desirable have been made or carried out and all such objections have been determined, or if no objections to the provisional regional scheme have been received, the Commission may approve the scheme as publicly notified or as modified as a result of any such
35 objections or further investigations or inquiries or negotiations, and the scheme shall thereupon become a final scheme:

Provided that notwithstanding that an objection may be dismissed, the Commission may, in its discretion, modify the scheme to make provision for any matter arising out of that
40 objection:

Provided also that the Commission may, if it thinks fit, prepare *(a further provisional regional scheme)* one or more further provisional regional schemes in substitution for that to which objection has been made. All the provisions of this Part of this Act with respect to provisional regional schemes shall apply with respect to every substituted scheme so prepared. 5

(2) Section 20 (2) of this Act (relating to the publication of explanatory statements with respect to provisional regional schemes) shall apply with respect to a final regional scheme. 10

Cf. 1974, No. 66, s. 21

“23. **Notice of final regional scheme**—As soon as practicable after a provisional regional scheme has been approved as a final regional scheme by the Commission, the Commission shall give public notice of the scheme and of the place or places where it may be inspected, and shall also give notice thereof to the Minister, to every local authority affected by the scheme, and to such other bodies and persons as the Commission thinks fit. 15 20

Cf. 1974, No. 66, s. 22

“24. **Minister may refer final regional scheme back to Commission for reconsideration**—(1) Within 1 month after receiving under section 23 of this Act notice of a final regional scheme, the Minister may refer the scheme back to the Commission for reconsideration of such of the provisions of the scheme as the Minister specifies, and shall advise the Commission of his reasons for so doing. In reconsidering the scheme, the Commission shall have regard to those reasons. 25

(2) The Commission shall reconsider any final regional scheme referred back to it under this section, and may make such amendments to the scheme as it thinks fit with respect to the provisions specified by the Minister and any consequential amendments to the scheme, or may decide that no amendments to the scheme will be made, and shall notify the Minister accordingly. 30 35

(3) On the Minister being so notified by the Commission, effect shall be given under section 36 of this Act to the final regional scheme with any amendments made pursuant to subsection (2) of this section. 40

“Reorganisation Schemes

“25. **Matters which may be included in reorganisation schemes**—A reorganisation scheme under this Act may provide for 1 or more of the following:

- 5 (a) The union into 1 district of 2 or more districts, whether districts of the same kind or not:
- (b) The constitution of a new district or districts (not being the constitution of 1 or more regions required to be constituted pursuant to a regional scheme under
10 section 17 of this Act):
- (c) The abolition of any district or districts:
- (d) Any alteration of the boundaries of adjoining districts:
- (e) The conversion of a district into a district of a different kind:
- 15 (f) The inclusion in any district of any area adjoining that district:
- (g) The exclusion of any area from any district:
- (h) The transfer of all or any of the functions of any local authority, or all or any of the functions of any local
20 authority exercisable in any portion of its district or elsewhere, to any other local authority:
- (i) The constitution, dissolution, or abolition of any local authority:
- 25 (j) The undertaking of any regional service by a regional council or a united council in accordance with section 602 of this Act.

Cf. 1974, No. 66, s. 16 (1) ; 1976, No. 55, s. 3 (2)

“26. **Initiation of reorganisation schemes**—(1) The Commission may from time to time, of its own motion, initiate or,
30 at the request of the Minister or of any local authority of any of the classes specified in Part I of the First Schedule to this Act, or on any request under section 49 of this Act, consider a proposal that a scheme be prepared, in relation to any local authority of any of the classes specified in the said
35 Part I, providing for any of the matters specified in section 25 of this Act.

(2) The Commission may from time to time—

- 40 (a) At the request of any local authority of any of the classes specified in Part II of the First Schedule to this Act or of any local authority specified in Part III of that Schedule, consider a proposal that a scheme be prepared, in relation to that local authority, providing for any of the matters specified in section 25 of this Act:

- (b) At the request of the appropriate Minister, consider a proposal that a scheme be prepared in relation to any local authority of any of the classes specified in Part II of the First Schedule to this Act or of any local authority specified in Part III of that Schedule, providing for any of the matters specified in section 25 of this Act: 5

Provided that no scheme prepared pursuant to a proposal under this subsection shall provide for any reorganisation of the district of any territorial authority. 10

(3) For the purposes of subsection (2) of this section, the term 'appropriate Minister'—

- (a) Means the Minister charged with the administration of the Act by or pursuant to which the local authority is constituted: 15

(b) Where there is no such Minister,—

(i) In relation to any Electric Power Board (including the Auckland Electric Power Board), or to any Area Electricity Authority, or to the Crown in any case where the Crown is the electrical supply authority within the meaning of the Electricity Act 1968 for any area included in the district of a territorial authority, means the Minister of Energy: 20

(ii) In relation to the Christchurch Drainage Board, the Dunedin Drainage and Sewerage Board, the Hutt Valley Drainage Board, and the North Shore Drainage Board, means the Minister of Local Government: 25

(iii) In relation to the Waikato Valley Authority and the Wellington Regional Water Board, means the Minister of Works and Development: 30

(iv) In relation to any Harbour Board and to the Christchurch Transport Board, means the Minister of Transport.

(4) Either before or immediately after a request is made to the Commission under subsection (1) or subsection (2) of this section, the Minister or local authority making the request shall serve a copy of the proposal on every local authority to which the proposal relates. 35

(5) Where a request or recommendation is made under any enactment other than this Part of this Act to the Governor-General or to any local authority or other person, whether by petition or in such other manner as may be prescribed or 40

permissible, asking for or recommending any action to be taken for the purpose of or with a view to giving effect to any proposal which could be provided for in a reorganisation scheme under this Part of this Act, the request or recom-
 5 mendation shall be referred to the Commission, and no such action shall be taken under the enactment unless the Commission so recommends.

(6) Where the Commission does not make any such recommendation in respect of any such proposal, the Commission
 10 shall deal with the request or recommendation as if it were a request made under subsection (1) or subsection (2) of this section.

Cf. 1974, No. 66, s. 17; 1976, No. 55, s. 5

“27. Commission to endeavour to negotiate agreements—
 15 (1) Where the Commission is to consider any proposal under section 26 of this Act, it shall, in accordance with this section, ascertain whether or not all the local authorities likely in the opinion of the Commission to be affected are in agreement on the proposal.

20 *Struck Out*

(2) The Commission shall, as a first step, appoint a person (whether a member of the Commission or not) to be a conciliator to make such inquiries, conduct such negotiations, and obtain such information (hereinafter referred to as conciliation proceedings) as he thinks necessary or desirable, or
 25 as the Commission directs, for the purpose of inducing the local authorities concerned to come to a fair and reasonable agreement in respect of the proposal.

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30 (2) The Commission shall, as a first step, appoint not more than 2 persons (whether members of the Commission or not) to be a conciliator or conciliators to make such inquiries, conduct such negotiations, and obtain such information (hereinafter referred to as conciliation proceedings)
 35 as he or they think necessary or desirable, or as the Commission directs, for the purpose of inducing the local authorities concerned to come to a fair and reasonable agreement in respect of the proposal.

(3) Before commencing conciliation proceedings the conciliator or conciliators, after consultation with the Commission and the local authorities concerned, shall prepare a statement setting out these matters in respect of which conciliation is proposed and shall forward copies of the statement to the Commission and the local authorities.

(4) After the conciliator or conciliators **(has)** have concluded conciliation proceedings under this section, **(he shall)** he or they shall report to the Commission, in such form and within such time after commencing conciliation proceedings as the Commission directs, the result of those proceedings. 5

(5) Where, after considering the report of the conciliator or conciliators, the Commission considers that further negotiations should take place between the conciliator or conciliators and the local authorities, it shall direct the conciliator or conciliators accordingly, and the conciliator or conciliators shall take such steps as may be necessary to give effect to the directions of the Commission. 10

(6) After considering the final report of the conciliator or conciliators, the Commission, if it considers that the proposal warrants further consideration, may in its direction, convene a meeting of representatives of all the local authorities likely in the opinion of the Commission to be affected by the proposal, for the purpose of discussing the proposal. 15

(7) The Commission may undertake, in such manner as it thinks fit, any other investigations and negotiations in relation to the proposal, separately or jointly with local authorities or other interested persons. 20

(8) After the Commission has completed its investigations and negotiations under this section, it shall—

(a) Decide to prepare a provisional reorganisation scheme giving effect to all or any matters to which the proposal relates; or 25

(b) Decide not to proceed with the proposal.

(9) Where the Commission decides under subsection (8) (a) of this section to prepare a provisional scheme,— 30

(a) It shall prepare a statement of the matters proposed to be dealt with in the provisional reorganisation scheme, and shall, either by itself or through any 1 or more local authorities affected, give or cause to be given public notice and notice to each local authority affected of the place or places where the statement may be inspected; and 35

(b) It shall not issue the scheme before the expiration of 1 month after the date of public notification of the notice or, in the case of more than 1 such notification, the date of the last notification. 40

Cf. 1974, No. 66, s. 18

“28. Electors of territorial authority may request survey to ascertain extent of public opposition to proposal—(1) Subject to this section, where the Commission gives notice under section 27 (9) (a) of this Act that it is considering preparing a provisional reorganisation scheme to provide— 45

- (a) For the union of the district of any territorial authority with any 1 or more other such districts, or for the abolition of the district of any territorial authority; or
- 5 (b) For the exclusion of any separately described area of land from the district of any territorial authority, whether by the constitution of a new district or by the alteration of the boundaries of any district or districts,—
- 10 a request, in writing, signed by not less than 15 percent of the electors of the district proposed to be united with any other district or districts, or of the district proposed to be abolished, or that separately described area, as the case may be, that a survey of the electors of that district or that separately
- 15 described area be taken in order to ascertain the extent of public opposition to the Commission's proposal may be delivered or sent to the principal officer of the territorial authority at the office of the territorial authority at any time within 1 month after the date of the giving of the
- 20 notice:
- Provided that where the final day of the 1 month within which a survey may be requested falls within the period commencing on the 24th day of December in any year and ending with the 31st day of January in the next year, the date by
- 25 which a survey may be requested shall be not later than the 10th day of February in that next year.
- (2) Every signatory to the request shall against his signature state his full name and the address in respect of which he possesses his qualification as an elector.
- 30 (3) Notwithstanding anything in subsection (1) of this section, the taking of a survey may not be requested on any proposal to alter the boundaries of any territorial authority district or districts where the alteration has been agreed to by all the territorial authorities whose district boundaries are
- 35 affected thereby.
- (4) Where the Commission proposes to prepare a provisional scheme for the alteration of the boundaries of the district or districts of 1 or more territorial authorities, the Commission shall state in the notice under section 27 (9) (a)
- 40 of this Act whether or not the alteration has been agreed to by all the territorial authorities affected thereby, and such a statement shall, unless the contrary is proved, be sufficient evidence thereof for the purposes of this Part of this Act.
- (5) If the principal officer is satisfied that the request
- 45 for a survey to be taken is valid, he shall, not later than 2 months after the date of public notification under section 27

(9) (a) of this Act, or not later than the 10th day of March in any case where the period for requesting a survey be taken has been extended by the proviso to subsection (1) of this section, deliver the request for a survey to the Returning Officer for the district of the territorial authority. 5

(6) The principal officer of the territorial authority, if he is satisfied that the requirements of subsection (1) of this section have not been met, shall as soon as practicable give public notice accordingly.

(7) For the purpose of determining the minimum number of electors who are required to sign a request under subsection (1) of this section,—

(a) The number of electors of any district or of any riding, ward, or other electoral subdivision shall be the number of electors who were on the roll of electors of that district, riding, ward, or subdivision for the immediately preceding general election of members of the territorial authority: 15

(b) The number of electors of any part of a district that is not a riding, ward, or other electoral subdivision of the district shall be the number of electors who were on the roll of the district for the immediately preceding general election of members of the territorial authority, and who possess a qualification in respect of that part,— 20 25

as stated in each case in a certificate by the principal officer of the territorial authority, whose certificate shall be final.

Cf. 1974, No. 66, s. 24; 1976, No. 55, s. 7

“29. **Taking of survey**—(1) Subject to this section and to regulations made under this Act, the Local Elections and Polls Act 1976, as far as it is applicable and with the necessary modifications, shall apply to every survey taken pursuant to a request under section 28 of this Act as if the survey were a poll of electors. 30

(2) Notwithstanding anything to the contrary in this Act or any other enactment, it shall be the duty of the Returning Officer to advise the electors, in such manner as he sees fit, that the purpose of the survey is only to ascertain the extent of public opposition to the proposal. 35

(3) The day on which the survey is to be taken shall be fixed by the Returning Officer of the territorial authority, being not later than 49 days after the date of receipt by him of the request for the survey: 40

Provided that where the request for a survey is received by the Returning Officer on any day after the 8th day of November and before the 27th day of December in any year, the day to be fixed shall be a day not later than 49 days after that 27th day of December. 45

(4) Where any such survey is required to be taken of the electors of any part of the district of a territorial authority which is not a riding, ward, or other subdivision for electoral purposes, the principal officer of that territorial authority shall cause to be prepared a special roll comprising the names of all persons in that part who are entitled to vote at any election of the members of the territorial authority; and that roll shall be prepared in accordance with the appropriate provisions of this Act.

10 (5) Notwithstanding anything in section 66 of the Local Elections and Polls Act 1976, but subject to any regulations made under this Act, any survey under this section shall be taken in accordance with Part III of the first-mentioned Act as if it were a poll to be taken by postal vote.

15 (6) The validity of any election or poll taken by postal vote shall not be questioned on the ground that the Returning Officer conducts in conjunction with the election or poll any survey taken pursuant to this section.

Cf. 1974, No. 66, s. 25; 1976, No. 55, s. 7

20 “30. **Action to be taken after survey taken**—(1) The Returning Officer who conducts a survey under section 29 of this Act shall, as soon as practicable after the taking of the survey, send to the Secretary a certificate stating the number of electors on the roll used for the purposes of the survey, and
25 the number of electors who at that survey have validly recorded their opposition to the proposal.

(2) Where at a survey conducted under section 29 of this Act the number of electors who have validly recorded their opposition to the proposal is more than 50 percent of the
30 number of electors on the roll used for the purposes of the survey, the Commission shall not proceed with that proposal.

Cf. 1974, No. 66, s. 26; 1976, No. 55, s. 7

35 “31. **Review of proposal after survey**—Where a proposal is rejected at a survey taken under section 29 of this Act and the Commission considers that as a result any part or parts of the proposal not affecting the district or part of the district in which the survey was taken may proceed, with or without modification, the Commission shall prepare and issue a provisional reorganisation scheme relating to that part or
40 those parts of the proposal accordingly.

Cf. 1974, No. 66, s. 28

“32. **Public notice of provisional reorganisation scheme**—
(1) As soon as practicable after a provisional reorganisation scheme has been prepared by the Commission, the Commission shall give public notice of the scheme and of the place
45

or places where it may be inspected and of the right of objection hereinafter provided for, and shall also give notice thereof to the Minister, to every local authority likely in the opinion of the Commission to be affected by the scheme, and to such other bodies and persons as the Commission thinks fit. 5

(2) In the preparation of a provisional reorganisation scheme providing for any of the matters specified in paragraphs (a) to (c) of section 25 of this Act, the Commission shall prepare and publish, either separately or as an appendix to the provisional scheme, an explanatory statement specifying 10 considerations taken into account by the Commission in preparing the scheme, reasons for any provisions in the scheme, and any other matters that the Commission considers relevant. Such statement shall be deemed not to form part of the scheme. 15

(3) In the preparation of any other provisional reorganisation scheme, the Commission may, if it thinks fit, publish an explanatory statement setting out such details as it considers desirable.

Cf. 1974, No. 66, ss. 18 (3), 19; 1976, No. 55, s. 6 20

“33. Objections to provisional reorganisation scheme—Section 21 of this Act (relating to objections to a provisional regional scheme) shall, with the necessary modifications, apply with respect to every provisional reorganisation scheme, as if every reference in that section to a provisional regional scheme 25 were a reference to a provisional reorganisation scheme.

Cf. 1974, No. 66, s. 20

“34. Final reorganisation scheme—(1) Sections 22 and 23 of this Act (relating to a final regional scheme) shall, with the necessary modifications, apply with respect to every final 30 reorganisation scheme, as if references in those sections to a final regional scheme were references to a final reorganisation scheme.

(2) Subsections (2) and (3) of section 32 of this Act shall apply with respect to every final reorganisation scheme, as 35 if references in those subsections to a provisional reorganisation scheme were references to a final reorganisation scheme.

Cf. 1974, No. 66, ss. 21, 22

“Matters Common to Regional and Reorganisation Schemes

- “35. Supplementary provisions for giving effect to schemes—**(1) In preparing any scheme, the Commission shall include in the scheme such provisions as it thinks necessary
- 5 for the purposes of the district thereby created or altered, or for the discharge of the functions of the local authority of the district, or for any other matter rendered necessary through the carrying into effect of the provisions. In particular, it shall include in the scheme such of the provisions of the Second
- 10 Schedule to this Act as are applicable, and may include in the scheme provisions—
- (a) Determining the nature or constitution of any new district or any new local authority:
- 15 (b) Declaring that the union, constitution, abolition, or alteration of boundaries of any district or districts or the constitution, dissolution, or abolition of any local authority shall be deemed to have been effected under any existing Act that is specified in that behalf:
- 20 (c) Subject to this Act, determining the qualifications for electors of a new district or local authority if different qualifications were previously in force in the respective districts comprising the new district:
- 25 (d) Making such provisions as are necessary with respect to the first or any election or appointment of members of any local authority affected by the scheme:
- (e) Subject to this Act, making such provisions as are necessary for the effective transition and future carrying out of functions which are transferred from
- 30 one local authority to another local authority:
- (f) Making provision with respect to the administration of any existing proposed or operative district scheme under the Town and Country Planning Act 1977 or for the preparation of a new district scheme, in accordance with section 59 (2) of that Act:
- 35 (g) Where a regional council or a united council is constituted or any function is assumed by or transferred to such a council, making such provision as the Commission considers necessary in respect of—
- 40 (i) The committee structure of that council:
- (ii) The membership of any committee of that council:

- (h) Subject to this Act, making provision for the apportionment or disposition of the assets and liabilities of all or any of the local authorities affected by the scheme, including the date on which any such apportionment or disposition shall take place or be deemed to have taken place: 5
- (i) Making provision for the division of any district into ridings, wards, or other electoral subdivisions, as the case may require:
- (j) Where a new district is constituted, making such provisions as are necessary with respect to the discharge of the functions of the local authority pending the first election of councillors or members of the local authority, providing for the convening of the first meeting of the local authority, and, where necessary, designating the administering authority and the principal authority: 10 15
- (k) Subject to paragraphs (b) and (c) of section 9 (1) of the Rating Act 1967, where—
- (i) A new district is constituted; or 20
- (ii) The boundaries of an existing district (hereinafter referred to as the enlarged district) are altered by the inclusion in that district of the whole or part of another district; or
- (iii) Any area is deemed to be an out-district of a region— 25
- determining the system of rating to be in force in the new district, enlarged district, or out-district, as the case may be:
- Provided that the Commission may provide in the scheme that for such period, not exceeding 5 years, as is specified in the scheme different rating systems shall be applied to all rates, or to such kinds of rates as are specified in the scheme, made and levied in those parts of the new district or enlarged district or out-district that were or formed part of separate districts at the time of the notification of the provisional scheme relating to that new district, enlarged district, or out-district: 30 35
- Provided also that the period so specified may, on application to the Commission by the local authority concerned, be extended for such further period or be reduced as the Commission determines, and any such extended or reduced period may in like manner be further extended or reduced from time to time: 40 45

- 5 (1) Where a region under the jurisdiction of a united council is constituted or the boundaries of any such region are altered, determining the method of assessing and charging the contributions payable to the united council in respect of the region or any out-district:
- (m) Where a district is abolished and the whole or any part thereof is included in the district of any other local authority, making such provision as it considers necessary for the representation of that first-mentioned district or part thereof on that local authority until the next general election of councillors or members of that local authority:
- 10 (n) Providing for any other matters that the Commission considers appropriate or incidental to the scheme.
- (2) In exercising the powers conferred by subsection (1) of this section, the Commission may provide for the application, with such modifications as may be necessary or desirable, of any provisions of any Act for the time being in force which in its opinion are appropriate to the particular matter.
- 20 (3) In exercising the powers conferred by subsection (1) of this section, the Commission may include in the scheme provisions—
- (a) For the constitution of a new district, notwithstanding anything in any other Act restricting the area or limits of a district of that kind:
- 25 (b) Determining that for a limited time specified in the scheme there shall be such number of ridings, wards, or other subdivisions of any district and such number of members of the local authority of the district as are specified in the scheme, notwithstanding anything in any other Act.
- 30 (4) Subject to section 37H of this Act, where under this section provision is made in a scheme for any function to be transferred to or assumed by a united council or regional council, no provision shall be made for the payment of compensation to the local authority from which that function is transferred or assumed.
- 35 (5) In this section the expression 'new district' includes a district formed by the union of 2 or more adjoining districts, whether districts of the same kind or not; and also includes a district converted into a district of a different kind.
- 40

Cf. 1974, No. 66, s. 16 (2)

“36. **Effect to be given to final scheme**—Subject to this Act, effect shall be given to every proposal in a final scheme either—

- (a) By Order in Council; or
- (b) If the Minister so decides, in such other manner as may be prescribed by any other Act for the time being in force making appropriate provision in that behalf.

Cf. 1974, No. 66, s. 29 (1)

“37. **Provisions to be included in Order in Council**—

(1) The Order in Council or any other instrument made under section 36 of this Act, or a separate or subsequent Order in Council or instrument, may—

- (a) Vest in any local authority affected by the Order in Council or other instrument any real or personal property vested in any other such local authority;
- (b) Make such provisions as are necessary for the purpose of giving full effect to any of the provisions of the final scheme or are rendered necessary through the carrying of the scheme into effect, including any matters specified in section 35 (1) of this Act that are not provided for in the scheme;
- (c) Prescribe the date or dates on which the provisions or any of the provisions of the final scheme shall come into force.

(2) No Order in Council or other instrument issued for the purpose of giving effect to any final scheme shall affect any separate rate or special rate, and every such rate shall continue to be charged upon the whole of the area of land upon which it was charged before the making of the order or the issue of the instrument, and shall not by reason thereof become a charge upon any additional area; and the area within which and the purposes for which any unexpended loan money may be expended shall not be affected by any such order or instrument.

(3) No such Order in Council or other instrument shall be invalid on the ground that it is inconsistent with the provisions of the final scheme, if the inconsistency relates solely to matters of a verbal or formal nature or the correction of clerical or typographical errors.

Cf. 1974, No. 66, s. 30

“37A. **Appeal against determination of Commission**—

(1) Where any party to the proceedings or the Minister is dissatisfied with any determination or decision of the Com-

mission in any proceedings before the Commission as being erroneous in point of law, he may appeal to the Supreme Court by way of case stated for the opinion of that Court on a question of law only.

5 (2) Every such appeal shall be heard and determined by the Administrative Division of the Supreme Court.

(3) The provisions of Part IV of the Summary Proceedings Act 1957, as far as they relate to appeals by way of case stated on questions of law only, shall apply, as far as they
10 are applicable, to every appeal under subsection (1) of this section. In the application of those provisions, they shall be read as if—

(a) References to the Magistrate's Court or to the Magistrate or Justice or Justices were references to the
15 Commission:

(b) References to the Registrar of the Magistrate's Court were references to the Chief Executive Officer of the Commission:

(c) References to the respondent or his solicitor were references to each of the parties to the proceedings before
20 the Commission other than the appellant.

(4) For the purposes of subsections (1) and (2) of this section, every local authority affected by the determination or decision and every objector who has appeared before the
25 Commission in the proceedings shall be deemed to be a party to the proceedings.

(5) Proceedings before the Commission shall not be held bad for want of form, and, except as provided in subsection (1) of this section, no appeal shall lie from any determination
30 or decision of the Commission:

Provided that nothing in this subsection shall be construed—

(a) To prohibit or restrict the Supreme Court from exercising a supervisory jurisdiction over the Commission on questions of law; or

35 (b) To restrict the power of the Commission to refer any disputed question of law to the Supreme Court for decision pursuant to section 10 of the Commissions of Inquiry Act 1908.

Cf. 1974, No. 66, s. 23

40 "37B. Exercise of powers conferred by this Part not affected by provisions of other Acts—(1) An Order in Council or other instrument giving effect to any proposal contained in a final scheme may be issued under the authority of this

Part of this Act, or of any enactment applied for the purpose, notwithstanding that the requirements of any enactment, other than this Part, as to the particular matter in relation to which the instrument is issued may not have been complied with. 5

(2) Any such order or instrument shall, for all purposes not inconsistent with this Part of this Act, be deemed to have been issued under the authority of such other enactment as is named therein, as fully and effectually as if the provisions of that enactment precedent to the making of the order or the issue of the instrument had been fully complied with. 10

(3) Every Order in Council or instrument under this Part of this Act shall have effect according to its tenor notwithstanding anything in any other enactment.

Cf. 1974, No. 66, s. 31 15

“37c. Powers of local authority on which jurisdiction conferred for purposes of scheme—(1) In any case where pursuant to a final scheme—

- (a) Two or more districts of a different kind are united; or
- (b) A district is abolished or any part thereof is included in another district or districts; or 20

(c) The functions of any local authority, whether wholly or in part, are transferred to another local authority,—the local authority that, pursuant to the scheme, assumes jurisdiction over an area formerly comprising or forming part of a separate district, or takes over the functions of a previous local authority, shall have and may exercise, subject to any provisions which the Governor-General may, by Order in Council, make to the contrary, all the powers which were previously exercised by the controlling local authority or would have been so exercised by it if it had remained in existence or in control of that area, and shall be subject to the same duties, obligations, and liabilities as were or would similarly have been imposed on or incurred by that controlling local authority. 25 30 35

(2) In any case where, pursuant to a final scheme,—

(a) Either—

(i) Two or more districts, whether of the same kind or not, are united; or

(ii) A district is included in another district or is abolished; or 40

- (iii) Any part of any district which is or includes a defined part of that district for the purposes of section 27 of the Local Authorities Loans Act 1956 is excluded from the district and is constituted a new district or included in any other district; and
- 5 (b) Before the union or, as the case may be, the inclusion or abolition or exclusion, the local authority of an area formerly comprising a separate district or, as the case may be, of the district from which the part
- 10 thereof was excluded was authorised to raise a special loan under the Local Authorities Loans Act 1956, being, in any case to which paragraph (a) (iii) of this subsection applies, a loan for the benefit
- 15 of that defined part, but had not raised the loan or had raised part only of the loan, and the authority to raise the loan had not lapsed pursuant to section 40 of the said Act,—

the local authority that, pursuant to the scheme, assumes jurisdiction over an area formerly comprising a separate

20 district, or, as the case may be, formerly constituted a defined part of the district from which it was excluded, shall have and may exercise, subject to any provisions which the Governor-General may, by Order in Council, make to the contrary, all the powers to raise the loan, including the power to raise a

25 supplementary loan under section 44 of the said Act, or such part of the loan or any supplementary loan as has not already been raised, that could have been exercised by the local authority that was authorised to raise the loan if it had remained in existence or in control of the part excluded from its district,

30 and shall be subject to the same duties, obligations, and liabilities as were or would have been imposed on that last-mentioned authority.

(3) Where pursuant to an apportionment under section 37F of this Act on the severance or addition of any area from or

35 to the district of a territorial authority, any liability is imposed on the Corporation of the district, it shall be lawful for the territorial authority to raise a special loan under the Local Authorities Loans Act 1956 by special order and, notwithstanding anything in section 34 of that Act, without

40 the consent of the ratepayers, for the purpose of meeting the liability so imposed.

(4) Where on the addition of any area to the district of any territorial authority any liability is imposed on the Corporation of the district, any special rate made and levied as security for any loan raised under subsection (2) of this section may be made and levied over the whole district or, if the special order to raise the loan so provides, over the area so added. 5

Cf. 1974, No. 66, s. 32

“37D. Effect of inclusion of district or part thereof in another district—(1) Where part of a district is excluded therefrom and included in another district,— 10

- (a) The remaining part of the first-mentioned district shall continue to be the same district; and
- (b) The Corporation of the first-mentioned district shall continue to be the same Corporation; and 15
- (c) Subject to sections 97 to 100 of this Act, the members of the local authority of the first-mentioned district shall continue to be members thereof as if that part had not been excluded from the district.

(2) Where any district of a territorial authority is abolished and included in any other district or districts, or any part of a district is excluded therefrom and included in any other district or districts, every community in the abolished district or, as the case may be, in that part shall become a community of the district in which the abolished district or that part is included. 20 25

“37E. Apportionment of assets and liabilities—(1) Subject to this Part of this Act, this section shall apply where, pursuant to an Order in Council or other instrument giving effect to a proposal in a final reorganisation scheme under this Part of this Act,— 30

- (a) A new district of a territorial authority is constituted comprising or including part only of another such district then existing; or
 - (b) The boundaries of the district of a territorial authority are altered by the inclusion therein of an area of land forming part of another such district,— 35
- and the provisions of this section shall have effect, notwithstanding anything in the Municipal Corporations Act 1954 or in the Counties Act 1956 or in any other provision of this Act. 40

(2) Where any such Order in Council or other instrument does not make provision for the apportionment of the assets and liabilities of the territorial authorities affected by the order or other instrument, those territorial authorities may
5 by agreement determine the manner in which those assets and liabilities shall be apportioned.

(3) If no such agreement is entered into by the territorial authorities concerned within 3 months after the date of the coming into force of the order or other instrument, any
10 territorial authority directly affected by the constitution of the new district or alteration of boundaries may apply to the Commission for an order apportioning assets and liabilities, and the Commission, having regard to such matters as the Governor-General, by Order in Council, specifies, shall
15 make an order directing the manner in which assets and liabilities are to be apportioned as between the territorial authorities concerned.

(4) For the purpose of deciding any application to the Commission under this section, the Commission shall consult
20 with the Audit Office and with the territorial authorities directly affected, and may make such inquiries as it thinks fit, and may obtain advice from any other person who, in the opinion of the Commission, has expert knowledge concerning any aspect of the matter to be decided.

(5) Every order of the Commission under this section may
25 be enforced as if it were an agreement between the territorial authorities concerned.

(6) This section shall apply to the apportionment of assets and liabilities between regional or united councils as if every
30 reference herein to a district were a reference to a region and every reference herein to a territorial authority were a reference to a regional council or united council, as the case may be.

Cf. 1974, No. 66, s. 33

35 "37F. **Apportionment of loan liabilities**—(1) Where—

(a) Pursuant to an Order in Council or other instrument giving effect to a proposal in a final reorganisation scheme,—

40 (i) Two or more local authorities are united; or
(ii) The district of a local authority is included in the district of another local authority; or

(iii) A local authority is abolished and its functions are transferred to another local authority; and

(b) The Order in Council or other instrument does not make provision in respect of any loan liabilities of the local authorities affected,—
 the said loan liabilities shall, notwithstanding anything to the contrary in the Local Authorities Loans Act 1956 or any other enactment, become the loan liabilities of the local authority whose district is formed by the union of the 2 or more districts, or, as the case may be, the local authority in which the district of the other local authority was included, or the local authority to which the functions of the abolished local authority were transferred.

(2) Where—

(a) Pursuant to an Order in Council or other instrument giving effect to a proposal in a final reorganisation scheme,—

(i) A new local authority is constituted comprising or including part only of the district of another local authority then existing; or

(ii) The boundaries of the district of a local authority are altered by the inclusion therein of an area of land forming part of another such district; or

(iii) A local authority is abolished and its district is included in the districts of more than one existing local authority or newly constituted local authorities; or

(iv) Part of the functions of a local authority are transferred to another local authority; and

(b) The Order in Council or other instrument does not make provision in respect of any loan liabilities of the local authorities affected,—

then, notwithstanding anything to the contrary in the Local Authorities Loans Act 1956 or in any other enactment, those loan liabilities shall be apportioned among those local authorities in the manner determined by agreement among the local authorities affected.

(3) If no agreement under subsection (2) of this section is entered into by the local authorities affected before or within 14 days after the coming into force of the Order in Council or other instrument or, in any case where any one or more of those local authorities are new local authorities, within 14 days after the first meeting of each such new local authority or local authorities, assessors shall be appointed as follows to determine how the loan liabilities to which that subsection applies shall be apportioned, namely:

- 5 (a) Two independent persons shall be appointed as assessors, 1 by the local authority from which the loan liabilities are to be transferred and 1 by the local authority or local authorities to, or among which, the loan liabilities are to be apportioned:
- 10 (b) The assessors shall, within 7 days after their appointment as such, and before commencing to consider the apportionment of the loan liabilities, appoint a third person to act as arbitrator as between the assessors.
- 15 (4) After making such enquiries as they think fit, the assessors shall, within 2 months after their appointment, determine how the loan liabilities are to be apportioned. 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.
- 20 (5) The determination of the assessors shall be final and shall have the same force as if it were an agreement between the local authorities affected.
- (6) 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 purpose of this section.
- 25 (7) Notwithstanding anything to the contrary in the Local Authorities Loans Act 1956 or in any other enactment, a certificate under the common seal of each of the local authorities affected shall be accepted for all purposes as sufficient evidence and verification that the local authority named in
- 30 the certificate has acquired from the other local authority the duties, obligations, and liabilities (including liabilities under stocks or debentures) and powers in respect of the loan liabilities therein specified, and a copy under the seal of each local authority affected shall be lodged with the Registrar of
- 35 Stock under the Local Authorities Loans Act 1956.
- 40 (8) Notwithstanding anything to the contrary in this Act, where pursuant to an Order in Council or other instrument a local authority is abolished, that local authority shall continue in existence, for the purposes of this section, until a certificate under subsection (7) of this section has been lodged with the Registrar of Stock.

(9) All principal and interest payable in respect of any stock or debenture issued in respect of any loan or part thereof to which this section applies shall constitute a debt due by the local authority which has assumed responsibility therefor to the registered holder of the stock or holder of the debenture, and the repayment of that principal and interest shall be pledged on the revenues of that local authority. 5

(10) Subject to section 180 of this Act, where a local authority has made a special rate for the purpose of securing any such loan and the interest thereon, that rate shall be deemed to have been made by the local authority assuming responsibility for the loan, and may be levied each year by the last-mentioned local authority until that loan and any charges associated therewith are paid off. 10

(11) The Registrar of Stock shall, on written application under the seal of the local authority assuming responsibility for the loan liability, substitute the name of that local authority in the stock register for the name of the local authority by which the loan was originally raised. 15

(12) The Registrar of Stock shall continue to act as Registrar of the loan or part thereof in terms of the agreement originally made with the local authority which originally raised the loan, as if that agreement had been entered into between the Registrar and the local authority which assumed responsibility for the loan liability. 20 25

(13) Where a local authority has established a sinking fund for the purpose of providing money for the repayment of any loan the liability for which is transferred to any local authority pursuant to this section, the Commissioners of that fund shall transfer to the Commissioners of the local authority which assumed responsibility for that loan all money and other real and personal property held by them for that purpose. 30

(14) The Sinking Fund Commissioners of the local authority by whom the sinking fund is transferred under subsection (13) of this section shall go out of office on the coming into force of the Order in Council or other instrument to which subsection (1) or, as the case may be, subsection (2) of this section applies, but shall continue in office after that date for the purposes of completing any transfer under the said subsection (13). 35 40

(15) Where before the commencement of this Act the loan liabilities or part of the loan liabilities of a local authority have been transferred to another local authority or apportioned among several other local authorities pursuant to an Order in Council or other instrument or by agreement or other arrangement between the local authorities concerned made or entered into for the purpose of giving effect to a final scheme, and the transfer or apportionment would have been valid if this section had been in force when the transfer or apportionment was made, that transfer or apportionment is hereby declared to be and always to have been validly made.

(16) Where, pursuant to subsection (3) of this section, assessors and an arbitrator are appointed, the local authorities affected shall, in proportion to the apportionment of the loan liabilities determined under this section, pay to each assessor and the arbitrator remuneration and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951 as if the assessors and the arbitrator were members of a statutory Board within the meaning of that Act.

Cf. 1974, No. 66, s. 33A; 1975, No. 86, s. 2 (1)

“37c. Apportionment of petroleum tax revenue—(1) This section shall apply where, pursuant to an Order in Council or other instrument giving effect to a proposal in a final reorganisation scheme under this Part of this Act,—

- (a) A new district of a territorial authority is constituted comprising or including part only of another such district then existing; or
- (b) The boundaries of the district of a territorial authority are altered by the inclusion therein of an area of land forming part of another such district,—

and any proceeds of a petroleum tax levied under Part XI of this Act are distributed among the territorial authorities affected by the proposal in accordance with the said Part XI.

(2) Notwithstanding the requirement of the said Part XI that those proceeds shall be distributed according to the proportion which the total rate revenue of each such territorial authority for the immediately preceding financial year bears to the total rate revenue of all the component authorities within the meaning of the said Part XI for the preceding financial year, the territorial authorities whose districts have

respectively been increased and decreased in area and the territorial authority for the newly constituted district, as the case may require, may by agreement determine the basis on which those proceeds shall be distributed among them until the expiration of the year commencing on the 1st day of April on or after the day on which the Order in Council or other instrument comes into force. 5

(3) Subsections (3), (4), and (5) of section 37E of this Act shall apply as if an order of the Commission under that section were an order determining an issue under subsection (2) of this section. 10

(4) Nothing in this section shall have effect so as to alter the provisions of Part XI of this Act in respect of the proportion of the proceeds of any tax distributed under that Part to any constituent authorities whose districts are not altered by the Order in Council or other instrument. 15

Cf. 1974, No. 66, s. 34

“37H. Payment on transfer of trading undertaking—

(1) Where an Order in Council or other instrument giving effect to a final scheme contains provisions for the transfer of a trading undertaking or part thereof from any territorial authority to any— 20

(a) United council; or

(b) Regional council,—

then, if that territorial authority continues in existence, the territorial authority may, by notice in writing to the council, or the council may by notice in writing to the territorial authority, require that assessors (in this section and in the Third Schedule to this Act referred to as the assessors) be appointed to determine whether or not any payment in respect of the transfer of that trading undertaking or part thereof shall be made under this section by the council to the territorial authority or by the territorial authority to the council and, if so, the amount of that payment that is to be made, and the provisions of the Third Schedule to this Act shall apply accordingly. 35

(2) Nothing in this section or in the Third Schedule to this Act shall be construed as limiting in any way or permitting or requiring a postponement of the transfer of a trading undertaking or part thereof from a territorial authority to a council pursuant to an Order in Council or other instrument giving effect to a final scheme. 40

(3) In this section and in the Third Schedule to this Act—
‘Council’ means a regional council or a united council,
as the case may be:

5 ‘Trading undertaking’ means a trading undertaking as
defined in section 201 of this Act.

Cf. 1974, No. 66, ss. 186–189

“Annual Report

10 “37I. **Annual report**—(1) The Commission shall furnish to
the Minister a report of its proceedings and operations
during each year ending with the 31st day of March as soon
as practicable after the end of that year.

(2) A copy of the report shall be laid before Parliament as
soon as practicable after its receipt by the Minister.”

Cf. 1974, No. 66, s. 36

15

PART II

MISCELLANEOUS PROVISIONS

3. Investigations and inquiries under former provisions—

20 (1) Every investigation or inquiry commenced before the
commencement of this Act by the Commission constituted
under Part I of the principal Act as in force before the
commencement of this Act (in this section referred to as the
former Commission) shall be continued and completed by
the Commission constituted under Part I of the principal
Act, as substituted by section 2 of this Act (in this section
25 referred to as the new Commission), where a provisional
scheme has been prepared and publicly notified by the former
Commission, whether or not any subsequent steps have been
taken in the investigation or inquiry:

30 Provided that nothing in this subsection shall prevent the
new Commission from abandoning any such provisional
scheme or abandoning any such provisional scheme and
preparing another provisional scheme in its stead:

35 Provided also that sections 24 to 26 of the principal Act
(as in force before the commencement of this Act) shall
continue to apply, as if they had not been repealed, with
respect to every final scheme issued by the new Commis-
sion pursuant to this subsection, in any case where, under
the said section 24, a poll of electors to ascertain the extent
40 of public opposition to the proposal could have been
requested if that section had continued in force.

(2) Notwithstanding anything in subsection (1) of this section, the Minister may at any time after the passing of this Act request the former Commission to abandon any provisional scheme for the constitution of a region prepared and publicly notified on or after the 25th day of November 1976 (being the date of the commencement of the Local Government Amendment Act 1976) and before the commencement of this Act, and the Commission shall abandon the scheme accordingly. 5

(3) Notwithstanding anything in subsection (1) of this section, the Minister may request the new Commission to abandon any provisional scheme for the constitution of a region referred to in that subsection, and the Commission shall abandon the scheme accordingly. 10

(4) Except as provided in subsections (1), (2), and (3) of this section, any proposal or petition properly referred to the former Commission in respect of which a provisional scheme has not been notified by that Commission shall, unless the former Commission has resolved not to proceed with the inquiry, be dealt with by the new Commission under Part I of the principal Act (as substituted by section 2 of this Act). 15 20

(5) Section 24 of the principal Act (as enacted by section 2 of this Act) shall have effect with respect to any final scheme for the constitution of a region prepared by the former Commission, whether before or after the passing of this Act, but not given effect to before the commencement of this Act, as if the said section 24 had come into force on the date of the passing of this Act. 25

4. Amendments—(1) The principal Act is hereby further amended by inserting, after the First Schedule, the Second and Third Schedules set out in the First Schedule to this Act. 30

(2) The principal Act is hereby further amended in the manner indicated in the Second Schedule to this Act. 35

5. Repeals—(1) The following enactments are hereby repealed:

(a) Section 2 of the Local Government Amendment Act 1975:

- (b) Section 3 (2) and sections 4 to 8 of the Local Government Amendment Act 1976:
 - (c) Section 2 of the Local Government Amendment Act 1977.
- 5 (2) The members of the Local Government Commission appointed under section 3 of the principal Act (as in force before the commencement of this Act) holding office on the 31st day of March 1978 shall go out of office on the 1st day of April 1978.
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SCHEDULES

Section 4 (1)

FIRST SCHEDULE

NEW SECOND AND THIRD SCHEDULES TO PRINCIPAL ACT

Section 35 (1)

"SECOND SCHEDULE

MATTERS WHICH (WHERE APPLICABLE) LOCAL GOVERNMENT COMMISSION SHALL PROVIDE FOR IN REORGANISATION SCHEME IN ADDITION TO MATTERS SPECIFIED IN SECTION 35 (1)

IN addition to the matters specified in section 35 (1) of this Act, the Commission shall include in any reorganisation scheme provision for such of the following matters as are applicable, with any necessary modifications:

1. The local authority which, pursuant to the scheme, assumes jurisdiction over an area formerly comprising or forming part of a separate district or takes over the functions of a local authority shall have, and may exercise and be responsible for—

- (a) All the powers, duties, acts of authority, and functions which were previously exercised by the controlling local authority or would have been so exercised by it if it had remained in existence or in control of that area:
- (b) All the liabilities, obligations, engagements, and contracts which were previously the responsibility of the controlling local authority, or for which it would have been responsible if it had remained in existence or in control of that area:
- (c) All actions, suits, and proceedings pending by or against the controlling local authority, or that would have been the responsibility of that local authority if it had remained in existence or in control of that area.

2. The duties, powers, and functions of the Chairman and principal officer of the controlling local authority shall be exercised by the Chairman and principal officer, respectively, of its successor.

3. All property, real and personal, vested in the Corporation of the district of an abolished local authority, subject to all existing encumbrances, shall vest in the Corporation of its successor.

4. The Corporation of the district of a local authority which assumes jurisdiction over an area formerly part of a separate district shall, subject to all existing encumbrances, have vested in it all land situated in that area that was vested in the Corporation of the district of the local authority that formerly had jurisdiction over that area.

5. All bylaws in force in the district of an abolished local authority, or in the part of a district included in another district, which are applicable to the altered circumstances of the new controlling local authority shall become bylaws of that last-mentioned local authority, and, until revoked or altered by that local authority, every such bylaw shall remain in force in the area in which it was in force immediately before the abolition or, as the case may be, the alteration of boundaries, and every bylaw which cannot be restricted to that area shall be deemed inapplicable and revoked by the abolition, or alteration of boundaries, as the case may be.

FIRST SCHEDULE—*continued*

“SECOND SCHEDULE—*continued*”

MATTERS WHICH (WHERE APPLICABLE) LOCAL GOVERNMENT COMMISSION SHALL PROVIDE FOR IN REORGANISATION SCHEME IN ADDITION TO MATTERS SPECIFIED IN SECTION 35 (1)—*continued*

6. All rates or levies and other money payable in respect of—

- (a) An abolished local authority; or
- (b) Any area of land included in the district of another local authority—

shall become due and payable to the new controlling local authority.

7. Where the area of an abolished district comprises part only of another district, any money to the credit of the abolished local authority's accounts shall, after all liabilities have been provided for, be expended to the benefit of the residents of that area, and any money required to be paid into the accounts of the abolished local authority to meet any deficiency therein shall be found within the area of the abolished local authority.

8. Subject to section 37F of this Act, the rights or interests of creditors of any district affected by the scheme shall not be affected.

9. The valuation rolls, electoral rolls, and rate records in force—

- (a) In the district of an abolished local authority; or
- (b) In relation to any part of the district of a local authority included in the district of another local authority—

shall continue in force in the district of the new controlling local authority until such rolls or records are made by that local authority, and until that time Part IX of the Rating Act 1967 shall apply as if the new district or enlarged district was the district of a special purpose authority and the areas from which it was formed were constituent districts.

10. Where—

- (a) Two or more districts are united; or
- (b) Any district is abolished and included in any other district or districts or part of any district is excluded therefrom and included in any other district or districts,—

section 59 of the Town and Country Planning Act 1977 shall apply, as if, in the case of a region, the references in the said section 59 to a district were references to a region and the references in that section to a council were references to a regional council or united council, as the case may require.

Section 37H

"THIRD SCHEDULE

PAYMENTS ON TRANSFER OF TRADING UNDERTAKING FROM A TERRITORIAL
AUTHORITY TO A REGIONAL OR UNITED COUNCIL*Appointment of Assessors and Arbitrator*

1. The following provisions shall apply with respect to the assessors:
- (a) Two independent persons shall be appointed as the assessors within 1 month after the giving of the notice under section 37H of this Act, one by the territorial authority and one by the council:
 - (b) The assessors shall, within 1 month after being appointed as such and before commencing to consider whether or not a payment shall be made, appoint a third person to act as arbitrator as between the assessors in respect of any matter on which they are unable to reach agreement.

Determination of Payment

2. The assessors or the arbitrator, as the case may be, in determining whether or not any such payment shall be made, shall have regard to the following matters only:

- (a) Whether, as a result of the transfer to the council of that trading undertaking or that part thereof, the aggregate of the rates payable by the ratepayers of the territorial authority to that authority is likely to be increased by reason of the loss of the estimated trading surpluses that were likely to be derived as a result of the operation by the territorial authority of that trading undertaking or that part thereof; or
- (b) Whether—
 - (i) In the case of a transfer to a regional council, the aggregate of the rates payable by the ratepayers of the region (other than the ratepayers of the part of the region comprising the district of the territorial authority from which the trading undertaking or part thereof was transferred) to the regional council is likely to be increased as a result of that transfer:
 - (ii) In the case of a transfer to a united council, the aggregate of the rates payable by the ratepayers of any constituent authority of the region (other than the district of the territorial authority from which the trading undertaking or part thereof was transferred) to that authority is likely to be increased as a result of the transfer.

3. If the assessors, or, as the case may be, the arbitrator, determine that a payment shall be made under this Schedule, they or he shall determine the amount of the payment:

Provided that the amount shall not exceed—

- (a) In the case of a payment to be made by the council to the territorial authority, the estimated trading surpluses which but for the transfer would be likely to be derived by that territorial authority from that trading undertaking or part thereof during the period of 5 years after the date of the transfer thereof to the council:

FIRST SCHEDULE—*continued*

“THIRD SCHEDULE—*continued*

PAYMENTS ON TRANSFER OF TRADING UNDERTAKING FROM A TERRITORIAL AUTHORITY TO A REGIONAL OR UNITED COUNCIL—*continued*

(b) In the case of a payment to be made by the territorial authority to the council, the estimated trading losses likely to be incurred by the council in respect of that trading undertaking or that part thereof during the period of 5 years after the date of the transfer thereof to the council.

4. In assessing the estimated trading surpluses or trading losses as aforesaid, the assessors or the arbitrator, as the case may be, shall consider the trading undertaking, or the part thereof transferred, as an activity self-contained according to the nature of its operation, and shall apply generally accepted principles of accounting in determining the amount of profit or deficit which could be expected to be derived or incurred from the operation of the trading undertaking or, as the case may be, the part thereof transferred.

5. Subject to clause 3 of this Schedule, the decision of the assessors, if they agree, or of the arbitrator, if they do not agree, as to whether or not any payment shall be made under this Schedule, and, if so, the amount to be paid, shall be final and shall be binding on the territorial authority and the council.

6. If the assessors or, as the case may be, the arbitrator decide that any payment shall be made under this Schedule, the amount thereof shall be paid in one sum or by instalments in accordance with the decision of the assessors or, as the case may be, of the arbitrator, and, if payment is to be made by instalments, the instalments shall not extend over a period of more than 5 years.

7. 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 Schedule.

Powers of Payment

8. Where any payment is to be made by a territorial authority or council, the territorial authority or council shall have the following powers:

(a) It may pay the amount or any part thereof out of its general revenues:

(b) It may raise a special loan to pay the amount or any part thereof, and, notwithstanding anything in section 34 of the Local Authorities Loans Act 1956, the consent of the ratepayers, in the case of a loan to be raised by a territorial authority or a regional council or a special purpose authority, or of the ratepayers of any constituent district, in the case of a loan to be raised by a united council, shall not be required to the raising of the loan:

(c) In the case of a united council, instead of or in addition to exercising the powers conferred by paragraph (a) or paragraph (b) of this clause, it may assess the constituent authorities within the region such an amount as is calculated to produce that portion of the payment or the balance thereof, as the case may be, and interest thereon (if any) and the costs of and incidental to its collection:

FIRST SCHEDULE—*continued*"THIRD SCHEDULE—*continued*PAYMENTS ON TRANSFER OF TRADING UNDERTAKING FROM A TERRITORIAL
AUTHORITY TO A REGIONAL OR UNITED COUNCIL—*continued*

(d) In the case of a territorial authority or a regional council, instead of or in addition to exercising the powers conferred by paragraph (a) or paragraph (b) of this clause, it may make and levy a separate rate over the whole of its district calculated to produce that portion of the payment or the balance thereof, as the case may be, and interest thereon (if any) and the costs of and incidental to its collection.

9. The power to make and levy a rate or an assessment conferred by paragraph (c) or, as the case may be, paragraph (d) of clause 8 of this Schedule may be exercised by any territorial authority or council in addition to all other powers which it has under this Act or any other enactment limiting or in any way affecting its power to make and levy a rate or an assessment.

10. If the territorial authority or the council makes default in making a payment in accordance with clause 6 of this Schedule, it shall be liable for and shall pay interest on the amount so remaining unpaid, until payment thereof, at the rate which is for the being charged by the bankers of the territorial authority or the council for money owing to them by the council, or, as the case may be, the territorial authority which would be charged if money were owing."

SECOND SCHEDULE

Section 4 (2)

AMENDMENTS OF PRINCIPAL ACT

Provision of Principal Act	Amendment
Section 2 (1)	<p>By inserting, after the definition of the term "regional road", the following definitions:</p> <p>"'Regional scheme' means a regional scheme prepared under <u>section 18</u> of this Act; and includes a scheme for the constitution of a region prepared under Part I of this Act (as in force before the commencement of this definition) and continuing in force after the commencement of this definition:</p> <p>"'Reorganisation scheme' means a reorganisation scheme prepared under <u>section 27</u> of this Act; and includes a scheme (other than a scheme for the constitution of a region) prepared under Part I of this Act (as in force before the commencement of this definition) and continuing in force after the commencement of this definition:".</p> <p>By revoking the definition of the term "scheme", and substituting the following definition:</p> <p>"'Scheme' means a regional scheme or a reorganisation scheme:".</p> <p>By omitting from subsection (1) the words "section 16 (1) (h)", and substituting the words "<u>section 25 (h)</u>".</p> <p>By repealing this Part.</p> <p>By omitting so much thereof as relates to the Local Authorities (Petroleum Tax) Act 1970.</p>
<p><u>Section 624</u> (as renumbered by <u>section 9</u> of the Local Government Amendment Act (No. 2) 1977)</p>	
<p>Part VIII</p>	
<p>Third Schedule</p>	